Schuyler Community Schools
Board of Education Regular Meeting
Monday, February 11, 2019 6:30 PM
Schuyler Central High School Music Room
120 W. 20th St.
Schuyler, NE 68661-2400

Attendance Taken at 6:32 PM.

Mynor Hernandez:	Absent
Richard Brabec:	Present
Chuck Misek:	Present
Virginia Semerad:	Present
Brian Vavricek:	Present

Present: 4, Absent: 1.
Attendance Update Taken at 6:37 PM.

Mynor Hernandez:	Present

Present: 5.

I. Call Meeting to Order
STRIVE - COMMIT - SUCCEED - District Mission Statement

Schuyler Community Schools in partnership with parents, students, and the community is committed to educate students to become skilled, knowledgeable and responsible citizens in a global society - District Vision Statement

Notice of this meeting was given in advance according to State Law 84-1411, by giving notice of the meeting to the public. Notice of this meeting was also given in advance to all members of the Board of Education

I.A. Pledge of Allegiance
All present participated in the Pledge of Allegiance.

I.B. Declaration of Open Meeting
This meeting has been preceded by advance notice and is hereby declared to be in open session. A copy of the Open Meetings Act is posted in the back of the meeting room.
Nebraska Open Meetings Act: http://nitc.nebraska.gov/documents/statutes/NebraskaOpenMeetingsAct_current.pdf

II. Approval of Consent Agenda
Discuss, Consider and Take Action on the consent agenda
Motion to approve the consent agenda Passed with a motion by Brian Vavricek and a second by Chuck Misek.
Mynor Hernandez: Absent, Richard Brabec: Yea, Chuck Misek: Yea, Virginia

Semerad: Yea, Brian Vavricek: Yea
Yea: 4, Nay: 0, Absent: 1

II.A. Agenda

II.B. Minutes

II.C. Acceptance of Claims

II.C.1. Bills of $5,000 or more

II.D. Financial

II.E. Other Listed Reports

III. Public Forum - We ask that all presentation be limited in their length.

III.A. Recognition of visitors and guests

III.B. Other topics (limited to 5 minutes - subject to guidelines of the Board Participation Policy)

III.C. Student Representative's Report

Student Representative Report:

- John Baylor visited the junior class and talked about the 19 grammar rules
- Project S has finally decided on a date for their annual Team Building Day which is Saturday March 23rd
- Up until the month of April, students will be taking ACT prep classes, allowing seniors an early out

IV. Action Items

IV.A. Governance: Public Relations, Technology, and Planning

This committee is responsible for recommending the annual district calendar, strategic planning process, technology, and promoting positive public relations and communications program.

IV.A.1. Consider, discuss, and take action to appoint a board member to serve the remainder of a two-year term of office.

Board Member Selection Process:

1. Applications from two candidates will be submitted to each board member in a sealed envelope.
2. Board members will read the applications
3. The board president may ask for discussion
4. The board president will call for each member to identify their selection
5. Motion and a second to appoint the candidate of choice
6. Roll call vote to approve the nomination
7. New board member will be contacted and sworn in at the March 11th meeting.

* The procedure outlined above is at the recommendation of the board's legal council. This ensures that all action on this appointment was made in a public setting and in compliance with the circumstances outlined below.

Creating a Vacancy on the Board. Neb. Rev. Stat. § 32-560 sets forth ten circumstances that cause a vacancy in an

elective office. It states:

Every elective office shall be vacant, except as provided in section 32-561, upon the happening of any one of the following events at any time before the expiration of the term of such office:
(1) Resignation of the incumbent;
(2) Death of the incumbent;
(3) Removal of the incumbent from office;
(4) Decision of a competent tribunal declaring the office of the incumbent vacant;
(5) Incumbent ceasing to be a resident of the state, district, county, township, or precinct in which the duties of his or her office are to be exercised or for which he or she may have been elected;
(6) Failure to elect at an election when there is no incumbent to continue in office until his or her successor is elected and qualified;
(7) The candidate who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate;
(8) Forfeiture of office as provided by law;
(9) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or
(10) Incumbent of a high elective office assuming another elective office as provided in subsections (2) through (4) of section 32-604.

Section 32-561 Is Not Applicable. Section 32-561 deals with the acceptance of a commission to any military or naval office or the enlistment in or induction in the military or naval service of the United States that may require an incumbent in an elective office, except the office of a member of the Legislature, to exercise military or naval duties within or without the state for a period time within the term for which such person has been elected or appointed.

Manner of Selecting a New Member. The statutes governing the replacement of board members give the board of education considerable discretion. Essentially, the board may proceed in the manner that the board members think will be in the district's best interest. Many boards of education solicit applications and then interview the applicants about their knowledge and interests in order to determine which of

them would be the best addition to the board.

Obligation to Appoint a New Member. Neb. Rev. Stat. § 32-570(3), governs class II, III, IV, V and VI school districts. It requires the board of education to appoint a new board member to fill a board vacancy, and states:

(3) Except as provided in subsection (4) of this section, a vacancy in the membership of a school board of a Class II, III, IV, V, or VI school district resulting from any cause other than the expiration of a term shall be temporarily filled by appointment of a qualified registered voter by the remaining members of the board. A registered voter shall be nominated at the next primary election and elected at the following general election for the remainder of the unexpired term. A registered voter appointed or elected pursuant to this subsection shall meet the same requirements as the member whose office is vacated.

Though § 32-570(3) does not specify any particular time within which the board must fill the vacancy, § 32-570(5) provides for filling the vacancy at a special school district meeting or election if the board fails to fill the vacancy. Though it does not apply to school districts, some guidance may be taken from § 32-567 which requires that vacancies in most other political subdivisions be filled within 45 days unless there is good cause to take longer or filling the vacancy within 45 days would pose an undue burden.

Section 32-570(4) deals with school districts in which board candidates are not nominated at a primary election or elected at a general election. Therefore, it is not relevant to this consideration.

Length of Appointee's Term. The newly appointed board members will serve until replacements can be nominated at the next primary election and elected at the general election. Replacements can be nominated at the 2008 primary election and elected at the 2008 general election; thus, the appointees' terms will end on the first Thursday after the first Tuesday in January, 2009.

Public Meetings Law. In filling a vacancy, the board must first determine the method for identifying candidates to be considered for appointment. In this regard, be mindful that § 84-1410 of the Public Meetings Law prohibits the board from going into executive session to discuss this topic. It states:

Nothing in this section shall permit a closed meeting for

discussion of the appointment or election of a new member to a public body.

Motion to accept the appointment of Alejandrina Lanuza to fill the two-year term of office for the Schuyler Community Schools Board of Education. Passed with a motion by Brian Vavricek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.B. Americanism: Curriculum, Assessment, and Instructional Programs

This committee is responsible for reviewing curriculum recommendations, textbook selection, requisitions/inventory, and instructional programs.

IV.B.1. Consider, discuss, and take action to approve the contract with Central Nebraska Rehabilitation Services for physical and occupational therapy services.

This is a contract renewal with Central Nebraska Rehabilitation Services for physical and occupational therapy services. The rates are as approved by the Nebraska Department of Education for reimbursable services.

This year Central Nebraska Rehabilitation Services is offering a one and three year contract option. The three-year contract is offered at a discount of $2.00 per hour below the state approved rate. See attached information.

Motion to approve the 1-year contract renewal with Central Nebraska Rehabilitation Services for physical and occupational services. Passed with a motion by Richard Brabec and a second by Chuck Misek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.C. Budget, finance, negotiations, and personnel

This committee is responsible for budget, finance, and contract negotiations with administration, certificated staff, and support staff.

IV.C.1. Consider, discuss and take all necessary action with regard to the construction manager at risk agreement between the School District and Hausmann Construction, Inc., for the proposed additions and renovations to the existing Schuyler Central High School building project.

Attached are the draft copies of the Contracts with Hausmann Construction , In. as construction manager at risk. See the two attached documents:

1. General Conditions of the Contract for Construction Agreement

2. Standard Form of Agreement Between Owner and Construction Manager as Contractor (Basis of payment is Cost of the Work Plus a Fee with a Guaranteed Maximum Price)

We will get signed final copies prior to the meeting on Monday.

Motion to approve the construction manager at risk agreement between the School District and Hausmann Construction, Inc., for the proposed additions and renovations to the existing Schuyler Central High School

building project. Passed with a motion by Brian Vavricek and a second by Chuck Misek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.C.2. Consider, discuss, and take action to approve staff resignations as presented.

1. **Scott Anderson:** ITE Teacher @ SCHS
2. **Rory Wendelin:** Social Studies Teacher @ SCHS
3. **Jan Kracl:** ELL Teacher @ SCHS (Retirement)
4. **Evie Sintek:** SES Teacher
5. **Briana Orellana:** SES Teacher

Motion to approve staff resignations, thank them for their service to the district, and wish Mrs. Jan Kracl well in her retirement. Passed with a motion by Mynor Hernandez.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.C.3. Consider, discuss, and take action to approve new hire recommendations as presented.

1. **Jonelle Simon:** SES (Dual Language) Para Educator
2. **Susana Oliva:** SES Para Educator
3. **Jason Ankrah:** Strength and Conditioning Coordinator and Head Football Coach (2019-20)

Motion to approve new hire recommendations as presented. Passed with a motion by Richard Brabec and a second by Brian Vavricek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.C.4. Consider, discuss, and take action to approve 2019-20 administrative contracts as presented.

The board negotiations team met to review the administrative array comparability study and determine their recommendation for principal and director salaries for the 2019-20 school year. See attached recommendation.

Motion to approve the 2019-20 principal and director contracts as presented. Passed with a motion by and a second by Mynor Hernandez.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea,

Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

V. Discussion Items and Reports

V.A. Principals Reports

Preschool and SES 3-5 Principal's Report: Mr. Comley

Program/Staff Member Spotlight: Cristal Melgar is the administrative assistant at the preschool. Cristal not only does her regular duties at preschool she also helps with translating IEP's from other schools, coordinating registration at Preschool/Headstart, and going on home visits when needed by early childhood. Cristal does an outstanding job and really helps the preschool run smoothly. Thank you for the great job Cristal!

Rural Schools and Dual Language Program Director's Report: Ms. Bebout

Program/Staff Member Highlight: Deb Hartman is a paraeducator at Fisher's Elementary School. Deb gets to school early each morning and greets students as they come to school. She works with the teachers in supporting them with their students in the classroom. Deb also does many other duties in our school and is a vital staff member. It has been a joy to work with Deb the last two years!

Deb was born in Genoa, Nebraska. She has lived in Columbus for the last 15 years. She is married to Mark Hartman and has one daughter; her daughter Amanda graduated from Schuyler High School and is 24 years old. Deb has worked at Fisher's for 15 years! Thank you Deb for all of your hard work and dedication to the students in our district!

SMS Assistant Principal's Report: Mr. Zavadil

Program Spotlight: This month I want to recognize the work of our Middle School FCCLA program that is getting it's start with the work of some outstanding students under our new FCS teacher Ms. Folda. This is a great program that gives an opportunity to students outside of the athletic arena!

Staff Member Spotlight: Mr. Gutierrez, Middle School Industrial Tech Teacher. Mr. Gutierrez has always gone above and beyond to be helpful with whatever is necessary. He has helped with Saturday School, runs the School Improvement team meetings, drives bus, runs an afterschool program club, coaches multiple sports, and essentially will do whatever you ask. He is an outstanding asset to Schuyler Community Schools!

SMS Principal's Report: Mrs. Burton

Staff Member Spotlight: I have the pleasure of noting the teamwork of our SMS ELL Department, Angie Wemhoff and Evelyn Recinos. Mrs. Recinos and Mrs. Wemhoff work to ensure a welcoming and rigorous atmosphere for all of our students newest to the country and/or the English language. Throughout the month, the team will be working to ELPA test every one of our ELL students in addition to their regular duties. Mrs. Wemhoff also serves as the SMS Student Council Representative, and Mrs. Recinos is a member of our School Improvement Team. I am grateful for their care and effort toward our students and fellow staff members!

Program Spotlight: We have some good things to share with the district! In the inaugural year of the SMS FCCLA Team, we have five 8th graders that have qualified for the Nebraska FCCLA Convention with their STAR projects! Miss Folda and Mrs. Hoesing have done an excellent job preparing the teams to compete!

Program Spotlight: Mr. Ehmke has led the 8th Grade Band to qualify to play at the Nebraska State Capital at the beginning of March! The band had to send in a recording in order to be considered for the spot. This is an extremely high honor, as musical groups from across the state in both high school and middle school competed for the opportunity to perform.

Notable Events: We continue our work with Steve Harris from Discovery Education. He continues to grow and sharpen practice with our secondary math team. According to our STAR 360 tests, we have witnessed an increase in proficiency at all three grade levels. We look forward to continuing growing ourselves so that we can grow students.

SCHS Assistant Principal's Report: Mr. Kasik

Program/Staff Member Spotlight: Jan Kracl is closing her 43rd year of education, all with

SCHS. She grew up in Wilsonville, NE. She has been married to for over 27 years. Mrs. Kracl is a staple in our ELL program and she has run our "S" club for a number of years while also lining up our Fred Arnold Track Invite workers. Mrs. Kracl will be retiring this year and we appreciate all her work and dedication she has shown to this district over her educational career. Mrs. Kracl says, "The best part of Schuyler is how everyone helps each other and works together-helping people when they need it. Even though the population has changed dramatically since I moved here, people are still willing to help their neighbor through tough times."
Topics to mention: Our teachers and students are gearing up for the ACT as we recently had John Baylor help prep our students.

SCHS Principal's Report: Mr. Grammer
Program Spotlight: Our high school has for the past two years have been implementing a new program at the high school. The new program, which we started last year is our guitar classes at Schuyler Central High School. In the guitar classes, students develop performance skills in relation to digitally producing a Newspaper. Mr. Bejamin Coatney is the teacher for the new Guitar Classes at Schuyler Central High School. The purpose of developing this program was to give our students an option to take a music class and also exposure to different types of music. This is the second year that we are running the class at the high school and it has been successful these past two years. Every section and classes are all full and waiting list.
Staff Member Recognition: The staff member to be recognized for their work in the high school this year is Mr. Ben Coatney. Mr. Coatney has been our Band Teacher, Boys Chorus, and Guitar teacher for the past two years in our district for the past two years and specifically, in the middle and high school. He has taken on the challenge of starting a Guitar Class and developed a new curriculum for his guitar classes at the high school. Mr. Coatney has taken on the responsibility of developing a new class, as mentioned above, with energy and enthusiasm. The students in this class develop performance skills. He has helped to grow this program and bring fun to the classroom of SCHS. Students are lucky to have him as a teacher and staff are lucky to have him as a colleague.
Event Highlight: For the third year in a row we have won more Scholastic Art Awards than Schuyler has ever won. This year there were 21 awards given to 8 different students including-
Chloe Beltrand- Gold Key in Ceramics
Gabriela Castro- Gold Key in Sculpture
Robert Fuentes- Silver Key Portfolio (8 Artworks shown as a collection)
2 Gold Keys, and 2 Honorable Mentions in Drawing
Pammela Garcia- Gold Key Portfolio (8 Artworks shown as a collection),
4 Gold Keys, 1 American Visions Nomination, and 1 Honorable Mention
Astrid Mejia- Silver Key Portfolio (8 Artworks shown as a collection),
1 Gold Key, 1 Silver Key, and 1 Honorable Mention in Drawing
Amy Rocha- 1 Silver Key in Drawing
Elder Romero- 1 Gold Key in Drawing

Mr. Trotter is developing an Art program that is growing and highlighting our students art skills. Many of these awards lead to scholarship opportunities. The Statewide Awards Ceremony will be held March 2nd in Omaha.

We are continuing our work with the state priority team, UNL EL team, DE, and PBL through DE.

We have started the Bond information process by dispersing posters, brochures, business flyers, flyers being sent with the Schuyler utility invoices, informational meetings, and a video on the project.

V.B. Directors Reports

Afterschool Director's Report: Ms. Bebout
Program/Staff Member Spotlight: Guadalupe Encarnacion is the middle school after-school program coordinator for Warrior Academy. Guadalupe has been with the after-school program since it began five years ago. She does an excellent job engaging youth in the program. Students like coming to club as she makes them feel safe and wanted in the program. Guadalupe has been essential in getting clubs that the students love to attend! The program is a success because of Guadalupe!

Guadalupe moved to Schuyler from Mexico when she was three years old and has lived in Schuyler since then. She is married to Victor Bello and has two children; her daughter Marely who is 8 and her son Julian who is 3 years old. After graduating from Schuyler High School she worked at Homestead Bank for 6 years as a vault teller. She has been the middle school coordinator for the last 5 years. Thank you Guadalupe for all of your hard work and dedication to our program!

SMS Activities Director's Report: Mr. Zavadil

Program Spotlight: I would like to recognize the after-school program and the clubs that it is sponsoring for our young athletes to work on skills. Mr. Gutierrez is running a youth soccer club in the Field-House on Tuesday and Thursdays. Mr. Wehner and Mr. Burton are running a 5th and 6th grade football club on Mondays and Wednesdays. The amount of work all of these coaches are putting in for our kids is fantastic!

Staff Member Spotlight: I would like to recognize one of our SMS girls basketball coaches, Brandt Hayes, for putting in extra time to work with our youth basketball girls on Monday Nights. He is helping Mrs. Burton with the large group of girls and working to build their skills in Mr. Kovar's program. He is a great example of kind of coach that will put in extra time with our kids to make them better!

Notable Events: Middle School Boys basketball is set to wrap up play with two more games on the schedule. They traveled to play Twin River tonight and will finish up @ Madison on Tuesday the 19th.

SCHS Activities Director's Report: Jim Kasik

Program/Staff Member Spotlight: Lyndon Beebe is in his 35th year of education, all here at Schuyler. He student taught at Lincoln NE and grew up in Scotia, NE. He is married to Cindy and they have four children. Two of their children have graduated from college and are in the education business and their two younger children are currently in college. Mr. Beebe is our Head Boys BB coach and our Head Boys Soccer Coach. He has also coached FB, GBB and TR over his years here at Schuyler. Mr. Beebe says that the best part of Schuyler is how SCS has become a second family to him and his family over the years. Topics to mention: Recently hosted the Conference Wr. Invite, and a Speech Invite, both of which went very well. We will be hosting two C1 Basketball Sub-Districts over the next two weeks. Our Wrestling team brought back a 4th Place trophy from State Duals, this is the highest finish we have had for our Dual team. Mr. Trotter had 21 Scholastic Art Awards won by his students, also a school record. Our FCCLA teams competed well at Districts.

Director of Student Services Report

Program Spotlight: I had the opportunity to be the administrator on duty at our Speech meet on February 2nd. I would like to spotlight the Speech team and their sponsors (Melanie Gustafson and Jason Trautman). It is also important to mention Renee Brabec for all of her organization and help that made the meet run smoothly. It was extremely well run, well organized and a wonderful day for all of the students in attendance. Kudos to those who put in all of the long hours and hard work! The list of workers is massive. Please know that I appreciated all of the work that everyone did to make the meet a success. Everyone made SCHS look amazing!

Notable Topics: I can't say enough about the work the groups run by Mr. Kasik and Mr. Grammer in regards to the bond election. The planning that goes into this project is nothing short of amazing and I am proud to be part of the team. I had the opportunity to go door-to-door with a group and inform the public about the bond. Although it is outside of my comfort zone, I was surprised by the caring people in the community who invited us into their homes for a good discussion. Mr. Kasik and Mr. Grammer have been amazing to work with and should be congratulated for all of the work they are doing.

Looking ahead: I am excited for the ballots to be distributed to our community. We have a major need for these renovations and I hope we can inform all of our patrons to have their voice heard. We have a great community and we need to bring them together for the betterment of our students.

Special Education Director's Report: Mrs. Vrba

Program Spotlight: At the crack of dawn on Tuesday, January 30th, I jetted off to the CEC 2019 Conference in Indianapolis. (We only had a few weather delays due to snow and ice.) On Wednesday, I had the opportunity to spend the whole day in class with Marilyn Friend. SES's co-teaching partnerships began to implement her co-teaching model in our

classrooms this year. The morning class was centered around "Common Co-Teaching Challenges: There Are Ways to Address Them" while the afternoon class was entitled "From Start to Finish: Implementing Specially Designed Instruction in a Co-Taught Class". On Thursday afternoon, Marilyn granted me the opportunity to have a 2-hour period of time to work with her individually. On Thursday and Friday, I had the chance to attended 8 different sessions dealing with some "hot buttons" in Special Education currently. Saturday morning, my last class was "Practical Program Design for Behavioral Classrooms: Addressing Intensive Behavioral Needs". Besides getting the opportunity to work with Marilyn, my major highlight was attending the "YES I Can" Award Ceremony! Twelve outstanding children and young adults shared their stories of success! Award recipients were recognized in one of the six following categories: Academics, Arts, Self-Advocacy, School & Community Activities, Technology, and Transition. (Although landing at Eppley at midnight in the fog was breath-taking and just a little bit unnerving!)

Staff Member Spotlight: Doreen has been a part of our special education team--in one way or another--for the last 17 years. She is continuously working to improve students' reading and math core instruction. Doreen's quest for "research based" interventions, techniques and/or programs is relentless. She will never ever quit on a student...he/she will master a skill and/or be a fluent reader and/or will be successful in his/her classroom. (I have shared with Doreen and others numerous times: that if one of my sons struggled in the school setting, I would definitely want Doreen as their teacher.) She always has her expectations set extremely high for each student. As a first-grade special education teacher, she ensures each child has a solid foundation before they start building his/her academic career. The qualities that I respect the most in Doreen are her determination, her empathy for struggling learners, her honesty, her never-ending hard work and her ability to celebrate with her kids even the smallest achieved task. (She makes her students feel like they won the Powerball!) Even though I tease Doreen when she gets a little overwhelmed by saying "just breathe", I know that a task will be done completely and accurately...she is the best!!

Curriculum and Assessment Director's Report: Dr. Gibbons

Staff Member/Program Spotlight: I would like to thank the high school staff for their work in setting up for the January 21 Professional Development day. Multiple rooms were needed and they went above and beyond getting the school ready. I don't mean to leave anyone out, but Matt Wachal especially helpful in making sure that he knew exactly what we needed Marv Aldrich even sat in his car out front of the building reserve parking spaces for our out of state visitors since it was such a cold weather day.

2017 - 2018 State Assessments - This is a reminder that I have created a website with our data displays for the third through eighth grade Reading and Math NSCAS at **https://sites.google.com/schuylercommunityschools.org/assessmentdata/home**
Data for all schools in the state can be found at **http://nep.education.ne.gov/**
I've attached some ACT State Assessment Data to this report.

Professional Development - January 21 was a big PD day for us. We had Lyle Wells as a keynote speaker in the morning then had trainers from Renaissance to help us with the STAR 360 information and ECRA in to help us with building data dashboards. Some groups met to complete a School Health Initiative and then our Tech Team ran tech workshops that allowed staff to choose what they wanted to work on.

Curriculum Development - The K-5 Science Curriculum team met on Wednesday Feb. 6, to begin the process of rewriting our Science Curriculum to meet the new Science Standards.

V.C. Superintendent's Report

Attachments:

1. 2019 Legislative Session Bill Summary
2. 2019 Federal Legislation Report

Program/Staff Member Spotlight: I am spotlighting the outstanding job our administrative team does in leading, managing, and modeling professionalism, empathy, and courage. Over the past semester and over the past few weeks, our administrative team has been challenged to step up and

take the lead in promoting a school bond, leading and being a change agent to improve programs, and demonstrate compassion, empathy, and strength to serve our staff in crisis situations. While these jobs aren't always recognized by the public, our staff, and students, their work is often the foundation for our school and our community to be able to move forward or make the changes necessary to deal with tough situations. Great leadership is often not recognized until it's absent. Thanks for all you do for our students, their parents, our staff, programs, and community.

V.D. Board Member/Committee Reports

See Foundation Webpage.

VI. Correspondence Items

VII. Adjournment

Motion to adjourn Passed with a motion by Brian Vavricek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

Schuyler Community Schools
Board of Education Regular Meeting
Monday, February 11, 2019 6:30 PM
Schuyler Central High School Music Room
401 Adam Street
Schuyler, NE 68661-2400

I. Call Meeting to Order

I.A. Pledge of Allegiance

I.B. Declaration of Open Meeting

II. Approval of Consent Agenda

II.A. Agenda

II.B. Minutes

II.C. Acceptance of Claims

II.C.1. Bills of $5,000 or more

II.D. Financial

II.E. Other Listed Reports

III. Public Forum - We ask that all presentation be limited in their length.

III.A. Recognition of visitors and guests

III.B. Other topics (limited to 5 minutes - subject to guidelines of the Board Participation Policy)

III.C. Student Representative's Report

IV. Action Items

IV.A. Americanism: Curriculum, Assessment, and Instructional Programs

IV.A.1. Consider, discuss, and take action to approve the contract with Central Nebraska Rehabilitation Services for physical and occupational therapy services.

IV.B. Budget, finance, negotiations, and personnel

IV.B.1. Consider, discuss and take all necessary action with regard to the construction manager at risk agreement between the School District and Hausmann Construction, Inc., for the proposed additions and renovations to the existing Schuyler Central High School building project.

IV.B.2. Consider, discuss, and take action to approve staff resignations as presented.

IV.B.3. Consider, discuss, and take action to approve new hire recommendations as presented.

IV.B.4. Consider, discuss, and take action to approve 2019-20 administrative contracts as presented.

V. Discussion Items and Reports

V.A. Principals Reports

V.B. Directors Reports

V.C. Superintendent's Report

V.D. Board Member/Committee Reports

VI. Correspondence Items

VII. Adjournment

Prepared by: Sally Jakub, Secretary to the Board

Schuyler Community Schools
Board of Education Regular Meeting
Monday, January 14, 2019 6:30 PM
Schuyler Central High School Music Room
401 Adam Street
Schuyler, NE 68661-2400

Attendance Taken at 6:27 PM.

Richard Brabec:	Present
Mynor Hernandez:	Present
Chuck Misek:	Present
Virginia Semerad:	Present
Brian Vavricek:	Present

Present: 5.

I. Call Meeting to Order
Procedural Item
STRIVE - COMMIT - SUCCEED - District Mission Statement

Schuyler Community Schools in partnership with parents, students, and the community is committed to educate students to become skilled, knowledgeable and responsible citizens in a global society - District Vision Statement

Notice of this meeting was given in advance according to State Law 84-1411, by giving notice of the meeting to the public. Notice of this meeting was also given in advance to all members of the Board of Education

I.A. Pledge of Allegiance
Procedural Item
Rich Brabec
All present participated in the pledge.

I.B. Declaration of Open Meeting
Procedural Item
This meeting has been preceded by advance notice and is hereby declared to be in open session. A copy of the Open Meetings Act is posted in the back of the meeting room.
Nebraska Open Meetings Act: http://nitc.nebraska.gov/documents/statutes/NebraskaOpenMeetingsAct_current.pdf

II. Recognition of Re-elected Board Members - Oath of Office
Action Item

1. **Congratulations** to Rich Brabec and Brian Vavricek on their re-election to the board of

education.

2. **Rich and Brian:** Read and sign the oath of office.

*Attached below is the board self-evaluation for all board members to review. This is not a required evaluation, just an opportunity for you to check yourself.

III. Election of 2019 Board Offices
Action Item

2018 Board Offices

President: Rich Brabec	Vice President - Brian Vavricek
Secretary - Virginia Semerad	Treasurer - Chuck Misek
NASB Delegate - Rich Brabec	Recording Secretary - Sally Jakub

2019 Board Offices

President -	Vice President -
Secretary -	Treasurer -
NASB Delegate -	Recording Secretary -

III.A. Board President
Action Item

Process for Office Nominations:
1. Board member makes a nomination for the position (no second needed)
2. If more than one member is nominated for an office, written votes should be used and passed to the recording secretary for count.
3. If only one nomination is made, any member of the board may make a motion for nominations to cease and cast a unanimous ballot for the nominee. Motion must have a second, followed by a voice roll call vote.

Motion to elect President of the Board of Education - Semerad nominated Richard Brabec. Motion by Misek to cease nominations; seconded by Vacricek. Richard Brabec was elected by a unanimous vote.

III.B. Vice President
Action Item

Process for Office Nominations:
1. Board member makes a nomination for the position (no second needed)
2. If more than one member is nominated for an office, written votes should be used and passed to the recording secretary for count.
3. If only one nomination is made, any member of the board may make a motion for nominations to cease and cast a unanimous ballot for the nominee. Motion must have a second, followed by a voice roll call vote.

Motion to elect VicePresident of the Board of Education - Brabec nominated Brian Vavricek. Motion by Semerad to cease nominations; seconded by Hernanadez. Brian Vavricek was elected by a unanimous vote.

III.C. Secretary
Action Item

Process for Office Nominations:
1. Board member makes a nomination for the position (no second needed)
2. If more than one member is nominated for an office, written votes should be used and passed to the recording secretary for count.
3. If only one nomination is made, any member of the board may make a motion for nominations to cease and cast a unanimous ballot for the nominee. Motion must have a second, followed by a voice roll call vote.

Motion to elect Secretary of the Board of Education - Vavricek nominated Virgina Semerad. Motion by Brabec to cease nominations; seconded by Vavricek. Virginia Semeradcek was elected by a unanimous vote.

III.D. Treasurer
Action Item

Process for Office Nominations:
1. Board member makes a nomination for the position (no second needed)
2. If more than one member is nominated for an office, written votes should be used and passed to the recording secretary for count.
3. If only one nomination is made, any member of the board may make a motion for nominations to cease and cast a unanimous ballot for the nominee. Motion must have a second, followed by a voice roll call vote.

Motion to elect Treasrer of the Board of Education - Brabec nominated Chuck Misek. Motion by Hernnandez to cease nominations; seconded by Semerad. Chuck Misek was elected by a unanimous vote.

III.E. NASB Delegate
Action Item
Process for Office Nominations:
1. Board member makes a nomination for the position (no second needed)
2. If more than one member is nominated for an office, written votes should be used and passed to the recording secretary for count.
3. If only one nomination is made, any member of the board may make a motion for nominations to cease and cast a unanimous ballot for the nominee. Motion must have a second, followed by a voice roll call vote.

Motion to elect NASB Delegate of the Board of Education - Vavricek nominated Rich Brabec. Motion by Vavricek to cease nominations; seconded by Semerad. Rich Brabec was elected by a unanimous vote.

III.F. Recording Secretary
Action Item
This can be an appointed position by the newly elected board president. In the past you have appointed Sally Jakub for this position.

Motion to appoint Sally Jakub as recording secretary. Passed with a motion by Richard Brabec and a second by Virginia Semerad.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

III.G. Board of Education Committee Assignments
Action Item
Committees will be appointed by the president of the board. These committees are created for specific tasks of seeking information or investigation and will report back to the board for its consideration and action. Committee action is considered to be advisory only. The following committees are appointed at the annual board organizational meeting for one year.

Foundation Committee: Responsible for working with the Schuyler Community Schools Foundation. **2 Members Required in Bylaws.** Foundation meets the first Monday of the month at 12:00 PM. **(2018 - Brian Vavricek and Virginia Semerad)**

Americanism, Curriculum, Assessment and Instruction: Responsible for reviewing curriculum recommendations, textbook selection, staff requisitions and inventory. This is the only committee required by law (79-724) **3 members required**. **(2018 - Virginia Semerad, Holly Hild, Mynor Hernandez)**

Board Policy/Handbooks/Support Programs: Responsible for annual review of board policies, handbooks, and safety/crisis plan. **2-3 members recommended.** Following the Americanism Committee Meeting. **(2018 - Virginia Semerad, Holly Hild, Rich Brabec)**

Public Relations/Strategic Planning/Calendar: Responsible for recommending the annual district calendar, strategic planning process, and promoting positive public relations and communication. **2-3 members recommended.** Following the Policy Committee Meeting**. (2018 - Mynor Hernandez, Holly Hild, Chuck Misek)**

Building/Grounds/Transportation: Responsible for recommending approval of the building and grounds and transportation programs, vehicle replacement schedule, building maintenance and upgrade schedule) **3 members recommended. (2018 - Chuck Misek, Brian Vavricek, Rich Brabec)**

Budget/Finance/Negotiations: Responsible for budget, finance, contract negotiations with administration, certificated staff negotiations and support staff contracts. **3 members recommended.** Following the Bldg/Grnds/Transportation meeting or following the board meeting. **(2018 - Chuck Misek, Rich Brabec, Brian Vavricek)**

* Special temporary committees of the Board, except as specified by statute, may be appointed by the president or chosen by a vote of the Board as needed. The function of all such committees shall be fact-finding, deliberative and advisory, but never legislative or administrative. When the specified purpose of all sub-committees appointed to conform to statute. The superintendent shall be an ex-officio member of all such committees**.**

Since the board will be appointing a new board member next month they will wait to assign the committee assignments until next month.

IV. Approval of Consent Agenda
Consent Agenda
Discuss, Consider and Take Action on the consent agenda

Motion to approve the consent agenda Passed with a motion by Virginia Semerad and a second by Brian Vavricek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

IV.A. Agenda
Consent Item

IV.B. Minutes
Consent Item

IV.C. Acceptance of Claims
Consent Item

IV.C.1. Bills of $5,000 or more
Consent Item

IV.D. Financial
Consent Item

IV.E. Other Listed Reports
Consent Item

V. Public Forum - We ask that all presentation be limited in their length.
Information Item

V.A. Recognition of visitors and guests
Information Item
Rich Brabec

V.B. Other topics (limited to 5 minutes - subject to guidelines of the Board Participation Policy)
Information Item

V.C. Student Representative's Report
Information Item

- sophomores through 8th grade have the opportunity to go on a Boston and NYC trip
- Focus' are practicing building card houses for the latest focus competition
- Mr. Trautman's English classes are doing a new thing on a website where they compete with other schools across the country on who knows more vocabulary words. This website is to prepare students for the ACT.

Student representative shared that those students in 8th grade through Sophmores will have the opportunity to take a trip to Boston and NYC. The Focus classes are practing builiding card houses for the latest competition. Mr. Trautman's class is using a website where the student can compete othe schools account the country on vocabulary word which helps prepare the students for the ACT. The Snowball dance will be held February 1st.

VI. Action Items
Procedural Item

VI.A. Budget, finance, negotiations, and personnel
Procedural Item
This committee is responsible for budget, finance, and contract negotiations with administration, certificated staff, and support staff.

VI.A.1. Consider, discuss, and take action to approve a Resolution calling for a Special Election in Colfax County School District 0123 (Schuyler Community Schools) on March 12, 2019, to authorize General Obligation School Building Bonds in an amount NOT TO EXCEED $12,500,000 for the purpose of constructing, furnishing and equipping additions, renovations and improvements to the District's existing buildings and grounds and related improvements
Action Item
See attached Resolution.

Motion to approve a Resolution calling for a Special Election in Colfax County School District 0123 (Schuyler Community Schools) on March 12, 2019, to authorize General Obligation School Building Bonds in an amount NOT TO EXCEED $12,500,000 for the purpose of constructing, furnishing and equipping additions, renovations and improvements to the District's existing buildings and grounds and related improvements. Passed with a motion by Mynor Hernandez and a second by Brian Vavricek.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea

Yea: 5, Nay: 0

VI.A.2. Consider, discuss, and take action to approve new hire recommendation
Action Item

1. **Mary Herrera;** SMS Para-Educator (ELL) Replacement position
2. **Martha Viquez:** SES Para-Educator (ELL) K-2 (Non-English speaking program)
2. **Kaydee Dunker:** Kindergarten teacher

Due to the lack of qualified candidates for the preschool teaching position at midterm, we moved a Kindergarten teacher with an early childhood endorsement to replace Karrie Healy at the preschool and are recommending hiring a new Kindergarten teacher at SES.
New hires -Mary Herrera; SMS Para-Educator (ELL) Replacement position
Martha Viquez: SES Para-Educator (ELL) K-2 (Non-English speaking program)
Kaydee Dunker: Kindergarten teacher

Motion to approve new hire recommendation as presented. Passed with a motion by Richard Brabec and a second by Virginia Semerad.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

VI.A.3. Consider, discuss, and take action to approve renewal of the superintendent's contract.
Action Item

The negotiations committee is recommending extending the superintendent's contract as presented below:

In compliance with the superintendent Pay Transparency Act, the board of education will consider a two-year contract extension for Dr. Daniel J. Hoesing at their regular January board meeting. The contract extends the current two-year contract (2018-19, 2019-20) for an additional year (2019-20, 2020-21). The proposed contract includes a salary increase from $174,000 to $179,000 (2.8%). Health Insurance deductible increased from $1,000 deductible to $1,200 and changed from family coverage to employee/spouse (reduction of $4,157). All other contract provisions remain unchanged. The current and proposed superintendent contracts are posted on the lower right hand corner of the main district website at: **https://ne02214621.schoolwires.net/Page/514**

Motion to approve the 2019-2020 superintendent's contract as presented. Passed with a motion by Brian Vavricek and a second by Mynor Hernandez.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

VII. Discussion Items and Reports
Procedural Item

VII.A. Priority Schools Report
Action Item
See attached report.

VII.B. Initial discussion on 2019-20 School Calendar
Action Item
Attached is the first draft of the 2019-20 school calendar with 2018-19 corresponding dates. The board committee will meet in February to consider input from staff. Our goal is to have the calendar ready for board approval in March.

VII.C. Principals Reports
Information Item

Preschool and SES 3-6 Principal's Report: Mr. Comley
Program/Staff Member Spotlight: Mrs. Elyse Belina does an outstanding job of working with the high need students at SES. Mrs. Belina does a great job managing not only students and the responsibilities that comes with that, but also many adults. Coordinating them to work with her students is no easy task when it comes to that many people. Mrs. Belina has shown she is a great teacher and we are happy she chooses Schuyler as her home!

SES K-2 Principal's Report: Mr. Kovar
Staff/Program Spotlight: I would like to highlight Megan Reinert 1st grade teacher. Ms. Reinert has shown so much growth as a teacher, and employee of Schuyler Community Schools over the last 3 years. She has embraced the role of team leader of our school improvement team, which involves many hours and extra work with creating agenda's and completing extra tasks. She is always willing to help when needed, and has grown as an educator in her classroom. She works hard to develop meaningful relationships with her students and parents, and uses strategies from APL and Capturing Kids Hearts to accomplish this. I am very proud of her accomplishments and achievements.

Rural Schools Principal's Report: Ms. Bebout
Program/Staff Member Spotlight: I would like to highlight ALL of my staff at the rural schools!!!! For 2 ½ months they had to share a building, classroom space, specials, and many other things. What could have been a struggle for some, my teachers & paras made the best out of the situation. They worked together, the students did activities together, and students and staff made new, lasting friendships. On the last day before Christmas break there were hugs, a few tears, and a nice send off to the Fisher friends. I am very proud to be the administrator of both of these buildings!

Middle School Asst. Principal's Report: Mr. Zavadil
Program Spotlight: This month I want to recognize the work of our Middle School Band and vocal students 6th-8th grade. They sounded wonderful during the contests and you can tell that they have been working extremely hard under the leadership of Mr. Ehmke, Mr. Coatney and Mrs. Bywater
Staff Member Spotlight: A staff member that I would like to recognize this month is Ms. Mally. She is our 7th grade Science instructor at SMS and she has been a strong and positive member of our team at SMS. Her instruction in the classroom is excellent and follows the Schuyler instructional model. Her ability to form relationships with our students is very impressive and appreciated.

Middle School Principal's Report: **Mrs. Burton**
Staff Member Spotlight: Mrs. Carol Reha works as SMS, Rural, and Preschool Nurse, continues to have a positive impact. She is extraordinary in her role, but she also works to serve our district by heading up the District Wellness Committee and School Health Index Committee. In addition, you can find Carol serving Schuyler in Salvation Army, TeamMates as both a board member and mentor, a member of the Catholic Church, and P.E.O. Treasurer. Schuyler can also regularly be seen in the stands at wrestling meets and baseball games. She is a always encouraging our students with her spirit and strengthening our Warrior Pride!
Notable Event: SMS has been chosen to take the National Assessment of Educational Progress Test. This will take place on February 27th.

High School Assistant Principal's Report: Mr. Kasik
Program/Staff Member Spotlight: Staci Shonka is in her first year at SCHS and she teaches Geometry, Algebra and Dual Credit Algebra. Mrs. Shonka taught at Hays Center for two years and at Columbus High for five years prior to joining us here at Schuyler. She grew up in North Platte and is married to Greg Shonka who farms in the Schuyler area. Mr. and Mrs. Shonka also has two daughters and they are expecting baby #3. She also is an assistant soccer coach and a freshman class sponsor. Mrs. Shonka is a great teacher who works hard at her craft and is not afraid to be a leader in her department. Mrs. Shonka says that the best part of Schuyler is getting to know a new group of kids and spreading her passion for math.
Upcoming Events: The start of the new semester has been smooth and we are gearing up for ACT testing as well as working with the NDE with our priority plan.

High School Principal's Report: Mr. Grammer
Program Spotlight: Our high school has for the past two years have been planning and updating our Horticulture program at the high school. The program, which we re-started this year is setup and ran through our green house at the back of the high school. The classes, of Horticulture and Floriculture develop skills in relation to floral arrangements and landscaping. Mrs. Trotter is the teacher assistant for the Horticulture and Floriculture classes and she works with our Ag teacher - FFA sponsor and floral projects. The purpose of developing this program was to assist our students in developing skills in the above mentioned areas. This is the second year we are re-running these classes at the high school and has had more success so far this year.
Staff Member Spotlight: The staff member to be recognized for their work in the high school this year is Mrs. Erin Trotter. Mrs. Trotter has worked for the past two years with Horticulture and Floriculture classes at SCHS and landscaping for the district these past two years. She has taken on the challenge of rebuilding these programs, with energy and enthusiasm. The students in these classes work hard to produce quality flowers and work with community on these projects. (poinsettes) She has helped to grow this program and bring fun to the classroom of SCHS. Students are lucky to have her as a teacher and staff are lucky to have her as a colleague. Erin graduated from Columbus Lakeview in 2003 and UNL in 2007. She has been married to Michael for the past 11 years, who is our Art teacher at SCHS. She has two girls, Alyssa 5 years old and Lily 3 years old. Erin is a great asset to our school.
Notable Events: We are continuing our work with the state priority team, UNL ELL team, DE, and PBL through DE.

VII.D. Directors Reports
Information Item

Afterschool Director's Report: Ms. Bebout
Program/Staff Member Highlight: I would like to point out a few highlights in our numbers for the after-school program. In Warrior Academy right now at the elementary school we have 232 students enrolled. At the middle school we have 44 students enrolled. On an average day we offer around 18 different clubs. Some of the clubs offered are secret agents, 4-H creates, geography club, Spanish amigos, crafty adventures, drawing club, anime club, rubik's master, leadership survivor, and flag football. These are just a few of the clubs offered during any given quarter.

In order to support this program I have 2 amazing coordinators, 18 teachers, 13 staff members who are out of high school, and 11 high school students who are working quarter 3. "It takes a village to raise a child" rings true in our after-school program. We can only be as successful as we are because of all of the staff I have that put their heart and soul into our program!!
K-6 Youth Sports Director's Report: Mr. Kovar
Staff/Program Spotlight: I would like to highlight our volunteer youth coaches for girls and boys basketball this year. K-1 girls Josh Paccas, 2-4 girls Michelle Burton, 5-6 girls Brian Vavricek, K boys Ulises Fuentes, 1-2 boys Robin Burton, 3-4 boys David Hild, 5-6 boys Mason Kovar (Midland Basketball Boys). There will be many other parent and family volunteers who will give their time to help make these programs successful. We will have held our Coaches Clinic on Thursday, January 10th, and practices begin on January 14th, and run through the week of February 25th. There will be a total of 7 sessions for each grade level. I will give an idea of the number of participants at the next board meeting.

Middle School Activities Director's Report: Mr. Zavadil
Program Spotlight: Middle School Boys basketball is off to a strong start with 38 students signed up to play. The 1st game of the year is Vs. Central City in Schuyler tomorrow.
Staff Member Spotlight: I would like to recognize Erin Trotter and all the work she does in the Field-House helping to organize the employee schedule and managing a lot of the day to day operations. She is absolutely

fantastic and works very hard to keep things running smoothly. The Field-House is very busy this time of year and is an excellent resource for our students and local youth teams.
Notable Event: The Knights of Columbus will be hosting a free throw challenge in the SMS gym on Friday at 1:30 January 25th. I am very pleased to be working with the Knights of Columbus on another fun event and want to thank them for doing this for our students.

High School Activities Director's Report: Mr. Kasik
Program/Staff Member Spotlight: Dan Wolken is in his second year here at Schuyler. Mr. Wolken has taught and coached at Bartlett Wheeler Central, O'Neil St. Mary's, Lindsey Holy Family, West Point Central Catholic and Valentine before joining us. He lived in Fremont until he was 13 and then moved to West Point. He teaches History and is the Head Girls BB and Track coach. Mr. Wolken brings a lot of teaching and coaching experience to Schuyler, he works hard to make Schuyler better. Mr. Wolken says that the best part of Schuyler is how respectful our students are.
Upcoming Events: Our basketball teams will be competing in the conference tournament in a couple of weeks. Our wrestlers have their 13-Team Invite on Jan. 12th and we are also hosting the Central Conf. Wrestling tournament on the 26th. We are also hosting our first annual Speech Invite on February 2nd.

Student Services Director's Report: Dr. Lefdal
Program/Staff Member Spotlight: UNL High School -After a semester of UNL High School courses being offered at SCHS, I believe it is important to reflect on the successes, learning opportunities, and down-right struggles of our programs. Let's start with some basic data that will help us better understand the courses and things we have learned so far. We initially signed up 116 students for UNL courses. We had 30 days to test the courses and see if those students could make it in that type of educational environment. After 28 days, I removed 44 students from the classes and put them into appropriate level courses. We have since added 27 classes and have 99 classes being taken. We had 26 students pass courses in UNL, 41 are still working on courses, 5 students failed a course, and we had 19 that had to be removed due to IEP and language issues or if they moved or dropped out of school. I consider this to be a very successful test run of the program. We have learned how to better operate the classes, which students might be most successful in the programs, which classes are realistic for the level of the student, and when to best use the classes. The second semester will look quite a bit different from semester one. We have a better understanding of how to best use the courses, and which students can be successful. The most valuable piece is that this is a wonderful opportunity for the students at SCHS. We were using the program as a way to recover credit, but I see this program accelerating students and increasing class offerings for our college-bound students. What an amazing opportunity for all of our students.
Program/Staff Member Spotlight: Alternative Education - I would first like to thank the board of education for allowing me the opportunity to work with Dr. Hoesing on this program. Although it is still in its infancy stages, I believe this program can and will help many of our students. We have set the maximum number of students at 10, and we currently have 7 students in the program and have 5 that are interested in joining the program second semester. We are working with students to individualize a plan for each one of them. Mr. McClintic has been leading the students through coursework and has seen some early successes with students who hadn't found success at school before. We continue to work with students on attendance and other challenges and barriers that these students bring into the classroom. We have a long and challenging road ahead of us, but the program is up and running, with a few tweaks along the way, I believe we can have a very successful program.
Program/Staff Member Spotlight: College Credit Classes **-** After reviewing the dual credit and college credit courses, we have so much to be proud of at Schuyler High School. We have 70 students taking 103 college and dual credit courses. Being able to offer our students these opportunities to advance their high school career and prepare them for the rigor of college coursework is nothing short of amazing. By allowing for reimbursement of the course after completion and after criteria have been met, this allows for "leveling the playing field" for all of our students and shows first-generation college students that it can be done. Bravo SCHS and the Schuyler Board of Education! Shout out I would like to thank all of the office staff for all of the amazing work they do for our district. This is a difficult position and all of you handle it with grace, kindness, and awesomeness!

Special Education Director's Report: Mrs. Vrba
Program/Staff Member Spotlight: Brenda has been working with our medically fragile students for the last 25 years in the Schuyler Community School system. (Although she has 38 cumulative teaching years in this very specialized field of special education.) Since it was Brenda that provided home-bound services for this group, they are truly like her very own "adopted kids". She is continuously working to improve their instructional programs and/or finding ways for them to enjoy real childhood experiences. One of her young gentlemen is a freshman this year. He has experienced numerous challenges and changes as he has transitioned from the Middle School to the High School. Just like a concerned parent, she suggested maybe spending time with him would help him feel calmer and settled. Brenda stepped up and volunteered to spend mornings with him for the whole week before Christmas break which allowed "coaching moments" for his teacher and paras to happen. (It was NOT an ideal time because she had so much planned for her other students at SMS!) But she did make it work!! Through

Brenda's love and compassion for her students, she has been able to develop and maintain a strong safe relationship and "family bond" with her students and their families!
Notable Events: In November and December, I spent numerous hours in classrooms conducting observations on my team of special education teachers. This group of educators face some tough obstacles every day in our classrooms. We know that every child can learn BUT they may have a different learning style and work at a different pace to reach mastery. Each child is unique! It is difficult for some core subject teachers and/or general education teachers and/or classmates to understand that..."fair doesn't mean giving every child the same thing, it means giving every child what they need". Special education teachers focus on making modifications and accommodations to the curriculum to ensure their students are being successful in our classrooms.

Curriculum and Assessment Director's Report: Dr. Gibbons
Spotlight - I would like to express my appreciation for the new staff that attended the APL training. There had been a mix up with dates so we had planned for December 4th and 5th but the teachers were flexible and were able to make the date change to December 13 and 14th work.
Comprehensive Support and Improvement (CSI) - The Nebraska Department of Education has created a new designation for the lowest performing 5% of Title 1 schools in the state. Schools are identified based on state assessment performance, growth and progress on state assessments, progress on proficiency for EL students, chronic absenteeism and scores on the school's Evidence Based Analysis (EBA). **No school in the Schuyler Community Schools system was designated as a CSI school.**
2017 - 2018 State Assessments - I have created a website with our data displays for the third through eighth grade Reading and Math NSCAS at
https://sites.google.com/schuylercommunityschools.org/assessmentdata/home
Data for all schools in the state can be found at **http://nep.education.ne.gov/**
What you will see in that data is that while we are not where we want to be, we are also not significantly below the state average in any area. I would really appreciate the opportunity to visit with the curriculum and planning team to go over the data in greater depth.
Schuyler Assessment System - Schuyler Community Schools has made the purchase of the Renaissance suite of assessments. This assessment suite will help us better monitor and track the progress of all of our students to ensure that they are learning what we expect them to learn. We will have a training on January 21 to look at understanding and using the data from these assessments.
Professional Development - Steve Harris, a math consultant with Discovery Ed, was here January 9th, 10th and 11th working with Math teachers at the elementary and high school levels. We are working on planning math instruction to better meet the standards, to shift from a more procedural understanding to a more conceptual understanding and to shift the responsibility of learning to the students.
Curriculum Development - It is still a work in progress but here is our current curriculum cycle for 2018 - 2019

2019				
2019	2059	2-5	K-5 ELL	ELL Math
2019	2061	2-5	K-5 ELL	ELL Science
2019	2062	2-5	K-5 ELL	ELL Social Studies
2019	2063	6-8	6-8 MAT	Math
2019	2071	6-8	6-8 ELL	ELL Math
2019	2073	6-8	6-8 SOC	ELL Social Studies
2019	2111	10-12	AGR 211	FLORICULTURE
2019	2117	10-12	AGR 302	LANDSCAPE AND NURSERY MAN
2019	2122	9-12	CRE 500	CREDIT RECOVERY AND ENRICH
2019	2129	9-12	ART 402	CERAMICS
2019	2159	9-12	ESL 505	ESL MATH
2019	2160	9-12	ESL 510	ESL SCIENCE
2019	2161	9-12	ESL 515	ESL SOCIAL STUDIES
2019	2162	9-12	SOC 120	ESL PRE SOCIAL STUDIES
2019	2164	9-12	ESL 530	ESL PROGRESS
2019	2175	12	FCS 401	ADULT LIVING
2019	2176	9-10	ITE 101	TECHNOLOGY EXPLORATION
2019	2180	11-12	ITE 300	ADVANCED C.A.D. TECHNOLOGY
2019	2222	11-12	SCI 300	COMPUTER SCIENCE
2019	2234	K-5	K-5 ELL	K-5 ELL Reading
2019	2244	K-12	K-12 CON	Consumable Books and Workbooks
2019	2258	3-5	3-5 Tech	Keyboarding/Tech Program

Motion to adjourn Passed with a motion by Brian Vavricek and a second by Mynor Hernandez.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

VII.E. Superintendent's Report
Information Item
Upcoming Meeting dates:
1. **Wednesday, January 23rd at 5:00 PM:** The team consisting of the board members, architect, superintendent, and two community members will meet to short-list the Construction Manager at Risk applicants.

2. **Construction Manager at Risk Interviews**
Monday, January 28, 2019 9:00 AM
Monday, January 28, 2019 10:00 AM
Monday, January 28, 2019 11:30 AM

3. **Well at Fisher's 24:** The well is completed and the students returned to Fisher's 24 at the beginning of the second semester. We are waiting on a final test to be approved by the State of Nebraska, for the water to be cleared for drinking.

4. **2019 Strategic Planning Process:** Attached below are the areas identified by staff for improvement on the 2019 Strategic Plan. We will send one question per week seeking staff input on options for improving the identified items. See attached information below.

Staff Member/Program Spotlight: The Foundation has served the district as a supporter of scholarships, funding recognition programs, and in recent years, as a major supporter of promotion and support for district facilities. In January, the Foundation voted to serve the district as the steering committee for the bond referendum and pay for promotional materials, yard signs, etc... See the committee structure attached below.
The team consisting of the board members, architect, superintendent, and two community members will meet to short-list the Construction Manager at Risk applicants. The well is completed and the students returned to Fisher's 24 at the beginning of the second semester. We are waiting on a final test to be approved by the State of Nebraska, for the water to be cleared for drinking. 2019 Strategic Planning Process**:** We will send one question per week seeking staff input on options for improving the identified items.

VII.F. Board Member/Committee Reports
Information Item
Foundation Report on the Foundation Webpage.

https://www.schuylercommunityschools.org/Domain/13

VIII. Correspondence Items

Information Item

IX. Adjournment
Action Item

Motion to adjourn Passed with a motion by Brian Vavricek and a second by Mynor Hernandez.
Richard Brabec: Yea, Mynor Hernandez: Yea, Chuck Misek: Yea, Virginia Semerad: Yea, Brian Vavricek: Yea
Yea: 5, Nay: 0

Schuyler Community Schools

Board of Education Regular Meeting Monday, January 14, 2019 6:30 PM

Schuyler Central High School Music Room
401 Adam St.
Schuyler, NE 68661

The meeting was called to order by President Brabec at 6:31 PM. Board members present were Misek, Semerad, Brabec, Vavricek and Hernandez.

All present participated in the Pledge of Allegiance. President Brabec read the SCS Mission Statement and declared the meeting to be in open session. Advance notice of this meeting was advertised to the public.

Rich Brabec congratulated Brian Vavricek on being reelected. Brabec and Vavricek took the Oath of Office.

Election of 2019 Board Offices

Motion to elect President of the Board of Education - Semerad nominated Richard Brabec as President of the Board of Education. Motion by Misek to cease nominations: seconded by Vavricek. Richard Brabec was elected by a unanimous vote.

Motion to elect Vice President of Board of Education - Brabec nominated Brian Vavricek as Vice President of the Board of Education. Semerad moved that the nominations cease; Hernandez seconded the motion. Brian Vavricek was elected by unanimous vote.

Motion to elect Secretary of Board of Education - Vavricek nominated Virginia Semerad as Secretary of the Board of Education seconded by Vavricek. Brabec made a motion that the nominations cease; Vavricek seconded the motion. Virginia Semerad was elected Secretary of the Board of Education by a unanimous vote.

Motion to elect Treasurer of Board of Education - Brabec nominated Chuck Misek to serve as the Treasurer of the Board of Education. Hernandez made a motion that the nominations cease; Semerad seconded the motion. Chuck Misek was elected by unanimous vote to serve as the Treasurer of the Board of Education.

Motion to elect NASB Delegate of the Board of Education - Vavricek nominated Richard Brabec to serve as the NASB Representative on the Board of Education. Vavricek made a motion that the nominations cease; Semerad seconded the motion. Richard Brabec was elected by unanimous vote to serve as the NASB Representative on the Board of Education.

Motion to appointed Sally Jakub to serve as recording secretary to the Board of Education for the 18-19 school year. Passed with by Brabec and a second by Semerad.

The board will be appointing a new board member next month and they will wait to assign the committee assignments until next month.

Student representative shared that those students in 8th grade through sophomores will have the opportunity to take a trip to Boston and NYC. The Focus classes are practicing building card houses for the latest competition. Mr. Trautman's class is using a website where the student can compete with other schools across the country on vocabulary words which helps prepare the students for the ACT. The Snowball dance will be held February 1st.

Budget, finance, negotiations and personnel-

Motion to approve a Resolution calling for a Special Election in Colfax County School District 0123 (Schuyler Community Schools) on March 12, 2019, to authorize General Obligation School Building Bonds in an amount NOT TO EXCEED $12,500,000 for the purpose of constructing, furnishing and equipping additions, renovations and improvements to the District's existing buildings and grounds and related improvements. Passed with a motion by Mynor Hernandez and a second by Brian Vavricek.

Motion to approve new hire recommendation as presented. Passed with a motion by Richard Brabec and a second by Virginia Semerad.

Mary Herrera; SMS Para-Educator (ELL) Replacement position

Martha Viquez: SES Para-Educator (ELL) K-2 (Non-English speaking program)

Kaydee Dunker: Kindergarten teacher

Motion to approve the 2019-2020 superintendent's contract as presented. Passed with a motion by Brian Vavricek and a second by Mynor Hernandez.

Discussion: The contract extends the current two-year contract (2018-19, 2019-20) for an additional year (2019-20, 2020-21). The proposed contract includes a salary increase from $174,000 to $179,000 (2.8%). Health Insurance deductible increased from $1,000 deductible to $1,200 and changed from family coverage to employee/spouse (reduction of $4,157). All other contract provisions remain unchanged.

Superintendent's Report

The team consisting of the board members, architect, superintendent, and two community members will meet to short-list the Construction Manager at Risk applicants. The well is completed and the students returned to Fisher's 24 at the beginning of the second semester. We are waiting on a final test to be approved by the State of Nebraska, for the water to be cleared for drinking. 2019 Strategic Planning Process: We will send one question per week seeking staff input on options for improving the identified items.

Motion to adjourn Passed with a motion by Brian Vavricek and a second by Mynor Hernandez. Meeting adjourn at 7:19.

You can watch the board meeting at:
https://zoom.us/recording/share/eXDXcc8gj0jDQJNwDn5U-FfNHS8w7RbM2rmpOo-y_l2wIumekTziMw

Schuyler Community Schools
Special Board Meeting
Wednesday, January 23, 2019 5:00 PM
Schuyler Central High School Music Room
401 Adam Street
Schuyler, NE 68661-2400

Call to order, roll call, welcome visitors
Action Item
A meeting of the Construction Manager at Risk Selection Committee of the Board of Education of the Schuyler Community Schools ("Selection Committee") was convened in open and public session on January 23, 2019, at 5:15 p.m. in the high school music room located at 401 Adam Street, Schuyler, Nebraska, or other designated room of such Schuyler Community School building. The roll was called and the following Selection Committee members were present or absent: Present were, Board members, Brabec, Hernanadez, Misek, Semerad, Vavricek, Dr, Hoesing, Tim Ripp, Don Glodowski, and Seckman. Also present: Derek Aldridge, School District legal counsel, Jeff Chadwick, architect with The Clark Enersen Partners, and Stephen Grammer, high school principal.

Notice of the meeting was given in advance by posting in accordance with the Board approved method for giving notice of meetings. Notice of this meeting was given in advance to all members of the Selection Committee. Availability of the agenda was communicated in the posted notice and a current copy of the Agenda was maintained as stated in the posted notice.All proceedings of the Selection Committee, except as may be hereinafter noted, were taken while the convened meeting was open to the attendance of the public.

II. Acknowledge Open Meeting Laws.
Action Item
The meeting was duly called to order. Announcement of Open Meetings Act Posting: At the beginning of this meeting, the Chairperson announced and informed the public that a current copy of the Open Meetings Act is posted on the wall of the meeting room.

III. Discuss, consider and take all necessary action with regard to review of proposals received from prospective candidates for the position of Construction Manager at Risk for the proposed additions and renovations to the existing Schuyler Central High School building project; such action may include the development and adoption of procedures for review of the proposals received, the evaluation of the proposals received from the prospective candidates submitting proposals, and selection of prospective finalist candidates to interview for CM@R position.

Action Item
Review of Proposed Project, Construction Manager at Risk (CM@R) Delivery Method with Committee and CM@R Selection Process: The Selection Committee reviewed the CM@R construction delivery process and the statutory requirements for the selection of the CM@R for the proposed additions and renovations to the existing Schuyler Central High School building

project (the Project). The Selection Committee then discussed the development and adoption of procedures for the review of the proposals received, the evaluation of the proposals received from the prospective candidates submitting proposals, and selection of prospective finalist candidates to interview for CM@R position.

The Selection Committee collectively reviewed, discussed, and considered the proposals received on January 21, 2019, from prospective CM@R candidates for the Project. The Selection Committee evaluated each proposal under the selection criteria.

Upon completion of such review the Selection Committee members individually scored each of the six (6) submitting firms based upon the selection criteria. Upon discussion by the members by the Selection Committee, a motion was made by member Hernandez to rank the submitting firms based upon their qualifications determined under the selection criteria order of preference as follows:

Firm Rank
Hausmann Construction, Inc. 1
Bierman Contracting, Inc. / Sampson Construction Co., Inc. 2
B-D Construction, Inc. 3
Kingery Construction Co. 4
Boyd Jones Construction Company 5
Cheever Construction Company 6

Member Glodowski seconded the motion. After discussion and on roll call vote the following members voted as follows:

Richard Brabec (Board) X
Mynor Hernandez (Board) X
Chuck Misek (Board) X
Virginia Semerad (Board) X
Brian Vavricek (Board) X
Dan Hoesing (Administration) X
Tim Ripp (Architect) X
Don Glodowski (Construction Expert) X
Richard Seckman (Resident) X

The motion was declared as passed and adopted.
The Selection Committee then determined to interview the three top ranked firms, namely, Hausmann Construction, Inc., Bierman Contracting, Inc. / Sampson Construction Co., Inc. and B-D Construction, Inc.; and, thereafter, conducted a blind draw by placing slips of paper with the names of the firms designated as finalists written on an individual slip of paper; the slips of paper were then folded in a manner to hide the name of each firm and placed in a container, and then the slips of paper were drawn from the container by Selection Committee member Glodowski with the first name drawn given the first interview time, and each succeeding firm whose name is drawn given the next interview time in order until all interview times slots were filled. The blind draw resulted in the CM@R finalist firms being provided the following

interview times on January 28, 20198:

B-D Construction, Inc. January 28, 2019 at 9:00 a.m.
Hausmann Construction, Inc. January 28, 2019 at 10:00 a.m.
Bierman Contracting / Sampson Construction January 28, 2019 at 11:30 a.m.
Upon discussion by the members by the Selection Committee, a motion was made by member Vavricek to call for interviews of the top three ranked firms at the dates and times provided. Member Semerad seconded the motion.

Richard Brabec (Board) X
Mynor Hernandez (Board) X
Chuck Misek (Board) X
Virginia Semerad (Board) X
Brian Vavricek (Board) X
Dan Hoesing (Administration) X
Tim Ripp (Architect) X
Don Glodowski (Construction Expert) X
Richard Seckman (Resident) X

The motion was declared as passed and adopted.
The Selection Committee shall reconvene on January 28, 2019, at 8:50 a.m., in the board meeting room located at 401 Adam Street, Schuyler, Nebraska, or other designated room of such Schuyler Community Schools building, to conduct such interviews as deemed appropriate by the Selection Committee and will then deliberate regarding the evaluation of the firms submitting proposals and interviewed for the position of construction manager at risk for the Project, and will prepare findings regarding the results of its evaluation of each firm based upon the selection criteria established in the request for proposals for the Project, and will determine the Selection Committee's recommendation to the Board of Education of the rankings in order of preference of the submitting and interviewed firms for the position as construction manager at risk for the Project.

IV. Adjournment.
Action Item
The meeting was duly adjourned at 8:40 p.m. on January 23, 2019.
DATED this 23rd day of January 2019.
CONSTRUCTION MANAGEMENT AT RISK
SELECTION COMMITTEE FOR SCHUYLER
COMMUNITY SCHOOLS
BY: Derek Aldridge
Recording Secretary for the Selection Committee

Schuyler Community Schools
Special Board Meeting
Monday, January 28, 2019 9:00 AM
Schuyler Central High School Music Room
401 Adam Street
Schuyler, NE 68661-2400

Call to order, roll call, welcome visitors.
Action Item
A meeting of the Construction Manager at Risk Selection Committee of the Board of Education of the Schuyler Community Schools ("Selection Committee") was convened in open and public session on January 28, 2019, at 8:55 a.m. in the high school music room located at 401 Adam Street, Schuyler, Nebraska, or other designated room of such Schuyler Community School building. The roll was called and the following Selection Committee members were present or absent:

Richard Brabec (Board) X
Mynor Hernandez (Board) Absent
Chuck Misek (Board) X
Virginia Semerad (Board) X
Brian Vavricek (Board) X
Dan Hoesing (Administration) X
Tim Ripp (Architect) X
Don Glodowski (Construction Expert) X
Richard Seckman (Resident) X
Also present: Derek Aldridge, School District legal counsel.

Acknowledge Open Meeting Laws.
Action Item
Notice of the meeting was given in advance by posting in accordance with the Board approved method for giving notice of meetings. Notice of this meeting was given in advance to all members of the Selection Committee. Availability of the agenda was communicated in the posted notice and a current copy of the Agenda was maintained as stated in the posted notice. All proceedings of the Selection Committee, except as may be hereinafter noted, were taken while the convened meeting was open to the attendance of the public.
The meeting was duly called to order. Announcement of Open Meetings Act Posting: At the beginning of this meeting, the Chairperson announced and informed the public that a current copy of the Open Meetings Act is posted on the wall of the meeting room.

Approval of Minutes from January 23, 2019 Selection Committee meeting.
Action Item
Approval of Minutes of January 23, 2019 Selection Committee Meeting: Member Seckman noted a scrivener's error in the last sentence of the second page of the Minutes—being the date stated as "20198". Member Seckman made a motion to approve the minutes of the meeting of the Selection Committee on January 23, 2019, subject to correction of the scrivener's error on the

last sentence of the second page. Member Semerad seconded the motion. After discussion and on roll call vote the following members voted as follows:

Richard Brabec (Board)X
Mynor Hernandez (Board) Abstain
Chuck Misek (Board)X
Virginia Semerad (Board)X
Brian Vavricek (Board)X
Dan Hoesing (Administration)X
Tim Ripp (Architect)X
Don Glodowski (Construction Expert)X
Richard Seckman (Resident)X
The Motion was declared as passed and adopted.

Discuss, consider and take all necessary action with regard to proposals received from prospective candidates for the position of Construction Manager at Risk for the proposed additions and renovations to the existing Schuyler Central High School building project; such action to include interviews of the candidates determined by the Selection Committee to be finalists for the CM@R position for the Project, and the development and adoption of findings, recommendations and ranking in order of preference of the finalist CM@R candidates for presentation to the Board of Education.
Action Item
Interviews of Construction Manager Candidates: The Selection Committee conducted interviews of the three (3) firms determined by the Selection Committee to be finalists for the position of construction manager at risk for the proposed construction of the SCC Lincoln Health Science Building project (the Project). The firms interviewed were:
Name of Firm
Interview Time
B-D Construction, Inc.
January 28, 2019 at 9:00 a.m.
Hausmann Construction, Inc.
January 28, 2019 at 10:00 a.m.
Bierman Contracting / Sampson Construction
January 28, 2019 at 11:30 a.m.
Evaluation of Construction Management Candidates. The Selection Committee deliberated regarding the evaluation of the firms for the position of construction manager at risk for the Project. Following such deliberation, the Selection Committee collectively evaluated each firm based upon the selection criteria established in the request for proposals for the Project and prepared findings, recommendations and rankings with regard to each finalist firm, and determined the Selection Committee's collective recommendation to the Board of Education of the ranking of the three (3) firms in order of preference.
Motion to Adopt Findings, Recommendations and Rankings: On the basis of such findings, recommendations and rankings, member Brabec made a motion that the Selection Committee should and does hereby adopt the Findings, Recommendations and Rankings attached to these minutes, and pursuant thereto, ranks the three (3) finalist firms as follows:

1 Hausmann Construction, Inc.

2 Bierman Contracting / Sampson Construction
3 B-D Construction, Inc.

Member Vavricek seconded the motion. After discussion and on roll call vote the following members as follows:

Richard Brabec (Board)X
Mynor Hernandez (Board) Abstain
Chuck Misek (Board) X
Virginia Semerad (Board) X
Brian Vavricek (Board) X
Dan Hoesing (Administration) X
Tim Ripp (Architect) X
Don Glodowski (Construction Expert) X
Richard Seckman (Resident) X

Adjournment.
Action Item
The meeting was duly adjourned at 2:25 p.m. on January 28, 2019.
DATED this 28rd day of January 2019.
CONSTRUCTION MANAGEMENT AT RISK SELECTION COMMITTEE FOR SCHUYLER COMMUNITY SCHOOLS
BY: Derek A Aldrige
Recording Secretary for the Selection Committee

SCHUYLER COMMUNITY SCHOOLS
MONTHLY DISBURSEMENT REPORT
For the month of February 2019

Check #	Date	Vendor	Description	Amount
39614	2/11/2019	SYNCB/AMAZON	supplies	$532.72
39615	2/11/2019	Americom Communications	cameras	$9,125.00
39616	2/11/2019	BOMGAARS	supplies	$113.44
39617	2/11/2019	Cada Electric, LLC	Fishers well work	$1,715.39
39618	2/11/2019	Carrier Enterprise, LLC	MS HVAC unit	$5,734.00
39619	2/11/2019	Casey's Business MasterCard	fuel	$57.81
39620	2/11/2019	Cenex Fleetcard	fuel	$350.52
39621	2/11/2019	CenturyLink	phone	$226.03
39622	2/11/2019	CenturyLink	telephone	$1,507.78
39623	2/11/2019	Central Nebraska Rehab Services	OT/PT services	$15,323.68
39624	2/11/2019	CenterPoint Energy Services, Inc.	natural gas	$4,663.77
39625	2/11/2019	CHI Health	bus physicals	$323.00
39626	2/11/2019	Central Nebraska Comm. Action Partner., Inc.	2nd qtr preschool billing	$17,595.39
39627	2/11/2019	Columbus Carpet, Inc	MS carpet	$192.26
39628	2/11/2019	Commonwealth Electric Company	HS shop work	$7,039.21
39629	2/11/2019	Cornhusker Public Power District	electricity	$2,996.44
39630	2/11/2019	Culligan Water Conditioning	soft water plan/sanitize syste	$181.10
39631	2/11/2019	Demco	MS library supplies	$65.93
39632	2/11/2019	Department Of Utilities	utilities	$23,558.51
39633	2/11/2019	Didier Grocery	supplies	$360.15
39634	2/11/2019	Discovery Education, Inc.	STEM training	$29,500.00
39635	2/11/2019	Eagle Communications	internet	$1,521.00
39636	2/11/2019	Eakes Office Products Center	copies, scrubber parts	$14,635.79
39637	2/11/2019	NE Dept of Ed- Early Childhood Training Ctr	GOLD training	$20.00
39638	2/11/2019	Electrical Engineering & Equipment Co	supplies	$2,926.64
39639	2/11/2019	Educational Service Unit #2	E-Library	$22,239.00
39640	2/11/2019	Educational Serv Unit #7 Network	tech support	$237.50
39641	2/11/2019	ESU #7 Special Education	SPED services	$44,244.43
39642	2/11/2019	FileMaker, Inc	renewal	$5,148.00
39643	2/11/2019	FP Mailing Solutions	postage meter fees	$152.46
39644	2/11/2019	Fremont Winnelson Co	MS water fountain	$687.94
39645	2/11/2019	Frontier	telephone	$100.13
39646	2/11/2019	Fun and Function LLC	SPED supplies	$116.37
39647	2/11/2019	Jeff Gall	snow removal	$397.50
39648	2/11/2019	Gartner & Associates Co Inc	SES rooftop unit parts	$295.00
39649	2/11/2019	Harris School Solutions	tax forms	$403.71
39650	2/11/2019	Hillyard/Sioux Falls	cleaning supplies	$503.12
39651	2/11/2019	Jessica Hinkle	2018 Mileage	$1,346.96
39652	2/11/2019	Dan Hoesing	phone stipend	$240.00
39653	2/11/2019	Hometown Leasing	copier lease	$2,272.48
39654	2/11/2019	J & B Auto Parts	supplies	$143.83
39655	2/11/2019	Jackson Services Inc	linens	$1,330.68
39656	2/11/2019	JEO Consulting Group Inc	well project	$92.50
39657	2/11/2019	Johnstone Supply	supplies	$377.68
39658	2/11/2019	John's Tire Sales & Services	Bus tires, pickup,van maintena	$677.95
39659	2/11/2019	J W Pepper & Sons Inc.	music	$1,333.96
39660	2/11/2019	Karel And Seckman	legal services	$19.50

39661	2/11/2019	Magnum Builders	supplies	$475.50
39662	2/11/2019	Mid-american Research Chemicals	supplies	$1,820.00
39663	2/11/2019	Marriott	hotel	$119.00
39664	2/11/2019	Matheson Trigas	shop supplies	$677.83
39665	2/11/2019	Mcgraw Hill Companies	Wonders training SES	$5,000.00
39666	2/11/2019	Leandro Mejia	Dec mileage	$11.45
39667	2/11/2019	Menards	supplies	$992.39
39668	2/11/2019	Meyer Laboratory, Inc	supplies	$1,109.65
39669	2/11/2019	Mid-States School Equipment Co inc	stools	$909.09
39670	2/11/2019	Nebr Assoc Of School Boards	Legislative conference	$640.00
39671	2/11/2019	Nebraska Public Health Environmental Laborato	water testing	$17.00
39672	2/11/2019	Nebraska Safety Center	8 Level 2 Transp. courses	$800.00
39673	2/11/2019	Nebraska Department of Labor	Unemployment	$60.68
39674	2/11/2019	NE DOL/Boiler Inspection Program	annual certificates	$90.00
39675	2/11/2019	Omaha Public Power District	electricity	$136.70
39676	2/11/2019	Parkview One Stop LLC	fuel	$263.67
39677	2/11/2019	Pekny & Associates CPA's PC	Audit for MSRB	$350.00
39678	2/11/2019	Per Mar Security Services	Security	$951.12
39679	2/11/2019	Perry, Guthery, Hasse & Gessford, P.C., L.L.O	legal services	$7,349.26
39680	2/11/2019	Presto-X	pest control	$315.00
39681	2/11/2019	Qc Supply, Llc	supplies	$333.16
39682	2/11/2019	Rasmussen Mechanical Services	SES roof top unit	$23,131.91
39683	2/11/2019	Reinecke Motor Co.	2014 Van work	$193.20
39684	2/11/2019	Scenario Learning	SafeSchools online mngment	$800.00
39685	2/11/2019	Schuyler Chamber Of Commerce	Board ad	$5.00
39686	2/11/2019	Schuyler Coop Association	fuel, propane	$3,061.73
39687	2/11/2019	Schuyler Home & Building Supply	supplies	$1,090.21
39688	2/11/2019	SCS ACTIVITY FUND	reimb for FCS supplies	$73.57
39689	2/11/2019	Sparq Data Solutions	meeting subscription	$2,500.00
39690	2/11/2019	Sunbelt Rentals Inc	rental	$517.50
39691	2/11/2019	Teacher Synergy, LLC	Algebra curriculum	$19.95
39692	2/11/2019	The Flippen Group	Lyle Wells keynote	$4,000.00
39693	2/11/2019	The Thompson Co	PreK snacks	$516.08
39694	2/11/2019	University of NE - Kearney	Education Opportunity fair	$75.00
39695	2/11/2019	UNL-Career Services	Spring Education Fair	$90.00
39696	2/11/2019	Verizon Wireless	cellphones	$568.66
39697	2/11/2019	Visa	ASP supplies	$308.90
39698	2/11/2019	Visa	ASP postage	$14.70
39699	2/11/2019	VISA	Sixpence supplies	$430.06
39700	2/11/2019	VISA	supplies	$38.07
39701	2/11/2019	Visa	supplies	$586.82
39702	2/11/2019	VISA	UNO BOCH festival rooms	$1,010.63
39703	2/11/2019	WageWorks	Monthly fees	$220.00
39704	2/11/2019	Waste Connections of NE, Inc.	sanitation service	$905.00
39705	2/11/2019	William V. Macgill & Co	Otoscope	$195.00
02109-36	2/12/2019	Heather Bebout	Jan mileage	$66.70
02109-37	2/12/2019	Lexi Bruha	Jan mileage	$128.76
02109-38	2/12/2019	Kelly McClintic	mileage	$121.80
02109-39	2/12/2019	Carol Reha	mileage	$6.62
TOTAL GENERAL FUND DISBURSEMENTS				**$285,723.63**

1335	2/11/2019	Americom Communications	New Ag addition cameras	$6,434.00
1336	2/11/2019	Sargent Drilling	Fisher's New Well	$47,917.02
TOTAL SPECIAL BUILDING FUND DISBURSEMENTS				**$54,351.02**
3149	2/11/2019	CenturyLink	2 month phone	$476.10
3150	2/11/2019	Homestead Bank	rent	$250.00
TOTAL COOPERATIVE FUND DISBURSEMENTS				**$726.10**
410	2/11/2019	Computer Hardware, Inc.	repairs	$308.00
TOTAL STUDENT FEE FUND DISBURSEMENTS				**$308.00**

SCHUYLER COMMUNITY SCHOOLS
MONTHLY DISBURSEMENT REPORT over $5000
For the month of February 2019

Check #	Date	Vendor	Description	Amount
39641	2/11/2019	ESU #7 Special Education	SPED services	$44,244.43
39634	2/11/2019	Discovery Education, Inc.	STEM training	$29,500.00
39632	2/11/2019	Department Of Utilities	utilities	$23,558.51
39682	2/11/2019	Rasmussen Mechanical Services	SES roof top unit	$23,131.91
39639	2/11/2019	Educational Service Unit #2	E-Library	$22,239.00
39626	2/11/2019	Central Nebraska Comm. Action Partner., Inc.	2nd qtr preschool billing	$17,595.39
39623	2/11/2019	Central Nebraska Rehab Services	OT/PT services	$15,323.68
39636	2/11/2019	Eakes Office Products Center	copies, scrubber parts	$14,635.79
39615	2/11/2019	Americom Communications	cameras	$9,125.00
39679	2/11/2019	Perry, Guthery, Hasse & Gessford, P.C., L.L.O	legal services	$7,349.26
39628	2/11/2019	Commonwealth Electric Company	HS shop work	$7,039.21
39618	2/11/2019	Carrier Enterprise, LLC	MS HVAC unit	$5,734.00
39642	2/11/2019	FileMaker, Inc	renewal	$5,148.00
39665	2/11/2019	Mcgraw Hill Companies	Wonders training SES	$5,000.00
TOTAL GENERAL FUND DISBURSEMENTS				**$229,624.18**
1336	2/11/2019	Sargent Drilling	Fisher's New Well	$47,917.02
1335	2/11/2019	Americom Communications	New Ag addition cameras	$6,434.00
TOTAL SPECIAL BUILDING FUND DISBURSEMENTS				**$54,351.02**

Current Cash Balance

Sorted by Site ID, Group ID, Activity ID.
From 01/01/2019 to 01/31/2019.

Site ID Site Name
Group ID Group Name

Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
SCHUYL	Schuyler Community Schools					
A	ACADEMIC					
1100	CONSORTIUM PAYROLL	232.84	0.00	0.00	0.00	232.84
1500	ARC EQUIP SPEC.ED.	411.89	0.00	0.00	0.00	411.89
	A Totals:	644.73	0.00	0.00	0.00	644.73
B	ATHLETIC					
2100	BASKETBALL B	-4,414.03	0.00	1,287.67	0.00	-5,701.70
2150	BASKETBALL G	-4,271.42	0.00	1,490.00	0.00	-5,761.42
2200	CROSS COUNTRY B & G	0.00	0.00	0.00	0.00	0.00
2250	CROSS COUNTRY	0.00	0.00	0.00	0.00	0.00
2300	FOOTBALL	-5,822.06	0.00	0.00	0.00	-5,822.06
2350	GOLF B	-280.35	0.00	0.00	0.00	-280.35
2375	GOLF G	0.00	0.00	0.00	0.00	0.00
2400	SOFTBALL	-130.00	0.00	0.00	0.00	-130.00
2450	SOCCER B	-647.84	0.00	0.00	0.00	-647.84
2500	SOCCER G	325.66	0.00	0.00	0.00	325.66
2600	TRACK	-1,109.20	0.00	0.00	0.00	-1,109.20
2700	VOLLEYBALL	0.00	0.00	0.00	0.00	0.00
2750	WRESTLING	-6,494.36	0.00	3,335.56	0.00	-9,829.92
2755	WEIGHT ROOM EQUIPMENT	1,888.69	0.00	593.78	0.00	1,294.91
2800	SMS ATHLETICS	-6,469.91	834.00	1,200.00	0.00	-6,835.91
2850	LAUNDRY	0.00	0.00	0.00	0.00	0.00
2900	GENERAL	11,924.45	10,130.96	3,025.00	94.14	19,124.55
2950	MEDICAL	1,100.00	0.00	0.00	0.00	1,100.00
2970	BOOSTER CLUB DONATION	-773.60	0.00	0.00	0.00	-773.60
2975	DONATIONS	5,393.18	0.00	93.91	0.00	5,299.27
	B Totals:	-9,780.79	10,964.96	11,025.92	94.14	-9,747.61
C	DISTRICT					
3100	ADULT EDUCATION	2,595.68	0.00	162.00	0.00	2,433.68
3110	COLLEGE CREDIT	12,026.63	162.00	1,266.00	0.00	10,922.63
3200	GENERAL	27,719.57	470.25	43.00	49.81	28,196.63
3250	FIELD HOUSE	14,248.59	842.45	225.00	0.00	14,866.04
3300	FINES	1,259.10	0.00	0.00	0.00	1,259.10
3400	HIGH SCHOOL--- BOOK FINES	4,055.16	0.00	0.00	0.00	4,055.16
	C Totals:	61,904.73	1,474.70	1,696.00	49.81	61,733.24
D	DEPARTMENTS					
3450	SCHS LIBRARY FINES	618.81	123.55	0.00	0.00	742.36
4000	BAND	2,621.26	6.00	101.88	0.00	2,525.38
4025	Musical	4,449.84	0.00	0.00	0.00	4,449.84
4050	VOCAL	221.87	0.00	0.00	0.00	221.87
4750	KOEHN TRUST (BAND DONATION)	19,697.80	0.00	2,150.00	0.00	17,547.80
	D Totals:	27,609.58	129.55	2,251.88	0.00	25,487.25

Current Cash Balance

Sorted by Site ID, Group ID, Activity ID.
From 01/01/2019 to 01/31/2019.

Site ID Site Name
Group ID Group Name

	Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
E	UNIFORMS & EQUIPMENT						
	4500	BAND (UNIFORM DEP)	828.18	0.00	0.00	0.00	828.18
	4650	FLAG CORPS	9.62	0.00	0.00	0.00	9.62
	4700	INSTRUMENT RENTAL	0.00	0.00	0.00	0.00	0.00
	4770	AMBASSADORS	1,839.30	0.00	0.00	0.00	1,839.30
		E Totals:	2,677.10	0.00	0.00	0.00	2,677.10

Current Cash Balance

Sorted by Site ID, Group ID, Activity ID.

From 01/01/2019 to 01/31/2019.

Site ID Site Name

Group ID Group Name

	Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
F	CLUBS ORGANIZATIONS						
	5000	ART	692.83	0.00	0.00	0.00	692.83
	5005	ATHS	573.39	0.00	0.00	0.00	573.39
	5050	CHEERLEADERS	2,583.48	200.00	241.00	0.00	2,542.48
	5100	DRAMATICS, SPEECH	-215.25	253.48	872.00	-158.61	-992.38
	5105	One Act	180.58	386.94	1,462.82	0.00	-895.30
	5150	DANCE TEAM	-337.81	0.00	0.00	0.00	-337.81
	5175	EMERGENCY RESPNSE TEAM	1,594.77	1,500.00	0.00	0.00	3,094.77
	5200	FFA	8,185.52	2,316.75	385.00	0.00	10,117.27
	5250	FCCLA	2,114.01	0.00	888.48	141.69	1,367.22
	5300	CULTURAL UNITY	1,250.30	64.29	161.98	0.00	1,152.61
	5350	NATIONAL HONOR SOCIETY	1,961.50	0.00	0.00	0.00	1,961.50
	5400	S-CLUB	109.55	0.00	0.00	452.46	562.01
	5405	SPIRIT CLUB	157.93	0.00	0.00	0.00	157.93
	5425	WARRIORS STAND FOR THE SILENT	183.52	0.00	0.00	0.00	183.52
	5500	SCIENCE & mATH cLUB	5,388.58	158.77	0.00	0.00	5,547.35
	5510	SCIENCE TRIP	31.26	0.00	0.00	0.00	31.26
	5515	INDUST. TECH GRANT SCHS	0.00	0.00	0.00	2,000.00	2,000.00
	5525	SCIENCE FAIR	699.97	0.00	0.00	0.00	699.97
	5550	STUDENT COUNCIL	4,036.96	383.93	0.00	0.00	4,420.89
	5575	504 R ACTIVITY FUND	319.22	0.00	0.00	0.00	319.22
	5600	RICHLAND ACTIVITY FUND	480.52	105.40	19.95	0.00	565.97
	5610	FISHER 24 ACTIVITY FUND	5,555.64	0.00	0.00	0.00	5,555.64
	5620	SCHUYLER ELEMENTARY SCHOOL	183.42	13.98	36.97	0.00	160.43
	5621	SES FELICIATIONS	0.00	0.00	0.00	0.00	0.00
	5622	SES FIELD DAY	7,640.57	0.00	0.00	0.00	7,640.57
	5623	SES Vocal Music Club	1,220.15	0.00	0.00	0.00	1,220.15
	5624	SES LIBRARY	699.88	0.00	0.00	0.00	699.88
	5631	SES POP FUND	1,084.83	96.21	0.00	0.00	1,181.04
	5632	SES Band CLUB	92.00	0.00	0.00	0.00	92.00
	5650	BRAINSTORMING	0.00	0.00	0.00	0.00	0.00
	5675	TEEN MOM'S	133.86	0.00	0.00	0.00	133.86
	5700	A.S.K.	263.89	0.00	0.00	0.00	263.89
	5725	STUDENT COUNCIL MAKE A WISH	1,524.37	95.00	0.00	0.00	1,619.37
	5750	FELLOWSHIP CHRISTIANS FOR ATHLETICS	84.43	0.00	0.00	0.00	84.43
	5775	INDUSTRIAL TECH ACCOUNT	0.00	0.00	0.00	0.00	0.00
	5800	SHEEL CREEK WATER TESTING	0.00	0.00	0.00	0.00	0.00
	5825	PRESCHOOL	335.61	0.00	0.00	0.00	335.61
	5900	SMS GENERAL ACTIVITY	2,585.92	0.00	196.78	0.00	2,389.14
	5901	SMS STUDENT COUNCIL	8,572.76	832.00	864.21	0.00	8,540.55
	5902	SMS LIBRARY	2,502.65	369.00	0.00	0.00	2,871.65
	5903	SMS RESOURCE ROOM	4,723.95	0.00	0.00	0.00	4,723.95
	5904	SMS BAND CLUB	640.97	0.00	0.00	0.00	640.97
	5905	SMS TEACHER POP 7702463	-100.32	0.00	0.00	0.00	-100.32
	5906	SMS EDUCATIONQUEST FOUNDATION GRANT	750.00	0.00	0.00	0.00	750.00

Current Cash Balance

Sorted by Site ID, Group ID, Activity ID.
From 01/01/2019 to 01/31/2019.

Site ID Site Name
Group ID Group Name

Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
5907	SMS Entrepreneurship	0.00	0.00	0.00	0.00	0.00
5909	SMS VOCAL MUSIC	8.25	0.00	0.00	0.00	8.25
5910	SMS VOLLEYBALL CLUB	26.48	0.00	0.00	0.00	26.48
5911	SMS YEARBOOK	1,778.65	820.00	823.00	0.00	1,775.65
5915	SMS WRESTLING CLUB	1,104.68	86.00	48.50	0.00	1,142.18
5920	SMS FOOTBALL CLUB	67.80	0.00	0.00	0.00	67.80
5925	SMS BOYS BASKETBALL CLUB	475.53	0.00	0.00	0.00	475.53
5930	YOUTH FOOTBALL	2,429.17	0.00	0.00	0.00	2,429.17
	F Totals:	74,375.97	7,681.75	6,000.69	2,435.54	78,492.57
G	CONCESSION/VENDING					
6000	CONCESSION	1,709.70	1,140.77	1,131.15	309.45	2,028.77
6010	Imp. Fund-10%	2,419.85	245.44	94.28	48.79	2,619.80
6100	SCHS PEPSI 7701503	6,050.73	3,084.72	475.97	637.75	9,297.23
6125	SCHS LUNCH PEPSI	-831.32	0.00	0.00	0.00	-831.32
6150	SCS FIELD HOUSE POP	1,502.86	435.00	0.00	0.00	1,937.86
6200	STUDENT POP	934.34	0.00	0.00	0.00	934.34
6300	TEACHER POP	4,191.50	0.00	0.00	0.00	4,191.50
6400	S-CLUB JUICE	457.42	0.00	0.00	-452.46	4.96
6500	MAINTENANCE	7,535.80	20.97	0.00	0.00	7,556.77
6600	MILK MACHINE - FCCLA	171.53	0.00	0.00	0.00	171.53
	G Totals:	24,142.41	4,926.90	1,701.40	543.53	27,911.44
H	SALES					
7000	HORTICULTURE	9,159.39	714.00	0.00	0.00	9,873.39
7010	HOUSE CONSTRUCTION	2,953.02	0.00	0.00	0.00	2,953.02
7020	HOUSE RENTAL	18,448.52	400.00	474.12	0.00	18,374.40
7050	INTRO TO CONSTRUCTION	3,756.86	0.00	0.00	0.00	3,756.86
7150	BBB CLUB ACCOUNT	556.02	327.34	0.00	0.00	883.36
7200	GBB CLUB ACCOUNT	-162.66	1,607.50	0.00	0.00	1,444.84
7215	BOYS GOLF CLUB ACCT.	1,713.51	0.00	0.00	0.00	1,713.51
7225	GIRLS GOLF CLUB ACCOUNT	308.26	0.00	0.00	0.00	308.26
7250	WRESTLING CLUB ACCOUNT	5,327.45	1,547.55	225.05	-1,123.02	5,526.93
7275	WRESTLING AIDS	477.71	0.00	0.00	0.00	477.71
7300	BSOC CLUB ACCOUNT	1,010.61	0.00	0.00	0.00	1,010.61
7325	GSOC CLUB ACCOUNT	3,582.43	0.00	0.00	0.00	3,582.43
7350	G/B CROSS COUNTRY CLUB	1,568.68	239.52	513.60	0.00	1,294.60
7400	FOOTBALL CLUB ACCOUNT	5,007.56	0.00	0.00	0.00	5,007.56
7450	VOLLEYBALL CLUB ACCT.	8,108.85	0.00	0.00	0.00	8,108.85
7500	SB CLUB ACCOUNT	3.68	0.00	0.00	0.00	3.68
7550	STUDENT PURCHASES	243.59	83.36	97.55	0.00	229.40
7600	TR. CLUB ACCT	1,495.23	0.00	0.00	0.00	1,495.23
	H Totals:	63,558.71	4,919.27	1,310.32	-1,123.02	66,044.64

Current Cash Balance

Sorted by Site ID, Group ID, Activity ID.

From 01/01/2019 to 01/31/2019.

Site ID Site Name

Group ID Group Name

Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
I	CLASSES					
8000	ALUMNI ACCOUNT	1,386.24	0.00	0.00	0.00	1,386.24
8255	CLASSES OF 2013	719.22	0.00	0.00	0.00	719.22
8260	CLASS 2014	382.63	0.00	0.00	0.00	382.63
8265	CLASS OF 2015	219.65	0.00	0.00	0.00	219.65
8270	CLASS OF 2016	274.99	0.00	0.00	0.00	274.99
8275	CLASS OF 2017	1,306.71	0.00	0.00	0.00	1,306.71
8280	CLASS 2018	96.87	0.00	0.00	0.00	96.87
8285	CLASS OF 2019	28.25	600.00	0.00	0.00	628.25
8290	CLASS OF 2020	1,275.00	298.36	0.00	0.00	1,573.36
8295	CLASS OF 2021	664.67	0.00	0.00	0.00	664.67
8300	Class of 2022	-100.00	644.00	1,059.00	0.00	-515.00
8320	CLASS OF 2026	1,356.46	105.00	198.96	0.00	1,262.50
8325	CLASS OF 2027	1,186.30	0.00	195.04	0.00	991.26
8330	CLASS OF 2028	1,184.75	402.00	370.23	0.00	1,216.52
8335	CLASS OF 2029	759.60	75.00	136.38	0.00	698.22
8340	CLASS OF 2030	1,500.25	10.00	219.06	0.00	1,291.19
8345	CLASS OF 2031	726.78	20.00	287.67	0.00	459.11
	I Totals:	12,968.37	2,154.36	2,466.34	0.00	12,656.39
J	YEARBOOK					
8560	YEARBOOK	5,043.45	0.00	4.13	0.00	5,039.32
	J Totals:	5,043.45	0.00	4.13	0.00	5,039.32
K	MISCELLANEOUS					
9000	STUDENT COUNCIL SCHOOL IMPROVMENT FUND	1,304.25	0.00	0.00	0.00	1,304.25
9025	SAVE THE CHILDREN	300.00	0.00	0.00	0.00	300.00
9030	AFTERSCHOOL PROGRAM	64,995.60	6,178.75	189.86	-2,000.00	68,984.49
9035	SIXPENSE	185.04	1,500.00	0.00	0.00	1,685.04
9040	SES BACK PACK PROGRAM	1,500.00	0.00	0.00	0.00	1,500.00
9050	SCHS FELICITATIONS	0.00	0.00	0.00	0.00	0.00
9075	KEY DEPOSITS & RENTAL FEES	4,193.25	216.00	0.00	0.00	4,409.25
9100	BLOOD MOBILE	-123.78	0.00	0.00	0.00	-123.78
9105	WELLNESS WARRIORS	3,304.77	0.00	300.00	0.00	3,004.77
9115	LUNCH CARD	1,734.05	0.00	0.00	0.00	1,734.05
9125	TMH	121.20	0.00	0.00	0.00	121.20
9150	PRINCIPAL	197.15	16.31	65.09	0.00	148.37
9175	Technology Fee	37,354.98	92.00	0.00	0.00	37,446.98
	K Totals:	115,066.51	8,003.06	554.95	-2,000.00	120,514.62
L	SCHOLARSHIPS/MEMORIALS					
9200	TOUR	176.57	0.00	0.00	0.00	176.57
9500	COLLEGE ACCESS GRANT	3,281.42	0.00	0.00	0.00	3,281.42
	L Totals:	3,457.99	0.00	0.00	0.00	3,457.99

Current Cash Balance

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From 01/01/2019 to 01/31/2019.

Site ID Site Name
Group ID Group Name

Activity ID	Activity Name	Beginning Cash	Receipts	Disbursements	Adjustments	Cash Balance
	SCHUYL Totals:	381,668.76	40,254.55	27,011.63	0.00	394,911.68
	Report Totals:	381,668.76	40,254.55	27,011.63	0.00	394,911.68

REVENUE REPORT	2012-13	%	2013-14	%	2014-15	%	2015-16	%	2016-17	%	2017-18	%	2018-19	%
September Total	**$3,243,881.77**	**20.04%**	**$3,265,998.95**	**18.78%**	**$3,689,300.73**	**17.69%**	**$3,777,399.57**	**18.11%**	**$3,834,741.76**	**18.88%**	**$4,269,068.23**	**21.29%**	**$4,203,426.68**	**20.08%**
Local/County	$2,721,553.23	29.79%	$2,722,697.71	27.36%	$2,959,876.38	25.25%	$3,296,850.19	25.42%	$3,244,512.16	24.10%	$3,616,567.87	24.80%	$3,871,636.68	26.17%
State	$486,165.87	8.37%	$517,078.69	8.34%	$581,961.52	8.41%	$406,284.76	7.95%	$405,292.50	8.03%	$318,484.56	8.39%	$327,782.00	7.48%
Federal	$35,044.21	2.85%	$26,108.00	2.12%	$147,462.83	6.66%	$74,077.43	2.66%	$184,795.20	10.34%	$334,015.80	20.00%	$4,008.00	0.23%
Other	$1,118.46	11.18%	$114.55	1.15%	$0.00	0.00%	$187.19	1.87%	$141.90	1.42%		0.00%		0.00%
October Total	**$800,294.79**	**24.99%**	**$849,385.19**	**23.67%**	**$819,772.20**	**21.62%**	**$919,934.61**	**22.52%**	**$800,032.03**	**22.82%**	**$812,931.69**	**25.34%**	**$681,958.11**	**23.33%**
Local/County	$269,910.85	32.75%	$259,569.32	29.96%	$225,585.97	27.18%	$465,936.95	29.02%	$353,056.80	26.72%	$334,446.13	27.10%	$325,062.51	28.36%
State	$493,020.87	16.85%	$523,529.69	16.79%	$588,572.52	16.92%	$444,247.15	16.65%	$416,054.50	16.27%	$284,749.00	15.89%	$341,484.00	15.27%
Federal	$35,048.93	5.70%	$349.10	2.15%	$3,548.58	6.82%	$9,750.51	3.02%	$30,675.73	12.06%	$193,736.56	31.60%	$15,411.60	1.11%
Other	$2,314.14	34.33%	$65,937.08	660.52%	$2,065.13	20.65%	$0.00	1.87%	$245.00	3.87%		0.00%		0.00%
November Total	**$681,651.52**	**29.20%**	**$670,719.61**	**27.53%**	**$704,918.79**	**25.00%**	**$841,237.42**	**26.56%**	**$934,567.57**	**27.42%**	**$404,661.44**	**27.36%**	**$647,571.18**	**26.42%**
Local/County	$95,304.63	33.79%	$112,741.80	31.10%	$98,109.77	28.01%	$115,861.20	29.91%	$158,699.52	27.90%	$111,941.11	27.87%	$179,813.65	29.58%
State	$483,165.87	25.17%	$515,078.69	25.09%	$581,961.52	25.33%	$0.00	16.65%	$405,292.50	24.30%	$274,019.00	23.11%	$327,782.00	22.75%
Federal	$97,466.14	13.62%	$35,415.49	5.03%	$24,291.13	7.92%	$723,064.57	29.03%	$370,575.55	32.80%	$7,103.33	32.03%	$139,975.53	9.11%
Other	$5,714.88	91.47%	$7,483.63	735.35%	$556.37	26.22%	$2,311.65	24.99%	$0.00	3.87%	$11,598.00	115.98%		0.00%
December Total	**$862,123.68**	**34.53%**	**$800,090.95**	**32.13%**	**$894,606.37**	**29.29%**	**$1,243,678.07**	**32.52%**	**$863,838.51**	**31.68%**	**$683,867.94**	**30.77%**	**$745,256.34**	**29.98%**
Local/County	$272,803.54	36.78%	$192,538.93	33.03%	$226,629.75	29.95%	$307,081.16	32.28%	$266,290.80	29.88%	$264,179.54	29.68%	$295,771.34	31.58%
State	$569,949.87	34.98%	$607,161.69	34.89%	$655,231.52	34.80%	$914,854.52	34.57%	$405,292.50	32.33%	$395,674.00	33.54%	$449,485.00	33.01%
Federal	$3,417.77	13.90%	$0.00	5.03%	$7,379.81	8.25%	$14,668.35	29.55%	$192,255.21	43.56%	$24,014.40	33.47%	$0.00	9.11%
Other	$15,952.50	251.00%	$390.33	739.26%	$5,365.29	79.87%	$7,074.04	95.73%	$0.00	3.87%	$0.00	115.98%	$0.00	0.00%
January total	**$1,292,143.75**	**42.51%**	**$2,125,248.63**	**44.35%**	**$1,840,957.36**	**38.12%**	**$2,258,459.02**	**43.35%**	**$1,894,173.38**	**41.00%**	**$2,829,527.97**	**44.88%**	**$2,143,935.43**	**40.22%**
Local/County	$665,610.57	44.07%	$1,194,008.87	45.03%	$1,173,520.62	39.96%	$1,324,921.74	42.50%	$1,361,047.88	39.98%	$1,549,462.72	40.31%	$1,456,969.16	41.42%
State	$572,198.87	44.83%	$606,631.69	44.67%	$655,231.52	44.27%	$931,190.66	52.80%	$522,738.50	42.68%	$521,133.00	47.27%	$587,974.82	46.42%
Federal	$44,861.18	17.55%	$324,573.84	31.44%	$11,844.10	8.79%	$2,346.62	29.64%	$3,497.12	43.75%	$758,932.25	78.91%	$98,991.45	14.77%
Other	$9,473.13	345.73%	$34.23	739.60%	$361.12	83.48%		95.73%	$6,889.88	72.77%		115.98%	$0.00	0.00%
February Total	**$1,220,138.54**	**50.05%**	**$1,148,504.60**	**50.96%**	**$1,728,208.84**	**46.41%**	**$852,443.43**	**47.44%**	**$1,182,532.68**	**46.82%**	**$968,000.97**	**49.70%**	**$0.00**	**40.22%**
Local/County	$252,933.44	46.84%	$247,669.25	47.52%	$255,338.86	42.14%	$262,178.17	44.52%	$285,384.80	42.10%	$346,579.55	42.68%		41.42%
State	$845,016.92	59.37%	$891,484.60	59.05%	$1,030,379.73	59.16%	$523,430.65	63.05%	$735,559.01	57.25%	$621,370.07	63.64%		46.42%
Federal	$3,615.29	17.84%	$8,725.67	32.15%	$442,490.25	28.78%	$66,834.61	32.04%	$161,430.75	52.79%		78.91%		14.77%
Other	$118,572.89	1531.46%	$625.08	745.85%	$0.00	83.48%		95.73%	$158.12	74.35%	$51.35	116.49%		0.00%
March total	**$1,555,657.68**	**59.66%**	**$1,088,408.12**	**57.22%**	**$1,211,095.78**	**52.21%**	**$1,513,121.85**	**54.70%**	**$876,612.25**	**51.14%**	**$1,614,261.92**	**57.75%**	**$0.00**	**40.22%**
Local/County	$452,827.33	51.79%	$322,560.66	50.76%	$425,766.41	45.77%	$485,798.34	48.27%	$343,463.17	44.65%	$874,833.73	48.68%		41.42%
State	$575,647.87	69.28%	$628,728.00	69.19%	$664,297.52	68.76%	$500,780.51	72.85%	$523,290.50	67.62%	$505,145.00	76.95%		46.42%
Federal	$526,637.48	60.66%	$136,430.87	43.25%	$120,632.85	34.23%	$515,712.32	50.59%	$9,786.44	53.33%	$232,369.39	92.82%		14.77%
Other	$545.00	1536.91%	$688.59	752.73%	$399.00	87.47%	$10,830.68	204.04%	$72.14	75.07%	$1,913.80	135.63%		0.00%
April Total	**$1,171,427.67**	**66.90%**	**$1,633,241.15**	**66.61%**	**$1,863,742.31**	**61.15%**	**$2,030,684.75**	**64.43%**	**$2,508,145.70**	**63.49%**	**$1,882,637.98**	**67.14%**	**$0.00**	**40.22%**
Local/County	$549,372.21	57.81%	$1,008,894.58	60.89%	$998,263.70	54.29%	$1,277,509.82	58.12%	$1,354,835.34	54.72%	$1,226,461.20	57.09%		41.42%
State	$534,523.87	78.48%	$608,417.69	79.01%	$684,985.53	78.66%	$509,797.76	82.83%	$530,337.50	78.12%	$130,411.00	80.39%		46.42%
Federal	$87,131.59	67.75%	$13,969.09	44.39%	$180,493.08	42.38%	$243,077.17	59.34%	$619,472.86	88.00%	$525,765.78	124.31%		14.77%
Other	$400.00	1540.91%	$1,959.79	772.33%	$0.00	87.47%	$300.00	207.04%	$3,500.00	110.07%		135.63%		0.00%
May Total	**$3,940,649.71**	**91.25%**	**$3,932,891.88**	**89.23%**	**$4,708,506.23**	**83.73%**	**$4,701,494.65**	**86.98%**	**$5,182,724.79**	**89.01%**	**$5,392,764.13**	**94.03%**	**$0.00**	**40.22%**
Local/County	$3,090,817.05	91.64%	$3,268,977.47	93.74%	$3,823,961.03	86.91%	$3,802,993.88	87.45%	$4,437,550.99	87.67%	$4,713,266.24	89.42%		41.42%
State	$723,278.87	90.93%	$609,889.66	88.85%	$663,745.52	88.25%	$556,121.29	93.72%	$516,629.50	88.35%	$674,811.00	98.17%		46.42%
Federal	$110,514.87	76.73%	$48,453.34	48.33%	$220,669.22	52.35%	$342,379.48	71.65%	$223,752.87	100.52%	$4,686.89	124.59%		14.77%
Other	$16,038.92	1701.30%	$5,571.41	828.05%	$130.46	88.77%		207.04%	$4,791.43	157.98%		135.63%		0.00%
June Total	**$1,127,680.84**	**98.22%**	**$1,133,300.30**	**95.75%**	**$1,148,776.66**	**89.24%**	**$1,493,688.04**	**94.14%**	**$1,400,905.70**	**95.91%**	**$594,899.27**	**97.00%**	**$0.00**	**40.22%**
Local/County	$490,950.58	97.02%	$316,040.03	96.91%	$300,080.50	89.47%	$863,965.74	94.11%	$577,183.40	91.96%	$253,977.33	91.16%		41.42%
State	$612,293.90	101.47%	$666,530.56	99.60%	$700,820.48	98.38%	$526,569.77	104.03%	$795,801.97	104.12%	$339,195.00	107.11%		46.42%
Federal	$23,735.41	78.66%	$149,047.80	60.45%	$146,450.68	58.97%	$102,986.09	75.36%	$27,920.33	102.08%	$1,600.00	124.68%		14.77%
Other	$700.95	1708.31%	$1,681.91	844.87%	$1,425.00	103.02%	$166.44	208.70%	$0.00	157.98%	$126.94	136.90%		0.00%
July Total	**$175,787.22**	**99.30%**	**$211,749.74**	**96.97%**	**$389,401.73**	**91.10%**	**$229,587.05**	**95.24%**	**$179,037.44**	**96.79%**	**$73,390.13**	**97.36%**	**$0.00**	**40.22%**
Local/County	$136,849.87	98.52%	$77,114.79	97.69%	$332,808.51	92.31%	$103,610.47	94.91%	$135,494.63	92.97%	$17,969.13	91.29%		41.42%
State	$0.00	101.47%	$6,837.50	99.71%	$35,084.52	98.89%	$0.00	104.03%	$0.00	104.12%	$0.00	107.11%		46.42%
Federal	$35,598.85	81.56%	$127,411.04	70.82%	$21,073.17	59.92%	$119,497.83	79.66%	$15,039.00	102.93%	$55,421.00	128.00%		14.77%
Other	$3,338.50	1741.69%	$386.41	848.73%	$435.53	107.38%	$6,478.75	273.49%	$28,503.81	443.02%		136.90%		0.00%
August Total	**$587,272.25**	**102.93%**	**$439,373.88**	**99.50%**	**$617,773.93**	**94.07%**	**$1,249,431.71**	**101.23%**	**$314,415.70**	**98.34%**	**$1,434,937.34**	**104.52%**	**$0.00**	**40.22%**
Local/County	$310,399.36	101.92%	$358,946.75	101.29%	$377,791.04	95.53%	$830,622.55	101.31%	$130,881.70	93.94%	$880,456.63	97.33%		41.42%
State	$0.00	101.47%	$41,490.58	100.38%	$0.00	98.89%	$56,784.53	105.14%		104.12%	$123,161.60	110.35%		46.42%
Federal	$229,726.99	100.24%	$38,925.14	73.99%	$216,848.53	69.72%	$283,118.59	89.84%	$183,534.00	113.20%	$431,319.11	153.83%		14.77%
Other	$47,145.90	2213.15%	$11.41	848.84%	$23,134.36	338.72%	$78,906.04	1062.55%		443.02%		136.90%		0.00%
Total Received	**$16,658,709.42**	**102.93%**	**$17,298,913.00**	**99.50%**	**$19,617,060.93**	**94.07%**	**$21,111,160.17**	**101.23%**	**$19,971,727.51**	**98.34%**	**$20,960,949.01**	**104.52%**	**$8,422,147.74**	**40.22%**
Total Budgeted	**$16,184,118.00**		**$17,386,713.00**		**$20,854,313.00**		**$20,854,313.00**		**$20,309,772.00**		**$20,055,234.00**		**$20,938,519.00**	
Local/County Budgeted	$9,134,315.00		$9,953,110.00		$11,721,501.00		$12,967,000.00		$13,464,451.00		$14,580,040.00		$14,796,341.00	
State Budgeted	$5,809,931.00		$6,199,437.00		$6,919,305.00		$5,107,423.00		$5,048,400.00		$3,795,194.00		$4,382,678.00	
Federal Budgeted	$1,229,872.00		$1,229,166.00		$2,213,506.00		$2,779,889.00		$1,786,921.00		$1,670,000.00		$1,749,500.00	
Others Budgeted	$10,000.00		$10,000.00		$10,000.00		$10,000.00		$10,000.00		$10,000.00		$10,000.00	
Over/Under	**474,591.42**	**2.93%**	(87,800.00)	**-0.50%**	(1,237,252.07)	**-5.93%**	**256,847.17**	**1.23%**	(338,044.49)	**-1.66%**	**905,715.01**	**4.52%**	(12,516,371.26)	**-59.78%**

EXPENDITURE REPORT	2012-13	%	2013-14	%	2014-15	%	2015-16	%	2016-17	%	2017-18	%	2018-19	%
September Total	**$1,849,309.87**	**10.70%**	**$1,617,997.97**	**9.11%**	**$1,586,003.98**	**7.93%**	**$1,546,839.29**	**7.73%**	**$1,539,984.51**	**7.57%**	**$1,543,208.42**	**7.56%**	**$1,682,014.98**	**8.03%**
Payroll and Benefits	$1,227,892.31	8.69%	$1,283,591.68	8.75%	$1,293,637.93	7.79%	$1,254,278.80	7.56%	$1,406,961.65	8.15%	$1,463,973.67	8.48%	$1,477,573.31	8.23%
Accounts Payable	$621,417.56	19.70%	$334,406.29	10.83%	$292,366.05	8.60%	$292,560.49	8.60%	$133,022.86	4.31%	$79,234.75	2.53%	$204,441.67	6.85%
October Total	**$1,333,822.76**	**18.41%**	**$1,401,716.38**	**17.00%**	**$1,610,650.56**	**15.98%**	**$1,643,562.29**	**15.95%**	**$1,672,110.74**	**15.78%**	**$1,769,382.25**	**16.24%**	**$1,798,070.83**	**16.62%**
Payroll and Benefits	$1,143,367.18	16.78%	$1,181,349.20	16.79%	$1,258,567.43	15.37%	$1,308,199.96	15.44%	$1,373,032.01	16.10%	$1,411,494.27	16.66%	$1,418,571.45	16.13%
Accounts Payable	$190,455.58	25.73%	$220,367.18	17.97%	$352,083.13	18.95%	$335,362.33	18.47%	$299,078.73	14.00%	$357,887.98	13.93%	$379,499.38	19.57%
November Total	**$1,445,993.76**	**26.77%**	**$1,536,909.02**	**25.65%**	**$1,478,880.75**	**23.38%**	**$1,538,076.50**	**23.64%**	**$1,797,062.78**	**24.61%**	**$1,691,421.13**	**24.53%**	**$1,880,881.44**	**25.60%**
Payroll and Benefits	$1,150,477.61	24.91%	$1,198,104.30	24.96%	$1,271,292.91	23.03%	$1,306,456.33	23.31%	$1,357,595.11	23.97%	$1,408,770.79	24.82%	$1,450,737.77	24.21%
Accounts Payable	$295,516.15	35.10%	$338,804.72	28.95%	$207,587.84	25.06%	$231,620.17	25.28%	$439,467.67	28.23%	$282,650.34	22.94%	$430,143.67	33.98%
December Total	**$1,357,283.75**	**34.62%**	**$1,344,398.22**	**33.22%**	**$1,446,578.00**	**30.61%**	**$1,503,918.41**	**31.16%**	**$1,573,314.08**	**32.34%**	**$1,587,829.31**	**32.31%**	**$1,690,389.95**	**33.68%**
Payroll and Benefits	$1,148,765.66	33.04%	$1,185,882.01	33.04%	$1,244,464.16	30.53%	$1,293,460.90	31.10%	$1,352,358.36	31.80%	$1,411,764.26	32.99%	$1,453,747.63	32.31%
Accounts Payable	$208,518.09	41.71%	$158,516.21	34.08%	$202,113.84	31.00%	$210,457.51	31.47%	$220,955.72	35.39%	$176,065.05	28.56%	$236,642.32	41.91%
January total	**$1,264,922.47**	**41.94%**	**$1,312,879.88**	**40.61%**	**$1,416,599.92**	**37.69%**	**$1,478,112.93**	**38.55%**	**$1,575,058.75**	**40.08%**	**$1,633,516.52**	**40.32%**	**$1,704,823.80**	**41.82%**
Payroll and Benefits	$1,120,649.98	40.97%	$1,177,040.50	41.05%	$1,257,022.65	38.10%	$1,298,596.35	38.92%	$1,388,499.67	39.84%	$1,438,173.00	41.32%	$1,477,790.55	40.54%
Accounts Payable	$144,272.49	46.28%	$135,839.38	38.48%	$159,577.27	35.70%	$179,516.58	36.75%	$186,559.08	41.43%	$195,343.52	34.78%	$227,033.25	49.52%
February Total	**$1,311,064.49**	**49.52%**	**$1,403,873.80**	**48.51%**	**$1,618,399.15**	**45.79%**	**$1,526,340.07**	**46.18%**	**$1,596,272.75**	**47.93%**	**$1,649,623.40**	**48.40%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,137,572.54	49.02%	$1,191,361.71	49.17%	$1,256,823.51	45.67%	$1,291,244.15	46.70%	$1,349,013.62	47.66%	$1,391,119.52	49.38%		40.54%
Accounts Payable	$173,491.95	51.78%	$212,512.09	45.37%	$361,575.64	46.33%	$235,095.92	43.67%	$247,259.13	49.44%	$258,503.88	43.02%		49.52%
March total	**$1,325,835.62**	**57.19%**	**$1,349,916.60**	**56.11%**	**$1,463,652.98**	**53.10%**	**$1,604,907.73**	**54.21%**	**$1,628,284.06**	**55.93%**	**$1,643,416.11**	**56.46%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,153,519.72	57.18%	$1,198,109.22	57.33%	$1,290,767.24	53.45%	$1,333,219.78	54.73%	$1,385,812.13	55.68%	$1,420,120.87	57.61%		40.54%
Accounts Payable	$172,315.90	57.24%	$151,807.38	50.29%	$172,885.74	51.42%	$271,687.95	51.66%	$242,471.93	57.30%	$223,295.24	50.14%		49.52%
April Total	**$1,280,538.15**	**64.60%**	**$1,330,513.12**	**63.60%**	**$1,488,270.17**	**60.55%**	**$1,393,336.22**	**61.18%**	**$1,605,283.97**	**63.82%**	**$1,595,748.63**	**64.28%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,130,521.26	65.17%	$1,181,684.00	65.38%	$1,261,959.40	61.05%	$1,295,557.89	62.54%	$1,349,987.19	63.50%	$1,392,441.45	65.67%		40.54%
Accounts Payable	$150,016.89	62.00%	$148,829.12	55.11%	$226,310.77	58.07%	$97,778.33	54.53%	$255,296.78	65.57%	$203,307.18	56.62%		49.52%
May Total	**$1,350,912.94**	**72.41%**	**$1,454,410.75**	**71.79%**	**$1,433,181.09**	**67.71%**	**$1,590,118.89**	**69.13%**	**$1,772,744.18**	**72.53%**	**$1,920,226.07**	**73.69%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,159,091.91	73.37%	$1,192,409.39	73.51%	$1,266,060.96	68.68%	$1,288,718.16	70.30%	$1,328,667.38	71.20%	$1,403,191.42	73.80%		40.54%
Accounts Payable	$191,821.03	68.08%	$262,001.36	63.60%	$167,120.13	62.99%	$301,400.73	63.40%	$444,076.80	79.95%	$517,034.65	73.10%		49.52%
June Total	**$1,500,316.16**	**81.09%**	**$1,478,554.44**	**80.11%**	**$1,786,307.10**	**76.64%**	**$1,905,598.30**	**78.65%**	**$1,913,859.70**	**81.93%**	**$1,934,814.67**	**83.18%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,147,558.00	81.49%	$1,188,929.32	81.61%	$1,281,344.42	76.40%	$1,310,032.08	78.19%	$1,363,166.89	79.10%	$1,410,864.62	81.97%		40.54%
Accounts Payable	$352,758.16	79.26%	$289,625.12	72.98%	$504,962.68	77.84%	$595,566.22	80.91%	$550,692.81	97.79%	$523,950.05	89.81%		49.52%
July Total	**$1,340,066.51**	**88.84%**	**$1,318,578.29**	**87.53%**	**$1,917,135.16**	**86.23%**	**$1,522,654.33**	**86.27%**	**$1,670,132.49**	**90.14%**	**$1,664,126.84**	**91.34%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,119,731.82	89.41%	$1,163,519.86	89.54%	$1,259,810.39	83.99%	$1,306,272.91	86.06%	$1,366,690.15	87.01%	$1,397,327.62	90.07%		40.54%
Accounts Payable	$220,334.69	86.24%	$155,058.43	78.00%	$657,324.77	97.17%	$216,381.42	87.28%	$303,442.34	107.62%	$266,799.22	98.31%		49.52%
August Total	**$1,326,233.19**	**96.51%**	**$1,916,892.73**	**98.32%**	**$2,304,800.20**	**97.75%**	**$2,255,212.34**	**97.54%**	**$1,643,692.26**	**98.22%**	**$1,763,664.53**	**99.98%**	**$0.00**	**41.82%**
Payroll and Benefits	$1,188,034.58	97.82%	$1,215,792.69	97.82%	$1,253,854.19	91.54%	$1,327,324.79	94.06%	$1,335,378.74	94.75%	$1,398,339.51	98.17%		40.54%
Accounts Payable	$138,198.61	90.62%	$701,100.04	100.71%	$1,050,946.01	128.09%	$927,887.55	114.57%	$308,313.52	117.61%	$365,325.02	109.96%		49.52%
Total Expended	**$16,686,299.67**	**96.51%**	**$17,466,641.20**	**98.32%**	**$19,550,459.06**	**97.75%**	**$19,508,677.30**	**97.54%**	**$19,987,800.27**	**98.22%**	**$20,396,977.88**	**99.98%**	**$8,756,181.00**	**41.82%**
Total Budgeted	**$17,290,444.00**		**$17,764,736.00**		**$19,999,791.00**		**$19,999,791.00**		**$20,350,895.00**		**$20,400,895.00**		**$20,938,519.00**	
Payroll and Benefits	$14,135,441.00		$14,677,899.00		$16,599,826.53		$16,599,826.53		$17,263,819.59		$17,263,819.59		$17,954,372.37	
Accounts Payable	$3,155,003.00		$3,086,837.00		$3,399,964.47		$3,399,964.47		$3,087,075.41		$3,137,075.41		$2,984,146.63	
Over/Under	(604,144.33)	**3.49%**	(298,094.80)	**1.68%**	(449,331.94)	**2.25%**	(491,113.70)	**2.46%**	(363,094.73)	**1.78%**	(3,917.12)	**0.02%**	(12,182,338.00)	**58.18%**

2018-19 School Year

01	General Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	SPED Expenditures	1,009,565.00	159,779.28	211,385.66	226,548.45	244,284.46	233,525.65								1,075,523.50	(65,958.50)	106.53%
	Non-SPED Expenditures	19,928,954.00	1,522,235.70	1,586,685.17	1,654,332.99	1,446,105.49	1,471,298.15	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7,680,657.50	12,248,296.50	38.54%
	Total Expenditures	20,938,519.00	1,682,014.98	1,798,070.83	1,880,881.44	1,690,389.95	1,704,823.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,756,181.00	12,182,338.00	41.82%
	Total Receipts	20,938,519.00	4,203,426.68	681,958.11	647,571.18	745,256.34	2,143,935.43	0.00	0.00	0.00	0.00	0.00	0.00	0.00	8,422,147.74	12,516,371.26	40.22%
	Monthly Inter-Fund Loan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
	Cash Balance	**2,638,959.78**	**5,160,371.48**	**4,044,258.76**	**2,810,948.50**	**1,865,814.89**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**	**2,304,926.52**			

02	Depreciation Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	850,000.00	5,365.59	14,727.38	2,514.97	11,151.25	0.00								33,759.19	816,240.81	3.97%
	Receipts	384,272.00	80.40	95.25	220.19	80.16	77.66								553.66	383,718.34	0.14%
	Loan to General Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	**Outstanding**		
	Loan Repayment from GF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
	Cash Balance	**299,956.98**	**294,671.79**	**280,039.66**	**277,744.88**	**266,673.79**	**266,751.45**	**266,751.45**	**266,751.45**	**266,751.45**	**266,751.45**	**266,751.45**	**266,751.45**	**266,751.45**			

03	Employee Benefit	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	145,560.00	14,700.88	8,966.68	9,067.67	5,185.86	7,359.99								45,281.08	100,278.92	31.11%
	Receipts	88,100.46	26,193.85	5,694.85	5,713.38	5,694.85	5,694.86								48,991.79	39,108.67	55.61%
	Cash Balance	**57,459.54**	**68,952.51**	**65,680.68**	**62,326.39**	**62,835.38**	**61,170.25**	**61,170.25**	**61,170.25**	**61,170.25**	**61,170.25**	**61,170.25**	**61,170.25**	**61,170.25**			

09	QCPUF	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	3,650,000.00	0.00	0.00	0.00	119,710.00	0.00								119,710.00	3,530,290.00	3.28%
	Receipts	706,000.00	139,258.75	12,979.26	119,343.98	11,697.74	52,813.70								336,093.43	369,906.57	47.61%
	Cash Balance	**3,239,501.42**	**3,378,760.17**	**3,391,739.43**	**3,511,083.41**	**3,403,071.15**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**	**3,455,884.85**			

05	Activities	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	500,000.00	66,152.98	39,513.63	22,504.43	39,974.43	27,012.13								195,157.60	304,842.40	39.03%
	Receipts	141,832.35	30,292.05	43,886.57	73,502.89	43,965.07	40,254.55								231,901.13	(90,068.78)	163.50%
	Cash Balance	**358,167.65**	**322,306.72**	**326,679.66**	**377,678.12**	**381,668.76**	**394,911.18**	**394,911.18**	**394,911.18**	**394,911.18**	**394,911.18**	**394,911.18**	**394,911.18**	**394,911.18**			

06	School Lunch	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	1,160,000.00	100,472.40	108,654.09	103,989.52	119,690.26	84,860.76								517,667.03	642,332.97	44.63%
	Receipts	1,006,315.36	95,006.52	130,138.60	130,974.65	129,232.43	109,838.56								595,190.76	411,124.60	59.15%
	Cash Balance	**153,684.64**	**148,218.76**	**169,703.27**	**196,688.40**	**206,230.57**	**231,208.37**	**231,208.37**	**231,208.37**	**231,208.37**	**231,208.37**	**231,208.37**	**231,208.37**	**231,208.37**			

07	Bond	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	575,000.00	0.00	0.00	0.00	410,685.00	0.00								410,685.00	164,315.00	71.42%
	Receipts	500,000.00	137,002.68	10,035.50	4,811.33	8,849.20	49,836.98								210,535.69	289,464.31	42.11%
	Cash Balance	**606,597.96**	**743,600.64**	**753,636.14**	**758,447.47**	**356,611.67**	**406,448.65**	**406,448.65**	**406,448.65**	**406,448.65**	**406,448.65**	**406,448.65**	**406,448.65**	**406,448.65**			

08	Special Building	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	1,075,000.00	35,674.42	511.72	5,470.64	26,402.44	3,184.25								71,243.47	1,003,756.53	6.63%
	Receipts	500,000.00	108,500.04	7,901.84	3,800.07	8,432.98	49,385.57								178,020.50	321,979.50	35.60%
	Loan Balance to Gen. Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	**Outstanding**		
	Loan Repayment from GF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
	Cash Balance	**67,862.54**	**140,688.16**	**148,078.28**	**146,407.71**	**128,438.25**	**174,639.57**	**174,639.57**	**174,639.57**	**174,639.57**	**174,639.57**	**174,639.57**	**174,639.57**	**174,639.57**			

12	Student Fees	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	50,000.00	308.56	1,910.75	11,737.67	1,115.00	1,373.00								16,444.98	33,555.02	32.89%
	Receipts	36,000.00	6,539.10	4,450.85	240.00	2,760.00	824.15								14,814.10	21,185.90	41.15%
	Cash Balance	**59,806.61**	**66,037.15**	**68,577.25**	**57,079.58**	**58,724.58**	**58,175.73**	**58,175.73**	**58,175.73**	**58,175.73**	**58,175.73**	**58,175.73**	**58,175.73**	**58,175.73**			

10	Cooperative Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	150,000.00	3,864.66	3,907.02	3,672.12	9,020.14	8,980.71								29,444.65	120,555.35	19.63%
	Receipts	75,000.00	0.00	3,695.99	3,439.74	33,410.10	5,971.14								46,516.97	28,483.03	62.02%
	Cash Balance	**7,219.60**	**3,354.94**	**3,143.91**	**2,911.53**	**27,301.49**	**24,291.92**	**24,291.92**	**24,291.92**	**24,291.92**	**24,291.92**	**24,291.92**	**24,291.92**	**24,291.92**			

	Cash Balance	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Cash Balance	**7,489,216.72**	**10,326,962.32**	**9,251,537.04**	**8,201,315.99**	**6,757,370.53**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**	**7,378,408.49**			

2017-18 School Year

01	General Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	SPED Expenditures	1,009,565.00	156,492.05	218,162.37	248,137.88	230,655.95	235,850.34	215,902.61	239,021.20	260,466.13	238,035.85	228,713.34	216,441.28	147,591.11	2,635,470.11	(1,625,905.11)	261.05%
	Non-SPED Expenditures	19,391,330.00	1,386,716.37	1,551,219.88	1,443,283.25	1,357,173.36	1,397,666.18	1,433,720.79	1,404,394.91	1,335,282.50	1,682,190.22	1,706,101.33	1,447,685.56	1,616,073.42	17,761,507.77	1,629,822.23	91.60%
	Total Expenditures	20,400,895.00	1,543,208.42	1,769,382.25	1,691,421.13	1,587,829.31	1,633,516.52	1,649,623.40	1,643,416.11	1,595,748.63	1,920,226.07	1,934,814.67	1,664,126.84	1,763,664.53	20,396,977.88	3,917.12	99.98%
	Total Receipts	20,046,234.00	4,269,068.23	812,931.69	404,661.44	683,867.94	2,829,527.97	968,000.97	1,614,261.92	1,882,637.98	5,392,764.13	594,899.27	73,390.13	1,434,937.34	20,960,949.01	(914,715.01)	104.56%
	Monthly Inter-Fund Loan	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
	Cash Balance	**2,074,988.65**	**4,800,848.46**	**3,844,397.90**	**2,557,638.21**	**1,653,676.84**	**2,849,688.29**	**2,168,065.86**	**2,138,911.67**	**2,425,801.02**	**5,898,339.08**	**4,558,423.68**	**2,967,686.97**	**2,638,959.78**			

02	Depreciation Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	850,000.00	4,800.00	0.00	0.00	14,140.15	62,250.00	0.00	4,800.00	54,604.55	(1,216.69)	5,100.00	5,894.00	210,465.93	360,838.03	489,161.97	42.45%
	Receipts	157,467.00	161.30	174.31	238.95	189.11	279.59	233.40	171.18	189.49	287.27	169.15	183.59	256.75	2,534.09	154,932.91	1.61%
	Loan to General Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	**Outstanding**		
	Loan Repayment from GF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
	Cash Balance	**658,260.92**	**653,622.22**	**653,796.53**	**654,035.48**	**640,084.44**	**578,114.03**	**578,347.43**	**573,718.61**	**519,303.55**	**520,807.42**	**515,876.57**	**510,166.16**	**299,956.98**			

03	Employee Benefit	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	145,560.00	8,998.02	4,544.47	4,177.99	5,637.12	11,896.36	9,884.67	9,119.29	12,077.19	7,913.26	2,729.52	4,599.96	7,268.83	88,846.68	56,713.32	61.04%
	Receipts	85,641.00	25,469.17	5,470.17	5,478.55	5,470.17	5,470.22	5,488.57	5,470.22	5,470.11	5,488.10	5,470.11	5,470.22	5,488.62	85,704.23	(63.23)	100.07%
	Cash Balance	**60,601.99**	**77,073.14**	**77,998.84**	**79,299.40**	**79,132.45**	**72,706.31**	**68,310.21**	**64,661.14**	**58,054.06**	**55,628.90**	**58,369.49**	**59,239.75**	**57,459.54**			

04	QCPUF	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	3,150,000.00	0.00	0.00	0.00	119,710.00	0.00	0.00	0.00	15,000.00		119,210.00	0.00	0.00	253,920.00	2,896,080.00	8.06%
	Receipts	712,719.00	112,403.66	9,913.45	114,198.79	8,673.62	55,008.93	11,161.52	31,085.77	43,681.12	280,967.49	25,891.86	2,817.73	27,992.69	723,796.63	(11,077.63)	101.55%
	Cash Balance	**2,769,624.79**	**2,882,028.45**	**2,891,941.90**	**3,006,140.69**	**2,895,104.31**	**2,950,113.24**	**2,961,274.76**	**2,992,360.53**	**3,021,041.65**	**3,302,009.14**	**3,208,691.00**	**3,211,508.73**	**3,239,501.42**			

05	Activities	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	500,000.00	23,566.44	75,942.55	38,474.19	33,610.85	21,666.86	68,329.65	15,969.80	70,054.01	43,962.54	23,291.13	16,930.10	46,850.76	478,648.88	21,351.12	95.73%
	Receipts	509,000.00	48,842.10	41,422.14	26,714.73	68,264.88	44,055.66	27,950.26	37,150.80	49,650.39	45,654.74	20,419.41	11,416.75	61,918.82	483,460.68	25,539.32	94.98%
	Cash Balance	**353,355.85**	**378,631.51**	**344,111.10**	**332,351.64**	**367,005.67**	**389,394.47**	**349,015.08**	**370,196.08**	**349,792.46**	**351,484.66**	**348,612.94**	**343,099.59**	**358,167.65**			

06	School Lunch	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	1,095,000.00	118,197.35	107,040.04	124,008.58	93,523.45	94,459.44	99,656.52	106,022.69	96,200.40	96,543.28	58,666.05	41,774.05	48,824.64	1,084,916.49	10,083.51	99.08%
	Receipts	1,033,000.00	90,040.36	123,694.88	131,577.96	117,236.52	93,053.31	108,348.81	122,828.67	115,021.70	111,250.20	53,052.35	15,232.81	28,106.26	1,109,443.83	(76,443.83)	107.40%
	Cash Balance	**129,157.30**	**101,000.31**	**117,655.15**	**125,224.53**	**148,937.60**	**147,531.47**	**156,223.76**	**173,029.74**	**191,851.04**	**206,557.96**	**200,944.26**	**174,403.02**	**153,684.64**			

07	Bond	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	575,000.00	0.00	0.00	0.00	392,252.50	0.00	0.00	0.00	0.00		61,185.00	0.00	0.00	453,437.50	121,562.50	78.86%
	Receipts	501,092.00	101,012.24	16,266.75	5,819.44	7,532.25	45,968.75	13,599.38	31,875.67	41,655.93	167,356.51	8,864.99	485.66	24,794.95	465,232.52	35,859.48	92.84%
	Cash Balance	**594,802.94**	**695,815.18**	**712,081.93**	**717,901.37**	**333,181.12**	**379,149.87**	**392,749.25**	**424,624.92**	**466,280.85**	**633,637.36**	**581,317.35**	**581,803.01**	**606,597.96**			

08	Special Building	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	1,250,000.00	14,760.99	198,633.25	198,238.86	60,722.94	0.00	20,929.02	235,684.62	64,072.44	77,281.69	70,372.64	75,926.78	148,239.70	1,164,862.93	85,137.07	93.19%
	Receipts	400,587.00	165,811.14	57,669.19	3,110.62	37,105.50	43,691.56	8,655.96	23,925.30	60,063.86	132,655.99	147,109.30	507.14	19,700.60	700,006.16	(299,419.16)	174.75%
	Loan Balance to Gen. Fund	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	**Outstanding**		
	Loan Repayment from GF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
	Cash Balance	**532,719.31**	**683,769.46**	**542,805.40**	**347,677.16**	**324,059.72**	**367,751.28**	**355,478.22**	**143,718.90**	**139,710.32**	**195,084.62**	**271,821.28**	**196,401.64**	**67,862.54**			

09	Student Fees	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	50,000.00	0.00	1,095.00	4,307.16	1,779.00	268.00	376.49	835.00	442.54	3,191.04	3,366.80	1,319.00	506.00	17,486.03	32,513.97	34.97%
	Receipts	36,000.00	5,302.00	4,188.00	834.00	877.00	891.00	724.00	1,794.30	3,853.99	5,917.00	50.00	0.00	7,396.75	31,828.04	4,171.96	88.41%
	Cash Balance	**45,464.60**	**50,766.60**	**53,859.60**	**50,386.44**	**49,484.44**	**50,107.44**	**50,454.95**	**51,414.25**	**54,825.70**	**57,551.66**	**54,234.86**	**52,915.86**	**59,806.61**			

00	Cooperative Fund	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Expenditures	150,000.00	3,846.57	8,551.96	3,917.27	3,874.25	3,902.52	11,805.72	11,872.33	11,828.26	11,828.94	13,984.94	12,638.17	12,762.00	110,812.93	39,187.07	73.88%
	Receipts	75,000.00	0.00	12,000.00	0.00	0.00	2,281.00	11,918.91	0.00	6,838.24	5,218.47	25,000.00	11,446.78	1,228.85	75,932.25	(932.25)	101.24%
	Cash Balance	**42,100.28**	**38,253.71**	**41,701.75**	**37,784.48**	**33,910.23**	**32,288.71**	**32,401.90**	**20,529.57**	**15,539.55**	**8,929.08**	**19,944.14**	**18,752.75**	**7,219.60**			

	Cash Balance	Budgeted/Beginning	September	October	November	December	January	February	March	April	May	June	July	August	Year to Date	Balance	% Spent/Rec
	Cash Balance	**7,261,076.63**	**10,361,809.04**	**9,280,350.10**	**7,908,439.40**	**6,524,576.82**	**7,816,845.11**	**7,112,321.42**	**6,953,165.41**	**7,242,200.20**	**11,230,029.88**	**9,818,235.57**	**8,115,977.48**	**7,489,216.72**			

SCHUYLER COMMUNITY SCHOOLS
Treasurer's Report
Fiscal Year 2019

GENERAL FUND	Jan-19	YTD 2018-19
Beginning Cash Balance	**1,789,208.75**	**2,562,440.43**
Receipts:		
Colfax county Local District Tax	1,243,458.52	5,387,772.70
Butler county Local District Tax	212,405.69	731,769.48
Interest	979.44	9,198.86
License Fees		300.00
Rent of Facility		0.00
Curriculum Receipts		0.00
Other Local Receipts		0.00
ESU Receipts		0.00
State Aid	327,782.00	1,638,910.00
Special Education	121,117.00	242,820.00
SPED Transportation		0.00
State Apportionment		0.00
Distant Ed Incentive		0.00
Six Pence	138,969.00	138,969.00
Other State Receipts	106.82	106.82
High Ability Learner		13,702.00
Title 1 Part A		4,008.00
Title I part B		2,550.00
Title I, SIG		63,523.92
Title II, Part A - Staff		19,240.00
SPED IDEA Base		0.00
SPED Preschool		0.00
SPED IDEA, Part B Enroll		0.00
SPED Ed IDEA CEIS		0.00
SPED non public		0.00
Medicaid in the Public Schools - MIPS	2,308.16	2,308.16
NASB MEDICAID Reimbursements	3,396.29	3,396.29
Carl Perkins Fund	1,642.00	1,642.00
E-Rate Reimbursement		15,411.60
Migrant		0.00
Title III		802.00
Title III Immigrant		0.00
Peak ILCD	425.00	425.00
21st Century Grant	91,220.00	145,079.61
EducationQuest Grant		0.00
Buffett Foundation		0.00
Scott Foundation Grant - Child Well Being		0.00
Insurance Adjustments		0.00
Sale of Property		0.00
Other Non Revenue		0.00
Transfers in		0.00
Total Receipts	**2,143,809.92**	**8,421,935.44**
Non-program Receipts		
Non-program Receipts		495.11
Lunch & Coop Fund Reimbursements	32,689.11	148,355.46
Subtotal	**32,689.11**	**148,850.57**
Transfers from CD		
Transfers IN/OUT Money Market Accounts	600,000.00	5,600,000.00
Total Receipts & Transfers	**2,776,499.03**	**14,170,786.01**
General Fund Cash	**4,565,707.78**	**16,733,226.44**

General Fund Disbursements	-1,737,512.91	-8,905,031.57
Transfers In/Out Money Market Accounts	-600,000.00	-5,600,000.00
Prior Period Adjustment (Voided Checks)		0.00
Total Disbursements	**-2,337,512.91**	**-14,505,031.57**
Ending Book Balance	**2,228,194.87**	**2,228,194.87**
INVESTMENT ACCOUNTS BALANCES:		
GENERAL FUND CD's (BALANCE CARRIED FC	**76,606.14**	**76,519.35**
CD Cashed out		**0.00**
Interest on CD	**125.51**	**212.30**
Total CD BALANCE	**76,731.65**	**76,731.65**
TOTAL GENERAL FUND CASH BALANCE	**2,304,926.52**	**2,304,926.52**
SPECIAL BUILDING FUND		
Beginning Cash Balance	**128,438.25**	**67,862.54**
Colfax County Tax Collection	41,853.73	155,843.50
Butler County Tax Collection	7,477.07	21,956.00
School Project Support Donations		0.00
Sale of Property		0.00
Interest	54.77	221.00
REC building Project		0.00
Sale of Property		0.00
Non-revenue receipts		0.00
Total before non-program receipts	**49,385.57**	**178,020.50**
Non-program Receipts/transfers		120,000.00
Total Monthly Receipts	**49,385.57**	**298,020.50**
Cashed CD's		0.00
Total Building Fund Cash	**177,823.82**	**365,883.04**
Disbursements & Transfers:		
Total Expenditures	**(3184.25)**	-71243.47
Non-program Expenditures		-120000.00
Total Disbursements	**(3,184.25)**	**-191243.47**
Ending Balance	**174,639.57**	**174,639.57**
Special Building Fund Investment Accounts		
CD's Beginning Balance (58367, 800012316, 800012316)		**0.00**
CD's Purchased		0.00
CD's Purchased with Bond Dollars		0.00
Interest on CD		
Total Special Building Fund Investments	**0.00**	**0.00**
Total Special Building Fund	**174,639.57**	**174,639.57**
BOND FUND ACCOUNT		
Beginning Balance Pinnacle Bank	**356,611.67**	**606,597.96**
New Bond K-3 2007 tax collections	49,788.64	210,189.18
Interest	48.34	346.51
		0.00
Total	**49,836.98**	**210,535.69**
Bond Payment	**0.00**	-410,685.00
Expenditures	0.00	**0.00**
Balance 2007 bonds	**406,448.65**	**406,448.65**
Beginning Balance - County Treasurer		**0.00**
Old Bond - WW 1993 - Held by Colfax Co Treasurer		0.00

Transfers		0.00
Total Old Bond Balance		**0.00**
Beatrice Bank Holding funds		**0.00**
Total Bond Fund Balance	**406,448.65**	**406,448.65**
DEPRECIATION FUND SAVINGS		
Beginning Balance Checking accounts	**180,612.89**	**214,036.85**
Receipts		0.00
Interest on Money Market Account	77.66	412.89
Non-program receipts		
Total	**180,690.55**	**214,449.74**
Disbursements		-33,759.19
Transfers		
Non-program disbursements		
Ending Balance Cash account/Money Market Ac	**180,690.55**	**180,690.55**
DEPRECIATION FUND INVESTMENTS:		
Beginning Balance (800011254, 800012522, 583	**86,060.90**	**85,920.13**
CD's		**0.00**
Interest		**140.77**
Ending Balance Investments	**86,060.90**	**86,060.90**
Total Depreciation Funds	**266,751.45**	**266,751.45**
QUALIFIED CAPITAL PURPOSE BONDS		
Beginning balance	**3,403,071.07**	**3,239,501.34**
PINNACLE BANK (initial deposit+interest)		
Colfax County Tax Collections	42,286.63	186,797.16
Butler County Tax Collections	7,504.54	25,806.46
Interest & Transfers	3,022.53	11,670.83
US Treasury Receipts		111,818.98
Total Monthly Receipts	**52,813.70**	336,093.43
Transfers		0.00
Payments/Transfer of interest	0.00	-119,710.00
Disbursements		
Fund Balance	**3,455,884.77**	**3,455,884.77**
EMPLOYEE BENEFITS FUND		
Beginning Balance	**49,448.99**	**44,091.68**
Deposits	5,694.86	48,973.26
Total Revenue	**55,143.85**	**93,064.94**
Disbursements & Transfers:	-7,359.99	-45,281.08
Ending Balance	**47,783.86**	**47,783.86**
EMPLOYEE BENEFITS FUND INVESTMENTS:		
Beginning Balance (800010018; 55375)	**13,386.39**	**13,367.86**
SCS CD's		18.53
Ending Balance	**13,386.39**	**13,386.39**
Total Employee Benefits Funds Investments	13,386.39	13,386.39
Total Employee Benefits Funds	**61,170.25**	**61,170.25**
SCS STUDENT FEES		
Beginning Balance	**58,724.58**	**59,806.61**
Receipts	824.15	14,814.10

Total	**59,548.73**	**74,620.71**
Disbursements	-1,373.00	-16,444.98
Ending Balance	**58,175.73**	**58,175.73**

SCS ACTIVITY FUND

Beginning Balance	**381,668.76**	**358,167.65**
Receipts	40,254.55	231,901.13
Total	**421,923.31**	**590,068.78**
Disbursements	-27,012.13	-195,157.60
Ending Balance	**394,911.18**	**394,911.18**

Lunch Fund

Beginning Balance Checking accounts	**206,230.57**	**153,684.64**
Receipts	109,796.86	594,984.94
Interest	41.70	180.12
non-program receipts		25.70
Total Cash	**316,069.13**	**748,875.40**
Disbursements	-84,860.76	-517,667.03
non-program expenses		0.00
Total Expenditures	-84,860.76	-517,667.03
Total Lunch Funds	**231,208.37**	**231,208.37**

SCS COOPERATIVE FUND

Beginning Balance	**27,301.49**	**7,219.60**
Receipts	5,971.14	46,516.97
Total	**33,272.63**	**53,736.57**
Disbursements	-8,980.71	-29,444.65
Ending Balance	**24,291.92**	**24,291.92**

Submitted By:

Charles P. Misek, Treasurer

SCHUYLER COMMUNITY SCHOOLS

Revenue Summary Report

FY 2019

For the Month of JANUARY 2019

Account	BUDGET 2018-19	Jan-19	2018-19 YTD TOTALS	Percent Collected
Tax Collections	13,958,334.00	1,455,864.21	6,119,542.18	43.84%
Tuition Rec'd Other Districts	-		-	0.00%
Interest earned on Local Receipts	1,000.00	979.44	9,285.65	928.57%
CD Interest	17,500.00	125.51	125.51	0.72%
License Fee	3,500.00		300.00	-
Community Service Activities	3,000.00		-	-
Grants from Corp & other private			-	-
Other Local Receipts	19,118.00		-	0.00%
ESU Receipts	2,000.00		-	0.00%
State Aid	3,277,820.00	327,782.00	1,638,910.00	50.00%
Sp Ed Programs	558,000.00	121,117.00	242,820.00	43.52%
Sp Ed Transportation	4,000.00		-	0.00%
State Apportionment	261,975.00		-	0.00%
Other State/Distance Learning Education			-	
High Ability Learner	6,500.00		13,702.00	210.80%
Six Pence	135,000.00	138,969.00	138,969.00	102.94%
Other State	5,000.00	106.82	106.82	0.00%
Title I, Part A	200,000.00		4,008.00	0.00%
Title I, part B	400,000.00		2,550.00	0.00%
Title I - School Improvement Grant	886,985.00		63,523.92	0.00%
Title IIA	40,000.00		19,240.00	48.10%
Title IIA, ESU7 Consortium	-		-	0.00%
IDEA, to age 5	82,576.00		-	0.00%
Sp Ed - Base	250,000.00		-	0.00%
Sp Ed-Part B Funds Enrollment	47,595.00		-	0.00%
Sp Ed - CEIS	45,000.00		-	0.00%
Sp Ed - Non public			-	0.00%
Medicaid in Public schools	10,000.00	2,308.16	2,308.16	0.00%
NASB NEBMAC MEDICAID	40,000.00	3,396.29	3,396.29	8.49%
Carl Perkins	5,000.00	1,642.00	1,642.00	32.84%
E-Rate Reimbursement	57,000.00		15,411.60	27.04%
Migrant	-		-	
Title III	80,000.00		802.00	1.00%
Title III Immigrant	4,575.00		-	0.00%
Peak ILCD	425.00	425.00	425.00	100.00%
21st Century Grant	272,109.00	91,220.00	145,079.61	53.32%
Save the Children Buffett Foundation			-	
Education Quest	-		-	0.00%
Scott Grant - Child Well Being			-	
Debt Services			-	0.00%
Insurance Adjustments	-		-	0.00%
Sale of Property	-		-	0.00%
Other Non Revenue Receipts			-	0.00%
Total Program Receipts	**20,674,012.00**	**2,143,935.43**	**8,422,147.74**	40.74%
Non Program Receipts				
Non Program Receipts	-			
Lunch, Coop Payroll or Reimb	-	32,689.11		
	-			
Total Receipts	**20,674,012.00**	**2,176,624.54**	**8,422,147.74**	

Total Budgeted Beginning Cash	2,839,507.00			
Total Resources Available	**23,513,519.00**			
Audit adjustments				
OTHER FUND RECEIPTS				
Depreciation Fund Receipts	384,272.00	77.66	553.66	0.14%
Employee Benefits Fund Receipts	88,100.46	5,694.86	48,991.79	55.61%
Qualified Capital Purpose Fund	706,000.00	52,813.70	336,093.43	47.61%
Activities Fund Receipts	141,832.35	40,254.55	231,901.13	163.50%
Lunch Fund Receipts	1,006,315.36	109,838.56	595,165.06	59.14%
Bond Fund	50,000.00	49,836.98	210,535.69	421.07%
Special Bldg Fund	50,000.00	49,385.57	178,020.50	356.04%
Cooperative Fund	75,000.00	5,971.14	46,516.97	62.02%
Student Fee Receipts	36,000.00	824.15	14,814.10	41.15%
TOTAL OTHER FUND RECEIPTS	**2,537,520.17**	**314,697.17**	**1,662,592.33**	
Beginning Balances	4,850,256.94			
TOTAL SCS FUND RECEIPTS	***30,901,296.11***	**2,491,321.71**	**10,084,740.07**	
Transfer				
General Fund	-	600,000.00	5,600,000.00	
Depreciation Fund			50,000.00	
Employee Benefits			-	
Qualified Capital Purpose Fund			-	
Activity Fund			-	
Lunch Fund			-	
Bond Fund			-	
Special Building Fund			120,000.00	
Cooperative Fund				
Student Fees Fund			-	
TOTAL TRANSFERS		**600,000.00**	**5,770,000.00**	
TOTAL SCS RECEIPTS WITH TRANSFERS		**3,091,321.71**	**15,854,740.07**	

SCHUYLER COMMUNITY SCHOOLS
EXPENDITURE SUMMARY
FISCAL YEAR 2019
Monthly Expenditures

Account	2018-19 Budget	Jan-19	YTD 2018-19	Percent 2018-19
Regular Instructional Programs	11,992,000.00	906,902.88	4,613,437.47	38.47%
Special Education Instructional Programs	1,048,005.00	159,975.36	797,436.90	76.09%
Summer School	42,000.00	-	346.63	0.83%
Support Services-Pupils	950,000.00	41,070.68	223,054.67	23.48%
OT/PT/Speech/Vision	50,000.00	-	52,198.01	104.40%
Support Services-Staff	652,415.00	68,267.06	406,551.24	62.31%
General Administration	500,000.00	42,129.15	197,551.21	53.20%
Office Of The Principal	850,000.00	91,413.18	452,192.06	62.30%
Support Services-Business	150,800.00	16,441.39	93,946.33	62.30%
Furniture and Equipment	36,400.00	209.23	6,818.47	18.73%
Support Services-Maintenance & Operation	1,638,256.00	148,541.32	791,340.72	48.30%
Support Services-Pupil Transportation	75,320.00	9,603.12	65,934.80	87.54%
Community Services	40,000.00	5,091.22	32,026.36	80.07%
State Categorical Programs	385,400.00	23,798.76	149,192.72	38.71%
Federal Programs	2,195,423.00	191,380.45	874,153.41	39.82%
Debt Service	232,500.00		-	0.00%
Transfers	100,000.00		-	0.00%
Total Program Expenditures	**20,938,519.00**	**1,704,823.80**	**8,756,181.00**	**41.82%**
Non Prog. Expenditures - Misc			495.11	
Non Prog. Expenditures - Lunch & Coop		32,689.11	148,355.46	
Total Expenditures	**20,938,519.00**	**1,737,512.91**	**8,905,031.57**	
Budgeted Cash Reserve	2,575,000.00			
Total Requirements	**23,513,519.00**	**1,737,512.91**	**8,905,031.57**	
OTHER FUND DISBURSEMENTS				
Depreciation Fund Disbursements	850,000.00	-	33,759.19	3.97%
Employee Benefits Fund Disbursements	145,560.00	7,359.99	45,281.08	31.11%
Qualified Capital Purpose Fund	3,650,000.00	-	119,710.00	3.28%
Activities Fund Disbursements	500,000.00	27,012.13	195,157.60	39.03%
Lunch Fund Disbursements	1,160,000.00	84,860.76	517,641.33	44.62%
Bond Fund	575,000.00	-	410,685.00	71.42%
Special Bldg Fund Disbursements	1,075,000.00	3,184.25	71,243.47	6.63%
Cooperative	150,000.00	8,980.71	29,207.90	19.47%
Student Fee Disbursements	50,000.00	1,373.00	16,444.98	32.89%
	8,155,560.00	132,770.84	1,439,130.55	17.65%
Other fund Cash Reserves	500,000.00			
TOTAL DISTRICT'S DISBURSEMENTS	**32,169,079.00**	**1,870,283.75**	**10,344,162.12**	
Transfer funds				
General Fund		600,000.00	5,600,000.00	
Depreciation Fund			50,000.00	
Employee Benefits			-	
Qualified Capital Purpose Fund			-	
Activity Fund			-	
Lunch Fund Transfers			-	
Bond Fund			-	
Special Building Fund			120,000.00	
Cooperative Fund			-	
Student Fees Fund		-	-	
Transfer funds		**600,000.00**	**5,770,000.00**	
TOTAL DISTRICT EXPENDITURES		**2,470,283.75**	**16,114,162.12**	

SCHUYLER COMMUNITY SCHOOLS
LUNCH PROGRAM
BUDGET TO ACTUAL
FISCAL YEAR 2019

Receipts:	Budget 2018-2019	January 2019	YTD Actual 2018-2019	% of Budget
Sale of Meals	165000.00	19525.75	98259.68	59.55%
Interest	20.00	41.70	180.12	900.60%
State Reimbursement	5000.00		0.00	0.00%
Federal Reimbursement	836295.36	90271.11	496725.26	59.40%
Other Non-Revenue Income	0.00		0.00	
Transfer	0.00		0.00	
Non-program receipts	0.00		0.00	0.00%
Total Receipts	**1006315.36**	**109838.56**	**595165.06**	**59.14%**
Beginning Cash	153684.64			
Transfer between accts				
Total Receipts & Beg. Cash	**1160000.00**			
Expenditures				
Regular Salaries	375000.00	25649.20	128749.59	34.33%
Substitute Salaries	10000.00	950.60	5039.20	50.39%
Employee Benefits	150000.00	14358.15	71808.32	47.87%
Contracted Services	1000.00		0.00	0.00%
Gas & Van Service	1000.00	141.92	624.29	62.43%
Food	590000.00	42086.23	292595.58	49.59%
Supplies & Materials	23000.00	1290.71	11296.41	49.11%
Equipment	5000.00		1830.30	0.00%
Equipment Repair	3000.00	286.70	4348.04	
Miscellaneous	2000.00	97.25	1349.60	67.48%
Non-program Expenditures	0.00		0.00	0.00%
Total Expenditures	**1160000.00**	**84860.76**	**517641.33**	**44.62%**
Necessary Cash Reserves	**0.00**			
TOTAL REQUIREMENTS	**1160000.00**			
Transfers back between accts				
Revenue over Expenses		**24,977.80**	**77,523.73**	

CENTRAL NEBRASKA
Rehabilitation Services
Experience. Better.℠

School Pediatrics Division

BILLING ADDRESS
West Faidley Medical Center
PO Box 5285
Grand Island, NE 68802
phone 308.382.0344 x 243
fax 308.382.3241
www.grandislandpt.com

DIRECTORS
Mary Walsh-Sterup, OTR/L, CHT
308.398.5170
mary@cnrehab.com

John Holling, PT
308.398.2170
john@cnrehab.com

SCHOOL LIASON
Steve Morris
308.850.3399

February 5, 2018

Schuyler Central High School
ATTN Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Dear Dr Dan Hoesing,

Thank you for your continual support of our school based pediatric services. Central NE Rehab Services has provided quality services for over 25 years and is considered the leader of educationally based therapy services in Nebraska. Traditionally, a yearly contract was the only option offered to the schools; however a number of superintendents have asked about extended contracts because it provides a continuation of therapists to the same district year after year and also provides a financial savings. We are committed to providing the highest quality therapy services at the most affordable price.

Beginning with the next school year, all school districts will be given an option for a multi-year contract in addition to the standard yearly contract. Enclosed you will find contracts for the 2018-2019 school year. We are including contracts for both one year and three years for your review. Please sign the contract that best meets your needs.

Mary Walsh-Sterup will oversee these services as clinical coordinator of our school based therapy program. Mary can be reached at 308-398-5170 or at mary@cnrehab.com. Steph Corman will assist with billing and monthly invoices; she can be reached at 308-675-1853 ext 4222 or stephanie@cnrehab.com. If you should have any questions or concerns, please do not hesitate to contact either of us.

Steve Morris will continue to be our school liaison and can be contacted for any questions you may have regarding our services, contract, etc. He can be reached at 308-850-3399 or stmorris929@gmail.com.

We appreciate your prompt attention and request that the contract be returned to us **no later than March 15, 2018**. This will allow us ample time to prepare for services next fall. The attached contract represents all therapy services provided by CNRS to your district. However, we are always willing to make adjustments if you should want to add services or as your needs change.

As always, it is a pleasure working with you and your students.

Sincerely,

Mary Walsh-Sterup, OTR/L, CHT
Clinical Coordinator Pediatrics

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SCHOOL LIASON
Steve Morris
308.850.3399

February 5, 2018

Schuyler Central High School
ATTN Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Please consider this a letter of contract for our arrangement for occupational and physical therapy services for the 2018-2019 school year.

We will supply an occupational and physical therapist for occupational and physical therapy services during the 2018-2019 school year.

The occupational and physical therapy services will be billed out at the Department of Special Educations approved rate, which has yet to be determined by the State.

Travel time will be billed out at an hourly rate of $48.00 per hour, plus mileage. Mileage rates will not exceed the State Department of Administrative Services/Nebraska Department of Education rate, the current rate for the state is .545, but the billed rate from CNRS is .45. Mileage will be calculated by taking the total mileage per day and dividing it by the number of schools seen. Each school will pay an equal amount of the mileage. Either party can terminate this agreement upon sixty (60) days prior written notice.

Please sign this contract and mail back or fax to 308-675-1353, Attention: Stephanie. Feel free to contact me with any questions or concerns you may have.

Mary Walsh-Sterup, OTR/L, CHT

2-5-18
Date

Administrator

03-12-18
Date

CENTRAL NEBRASKA
Rehabilitation Services
Experience. Better.℠

School Pediatrics Division

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mary@cnrehab.com

John Holling, PT
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SCHOOL LIASON
Steve Morris
308.850.3399

February 5, 2018

Schuyler Central High School
ATTN Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Please consider this a letter of contract for our arrangement for occupational and physical therapy services for the following three school years (2018-19, 2019-20, and 2020-21 school years).

We will supply an occupational and physical therapist for occupational and physical therapy services during the 2018-19, 2019-20, and 2020-21 school years.

The occupational and physical therapy services will be billed out at the Department of Special Educations approved rate, which has yet to be determined by the State, less $2.00 per hour.

The speech therapy services will be billed out at the Department of Special Educations approved rate, which has yet to be determined by the State, less $1.00 per hour.

Travel time will be billed out at an hourly rate of $48.00 per hour, plus mileage. Mileage rates will not exceed the State Department of Administrative Services/Nebraska Department of Education rate, the current rate for the state is .545, but the current billed rate from CNRS is .45. Mileage will be calculated by taking the total mileage per day and dividing it by the number of schools seen. Each school will pay an equal amount of the mileage. Travel rates and mileage rates are reviewed each school year for adjustments. Either party can terminate this agreement upon sixty (60) days prior written notice.

Please sign this contract and mail back or fax to 308-675-1353, Attention: Stephanie. Feel free to contact me with any questions or concerns you may have.

Mary Walsh-Sterup, OTR/L, CHT

2-5-18
Date

Administrator

03-12-18
Date

CENTRAL NEBRASKA
Rehabilitation Services
*Experience. Better.*sm

School Pediatrics Division

BILLING ADDRESS
West Faidley Medical Center
PO Box 5285
Grand Island, NE 68802
phone 308.382.0344 x 243
fax 308.382.3241
www.grandislandpt.com

DIRECTORS
Mary Walsh-Sterup, OTR/L, CHT
308.398.5170
mary@cnrehab.com

John Holling, PT
308.398.2170
john@cnrehab.com

SCHOOL LIASON
Steve Morris
308.850.3399

February 4, 2019
Schuyler Central High School
Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Dear Dr Dan Hoesing

Thank you for your continual support of our school based pediatric services. Central NE Rehab Services has provided quality services for over 25 years and is considered the leader of educationally based therapy services in Nebraska. We are committed to providing the highest quality therapy services at the most affordable price.

All school districts will be given an option for a multi-year contract in addition to the standard yearly contract. Enclosed you will find contracts for the 2019-2020 school year as well as a multi-year contract. Please sign the contract that best meets your needs.

Mary Walsh-Sterup will oversee these services as clinical coordinator of our school based therapy program. Mary can be reached at 308-398-5170 or at mary@cnrehab.com. Steph Corman will assist with billing and monthly invoices; she can be reached at 308-675-1853 ext 4222 or stephanie@cnrehab.com. If you should have any questions or concerns, please do not hesitate to contact either of us.

Steve Morris will continue to be our school liaison and can be contacted for any questions you may have regarding our services, contract, etc. He can be reached at 308-850-3399 or stmorris929@gmail.com.

We appreciate your prompt attention and request that the contract be returned to us **no later than March 15 , 2019**. This will allow us ample time to prepare for services next fall. The attached contract represents all therapy services provided by CNRS to your district. However, we are always willing to make adjustments if you should want to add services or as your needs change.

As always, it is a pleasure working with you and your students.

Sincerely,

Mary Walsh-Sterup, OTR/L, CHT
Clinical Coordinator Pediatrics

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February 4, 2019

Schuyler Central High School
Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Dear Dr Dan Hoesing,

Please consider this a letter of contract for our arrangement for occupational and physical therapy services for the 2019-2020 school year.

We will supply an occupational and physical therapist for occupational and physical therapy services during the 2019-2020 school year.

The occupational and physical therapy services will be billed out at the Department of Special Educations approved rate, which has yet to be determined by the State.

Travel time will be billed out at an hourly rate of $50.00 per hour, plus mileage. Mileage rates will not exceed the State Department of Administrative Services/Nebraska Department of Education rate, the current rate for the state is 0.545, but the billed rate from CNRS is 0.48. Mileage will be calculated by taking the total mileage per day and dividing it by the number of schools seen. Each school will pay an equal amount of the mileage. Either party can terminate this agreement upon sixty (60) days prior written notice.

Please sign this contract and mail back or fax to 308-675-1353, Attention: Stephanie. Feel free to contact me with any questions or concerns you may have.

Mary Walsh-Sterup, OTR/L, CHT

Administrator

2-4-19
Date

Date

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SCHOOL LIASON
Steve Morris
308.850.3399

February 4, 2019
Schuyler Central High School
Dr Dan Hoesing
401 Adam Street
Schuyler, NE 68661

Dear Dr Dan Hoesing,

Please consider this a letter of contract for our arrangement for occupational and physical therapy services for the following three school years (2019-2020, 2020-2021, and 2021-2022 school years).

We will supply an occupational and physical therapist for occupational and physical therapy services during the 2019-2020, 2020-2021, and 2021-2022 school years.

The occupational and physical therapy services will be billed out at the Department of Special Educations approved rate, which has yet to be determined by the State, less $2.00 per hour.

Travel time will be billed out at an hourly rate of $50.00 per hour, plus mileage. Mileage rates will not exceed the State Department of Administrative Services/Nebraska Department of Education rate, the current rate for the state is 0.545, but the current billed rate from CNRS is 0.48. Mileage will be calculated by taking the total mileage per day and dividing it by the number of schools seen. Each school will pay an equal amount of the mileage. Travel rates and mileage rates are reviewed each school year for adjustments. Either party can terminate this agreement upon sixty (60) days prior written notice.

Please sign this contract and mail back or fax to 308-675-1353, Attention: Stephanie. Feel free to contact me with any questions or concerns you may have.

Mary Walsh-Sterup, OTR/L, CHT

Jan 4 '19
Date

Administrator

Date

AIA® Document A133™ – 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 with a Guaranteed Maximum Price

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.

AGREEMENT made as of the 11th day of February in the year 2019
(In words, indicate day, month and year.)

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

Colfax County School District 19-0123, a/k/a Schuyler Community Schools
A political subdivision of the State of Nebraska
401 Adam Street
Schuyler, NE 68661
402-352-3527
(Hereinafter referred to as "Owner").

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

Hausmann Construction, Inc.
A Nebraska corporation
8885 Executive Woods Drive
Lincoln, NE 68512
402-438-3230
(Hereinafter referred to as "Construction Manager" or "CM@R").

for the following Project:
(Name and address or location)
Schuyler Community Schools - Construction of additions and renovations to the existing Schuyler Central High School building located on the Owner's property at 401 Adam Street, Schuyler, Nebraska. The addition shall consist of a new building addition to include an approximately 32,500 total square foot new gymnasium, cafeteria, kitchen, locker rooms, and mezzanine, plus site work, kitchen equipment, gym fixtures and other furnishings, fixtures, and equipment. The renovation / remodel shall consist of the conversion of the existing approximately 11,500 square foot gymnasium to a theater, including seating and other furnishings, fixtures, and equipment. (Hereinafter referred to as "the Project").

The Architect:
(Name, legal status and address)

The Clark Enersen Partners, Inc.
A Nebraska corporation
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291
(Hereinafter referred to as "Architect" or "Project Architect").

The Owner's Designated Representative:

Init.
/

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(Name, address and other information)

Dr. Dan Hoesing
Superintendent of Schools
Schuyler Community Schools
401 Adam Street
Schuyler, Nebraska 68661
402-352-3527
(Hereinafter referred to as "Owner's Designated Representative".

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

Matt Schendt,
Hausmann Construction, Inc.
11627 Virginia Plaza, Suite #106
La Vista, NE 68128
402-979-8200

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

Tim Ripp, AIA
The Clark Enersen Partners, Inc.
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291

The Owner and Construction Manager agree as follows.

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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 acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

1.2.1 Term of Agreement: The term of this Agreement between the Owner and the CM@R shall be for a period commencing with the issuance of the Notice to Proceed with the Project, and shall continue through the occurrence of one of the following events, whichever occurs first in time:

.1 The completion of all services provided by the Construction Manager for the Project under the terms of this Agreement, with the term of this Agreement to extend twelve (12) months after the issuance by the Architect of the Certificate of Substantial Completion for the Project.

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.2 The termination of this Agreement according to its terms; INCLUDING termination pursuant to Article 10 in the event the legal voters of the Owner do not approve the bond issue to finance the project.

§ 1.2.2 This Agreement shall not create a continuing contract for construction management services for future building projects or bond elections beyond the terms of this Agreement.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, as amended and attached hereto, 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 as amended and attached hereto, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 as amended and attached hereto shall mean the Construction Manager. In the event that there are conflicting provisions between this Agreement and the General Conditions, the provisions of this Agreement shall control.

§ **1.4 Definitions**

§ 1.4.1 THE PROJECT: For purposes of this Agreement, "the Project" shall mean the Schuyler Community Schools additions and renovations project, located in Schuyler, Nebraska. The Project shall have a single Project Budget, plans and specifications, schedule, and Guaranteed Maximum Price (GMP).

§ 1.4.1.1 PROJECT BUDGET: The Project Budget for the Work performed under this Agreement, plus the Construction Manager's compensation under Articles 4 and 5 of the Agreement and all Expenses to be Reimbursed, as defined in Article 6 of this Agreement, is approximately ELEVEN MILLION, EIGHT HUNDRED THOUSAND DOLLARS ($11,800,000.00) (hereinafter "the Project Budget"). The total budget for the entire Project, including the Cost of the Work, Construction Manager's compensation and reimbursable expenses, and the Architect's compensation and reimbursable expenses, is TWELVE MILLION, FIVE HUNDRED THOUSAND DOLLARS ($12,500,000.00).

§ 1.4.2 THE WORK: For purposes of this Agreement, "the Work" shall mean the Subcontracts or Multiple Prime Contracts or Self-Performed Work by the Construction Manager (as defined in Section 6.3 below), if any, for the construction of the Project. The CM@R is responsible for the construction, administration and/or supervision of the Work under the Construction Documents.

§ 1.4.3 COST OF THE WORK: For purposes of this Agreement, "Cost of the Work" shall mean the total cost of all Subcontracts, Construction Manager's Self-Performed Work (as defined in Section 6.3 below) for the construction of the Project and site improvements described in the Contract Documents, all Aid-to-Construction costs, and all Expenses to be Reimbursed, as defined in Article 6 to this Agreement. "Cost of the Work" shall not include the Construction Manager's Compensation under Articles 4 and 5 of this Agreement, the cost of any insurance and surety contracts purchased or controlled by the Owner, or any other contracts or agreements that are not part of or described by the Construction Documents, or Architect/Engineering or other professional fees and expenses.

§ 1.4.4. EXPENSES TO BE REIMBURSED: For purposes of this Agreement, "Expenses to be Reimbursed" shall mean those expenses incurred by the CM@R that are to be reimbursed pursuant to the provisions of Article 6.

§ 1.4.5 CONSTRUCTION CONTINGENCY: For purposes of this agreement, the term "Construction Contingency" as referred to and identified in the budget, cost estimates for the Project, including any form of guaranteed maximum price, shall mean a dollar amount not designated for any division of the Work which is available to be applied to the budget for a specified division or divisions of the Work for materials; provided that all funds identified as contingency funds are available for the project on an as needed basis and shall at all times be the sole property of the Owner. The Guaranteed Maximum Price (GMP) will contain a separately-identified contingency amount (the "Construction Contingency"). The Construction Contingency is not allocated to any particular item of the Cost of the Work and is established for the Construction Manager's use as may be required for costs incurred in the Work from causes, or details which should have been anticipated by the Construction Manager at the time of the Owner's approval of the GMP, or for costs incurred by the Construction Manager to manage the Work. Such causes or details are limited to refinement of details of design within the scope of standards, quality and quantities which were reasonably inferable from the Construction Documents at the time of the Owner's approval of the GMP. The Construction Manager, with Owner's written approval, may utilize the Construction Contingency for any of the above items within the Cost of the Work without the necessity of a Change Order, without constituting a change in the Scope of the Work, and without

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resulting in any change in the GMP. Depletion of the Construction Contingency shall not justify an increase to the GMP. All savings in the Construction Contingency will accrue and be available for use, only as detailed above, by the CM@R until the CM@R's final accounting. In the final accounting, all supporting documentation for all uses of the Construction Contingency shall be provided to Owner. Upon final accounting, all remaining monies in the Construction Contingency shall accrue to the Owner.

§ 1.4.6 GUARANTEED MAXIMUM PRICE: For purposes of this Agreement, "Guaranteed Maximum Price" or "GMP" shall mean the total of the sum of the Cost of the Work for the project plus the Construction Manager's fees under Articles 4 and 5 hereof, which amount is guaranteed by the CM@R not to exceed the amount provided in resolution of the Board of Education of the Owner approving such GMP, subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum as adjusted by approved changes in the Work is referred to in the Contract Documents as the Guaranteed Maximum Price or GMP. IF THE GUARANTEED MAXIMUM PRICE IS EXCEEDED FOR THE PROJECT, AS THE CASE MAY BE, THE CONSTRUCTION MANAGER SHALL BE RESPONSIBLE FOR PAYMENT FROM ITS OWN RESOURCES WITH NO CONTRIBUTION FROM THE OWNER OF THE DIFFERENCE BETWEEN THE FINAL PRICE AS DEFINED AT PARAGRAPH 1.4.7 BELOW AND THE GUARANTEED MAXIMUM PRICE AS ADJUSTED BY CHANGE ORDERS, IF ANY.

§ 1.4.7 FINAL PRICE: For purposes of this Agreement, "Final Price" or "FP" shall mean the sum of the final Cost of the Work, Expenses to be Reimbursed, and the CM@R's Compensation for Basic Services as calculated by the Owner (hereinafter the "Final Price" or "FP"). The Final Price shall be determined by the Owner based upon disbursements made by the Owner for the Project to construct the Work under the Contract Documents. The Owner shall notify the Construction Manager of the Final Price not less than thirty (30) days following the issuance of the Certificate of Substantial Completion by the Architect for the Work. The Construction Manager shall have the right to inspect the records of the Owner and conduct an audit to confirm the Owner's calculation of the Final Price; provided, that the CM@R must request such audit within thirty (30) days of the receipt from the Owner of the Final Price calculation or the right to such audit shall be waived and the Final Price calculated by the Owner shall be final and binding on all parties.

§ 1.4.8 PROJECT TEAM: For purposes of this agreement, "Project Team" shall mean the Owner, including the Superintendent, Board Facilities Committee and other parties assigned by the Owner, the Owner's Designated Representative, the Construction Manager, the Project Architect, and the Fiscal Agent.

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 consult with 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. Unless the Construction Manager specifically provides design services, any recommendations and/or advice provided by the Construction Manager concerning potential value engineering options or design alternatives shall be in the capacity of a Construction Manager and not as a licensed design professional.

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§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and monthly update a Project schedule for the Owner and 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 Guaranteed Maximum Price proposal; 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, competent subcontractor estimates, or similar conceptual estimating techniques for the Architect's and Owner's Designated Representative's review and Owner's approval. If the Architect or Construction Manager suggests 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 Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's and Owner's Designated Representative'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.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall use due diligence to develop bidders' interest in the Project, which may include Construction Manager's Self-Performed Work (as defined in Section 6.3 below) with an emphasis on developing and encouraging local contractor interest.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's and Owner's Designated Representative's review and the Owner's acceptance, a procurement schedule for items that must be procured well in advance of construction. The Construction Manager shall expedite and coordinate the ordering, procurement and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them. Prior to the establishment of the Guaranteed Maximum Price (GMP) the Construction Manager may, with the Owner's written approval, procure Subcontracts for certain scopes of the work that if procured early are deemed by both Construction Manager and Owner as beneficial to the Project. Subcontracts must be procured in accordance with the Contract Documents. Any subcontracts that may be procured before Construction Phase Services commences shall be contingent on that commencement and establish limits to the cost exposure to the Project. Such limits shall be proposed by Construction Manager and approved by Owner in writing prior to issuance of any early procurement Subcontracts by Construction Manager.

§ 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 except as may be included as part of the Guaranteed Maximum Price. Any recommendations and/or advice provided by the Construction Manager concerning potential value engineering or design alternatives shall be in the capacity of a Construction Manager and not as a

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licensed design professional. Therefore, the Construction Manager shall not have any design liability and any such recommendations or advice provided by Construction Manager concerning potential value engineering or design alternatives shall be subject to the review and approval of the Owner, the Architect and the Owner's professional consultants. 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 inquire on any perceived variances they are aware of in support of the success of the overall project. The Construction Manager shall ensure that all self-performed work and work performed by its Subcontractors is performed in accordance with the contract documents. The Construction Manager shall promptly report to the Architect and Owner and the Owner's Designated Representative 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.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be determined pursuant to paragraph 2.2.1.1 below based upon the Excel 16 Division Spreadsheet Report form, Appendix "A", the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.1.1 The Owner shall deliver to the Construction Manager the Drawings and Specifications per the Project Schedule established by the Architect, Owner and Construction Manager. These documents will be approximately 70% complete Construction Documents (the "Basis Documents"). At the same time, the Owner will also deliver to the Construction Manager the Architect's detailed listing of any material incomplete design elements and the Architect's statement of intended scope with respect to such incomplete elements and divisions of the work (the "Design Intent Statement").

§ 2.2.1.1.1 The Construction Manager shall within twenty-one (21) days of the receipt of the Basis Documents and the Design Intent Statement, receipt of which shall be acknowledged in writing, prepare and submit to the Owner a Guaranteed Maximum Price (GMP) proposal based upon the standard construction industry sixteen (16) divisions of the Work, or current CSI designations, following the Excel 16 Division Spreadsheet Report in accordance with the Project specifications setting forth the estimated cost organized by materials and systems, trade categories, allowances, contingency, and other items, along with qualifications and assumptions based upon the Basis Documents and the Design Intent Statement and all information required under paragraph 2.2.3 below.

§ 2.2.1.1.2 The Construction Manager, Owner, Project Architect, and selected consultants (Project Team) shall meet to identify the extent that Drawings and Specifications are anticipated to require further development by the Architect pursuant to subparagraph 2.2.2, contingencies pursuant to subparagraph 2.2.4, and reconcile any questions, discrepancies or disagreements relating to the qualifications and assumptions, the Basis Documents or the Design Intent Statement pursuant to subparagraph 2.2.5. The reconciliation shall be documented by an addendum to the GMP qualifications and assumptions that shall be approved in writing by the Project Team.

§ 2.2.1.1.3 The Construction Manager shall then prepare and submit to the Owner within twenty-one (21) days of the receipt of the addendum to the GMP, a final GMP proposal.

§ 2.2.1.1.4 The Owner shall provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment pursuant to subparagraph 2.2.8.

§ 2.2.1.1.5 The final negotiated GMP shall not exceed the Project Budget established for construction. If the GMP exceeds the Project Budget, the Owner reserves the right to terminate the agreement with the CM.

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§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract upon which the GMP is based;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;

.3 A statement of the proposed Guaranteed Maximum Price, including a detailed statement of the estimated Cost of the Work organized by Construction Specifications Institute (CSI) Divisions corresponding with the Specifications, detailed list, descriptions, and estimates of allowances, contingency, and the Construction Manager's Fee;

.4 The anticipated dates of Substantial Completion and Final Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner and Construction Manager must mutually accept the Guaranteed Maximum Price. The date must not be less than two (2) calendar weeks nor more than four (4) calendar weeks.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a Cost of Work Contingency for the Construction Manager's exclusive use with the Owner's prior review of cost proposals and consent which shall not be unreasonably withheld. The term "Cost of Work Contingency" shall mean the line item included by the Construction Manager in the Guaranteed Maximum Price proposal that is available to cover the net amount of any additional costs resulting from unforeseen conditions and events not evidenced at the time that the parties execute the Guaranteed Maximum Price Amendment, to the extent that such conditions or events do not result in or constitute a change in the Work. Examples of such unforeseen conditions and events include, but are not limited to, the following:

.1 Unanticipated cost overruns (including cost overruns resulting from errors or omissions in Scope of Work) on the Construction Manager's General Conditions, and procurement of Subcontracts or other purchases of materials or labor costs;

.2 Expediting or acceleration costs required to meet the date of Substantial Completion but only to the extent not related to the fault of Construction Manager.

The amount of the Cost of the Work Contingency to be included in the final Guaranteed Maximum Price Proposal shall be a percentage of the aggregate value of the Cost of the Work. The detailed statement of the Cost of the Work Contingency shall contain backup documentation and separate values for encumbered versus invoiced Cost of Work. Specifically excluded as unforeseen conditions, as described above, shall be cost overruns of Construction Manager's self-perform lump sum cost work, if any.

§ 2.2.4.2 The Construction Manager shall provide the Owner and Architect with a report on the status of the Cost of Work Contingency on a monthly basis throughout the duration of the Project after the Guaranteed Maximum Price has been established. In each such monthly report on the status of the Cost of Work Contingency, the Construction Manager shall identify (i) any amounts added to the Cost of Work Contingency which are a result of positive variances or savings in the components of the Cost of the Work, (ii) any amount allocable up to the date of the report which are a result of negative variances in components of the Cost of the Work, and (iii) any amounts reserved from the Cost of Work Contingency for anticipated negative variances in components of the Cost of the Work which have been identified but not fully evaluated. After being adjusted for items (i) through (iii) above, the remaining amount of the Cost of Work Contingency shall be designated as the unallocated portion of the Cost of Work Contingency. All charges to the Cost of Work Contingency by Construction Manager shall be subject to providing the background information required in the Change Order process.

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§ 2.2.4.3 The Construction Manager may, at its discretion, make portions of the Cost of the Work Contingency available for the Owner's use at their discretion. This is to allow the Owner's use of the funds when they are in excess of the expected potential risk at the stage of the Project.

§ 2.2.4.4 If, at the time Owner makes the final payment to the Construction Manager, there is a balance in the Cost of Work Contingency, it shall inure to the benefit of the Owner.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

2.2.6.1 In the event that the Owner and Construction Manager are not able to reach agreement upon a Guaranteed Maximum Price by the date specified in the Guaranteed Maximum Price proposal, Owner may terminate this Agreement in accordance with the provisions herein or, at Owner's sole discretion to do so, work with the Construction Manager to make value engineering and/or schedule changes in order to achieve a mutually agreed upon GMP.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Owner shall provide such revisions in a manner that does not unreasonably delay, disrupt, or hinder the Construction Manager's performance of the Work. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 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 acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier. The performance of the Construction Phase services is contingent upon (i) the Owner providing physical and legal access to the Project; and (ii) the Owner providing satisfactory evidence of financing pursuant to Section 3.1.2.

§ 2.3.1.3 On-Site Staffing: The CM@R shall maintain exclusively for the Project a competent, duly licensed and certified full-time staff at the Project Site to coordinate and direct the Work and progress of the Subcontractors. All of the CM@R's on-site management and supervisory personnel shall be consistent with the CM@R's interview presentation and shall not be removed or replaced without the Owner's consent, which consent will not be unreasonably withheld. The Owner shall have the right to direct the CM@R to remove or replace any on-site personnel whose performance becomes unsatisfactory to the Owner. In such event the CM@R shall promptly replace

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such personnel without consideration of any additional compensation for the replacement. Such on-site staffing shall include the following personnel who shall perform the following duties:

§ 2.3.1.3.1 Project Manager: CM@R's project manager, while not required to be present full-time at the site, shall remain assigned to this Work, and be available on an as-needed basis throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion and Final Completion have been completed or corrected in accordance with the Construction Documents.

§ 2.3.1.3.2 On-Site Superintendent(s): The CM@R shall have a Superintendent on the site of the Work at all times the Work is being performed. CM@R's Superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion have been completed or corrected. From Substantial Completion until Final Completion, the Superintendent shall be on the site as necessary to ensure that Final Completion occurs within the time specified. The CM@R's Superintendent's services shall include: (1) Review of all stages of construction to become intimately familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents; (2) shall be responsible to assure that the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work performed by the Contractor are in compliance with the Contract Documents and all local, state and federal regulations; (3) shall make continuous on-site inspections to check quality or quantity of the Work; and, (5) shall keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

§ 2.3.2 Administration

§ 2.3.2.1 ACTUAL PERFORMANCE OF THE WORK: All of the Work on the Project, except such work identified and approved by the Owner's Designated Representative as an Aid–to-Construction as a Reimbursable Expense under Article 6 or work performed by the Construction Manager as Self-Performed Work (under Section 6.3), shall be performed under contracts to be held by the Construction Manager as the contracting party and such contract shall be covered by the Construction Manager's payment and performance bonds (hereinafter referred to as "Subcontracts"). Upon reaching an agreement outlined in section 2.1.7 or the Drawings and Specifications are at the appropriate level for any given bid or proposal package as determined by the Construction Manager and approved by the Owner the Construction Manager shall advertise for competitive bids or proposals for each Subcontract and award such Subcontracts as set forth below. As part of the process of obtaining competitive bids for the Work, the Construction Manager shall perform the following responsibilities.

§ 2.3.2.2 CONSTRUCTION MANAGER DEVELOPMENT OF BID PACKAGES: The Construction Manager shall develop bid packages and solicit Subcontractor and Supplier interest in the Project with emphasis on the development of bid packages that will encourage participation by local contractors, which may include Construction Manager's Self-Performed Work (as defined in Section 6.3 below).

§ 2.3.2.3 ADVERTISEMENT FOR COMPETITIVE BIDS: The Construction Manager shall advertise for competitive bids for all portions of the Work pursuant to the bid process that shall include (a) preparing invitations for bids and proposals and proposed contract documents; (b) publishing public notice which includes the general nature of the proposed work, fixes the hour, date, time and place where such bids and proposals shall close, or be received or opened, and provides the name and telephone number of a person to be contacted by anyone interested in submitting a bid and proposal to contract for such work in a newspaper of general circulation in the area at least fourteen (14) days prior to bid and proposal opening and providing other public notice; (c) establishing evaluation criteria, interview and selection procedures which may include consultations with one or more bidders according to the requirements of any federal, state, and local laws applicable, with the board giving approval to and making the award of any final contracts; and (d) preparing, signing, executing and delivering all documents, and taking or causing to be taken all other necessary or appropriate action to complete the bidding and proposal process for each contract; and that the above shall and is hereby determined to be the regular manner established by the Owner for advertising for bids and proposals for all contracts for the Project.

§ 2.3.2.3.1 In implementing the forgoing bid process, the Construction Manager shall be generally responsible to including, but not limited to:

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§ 2.3.2.3.1.1 Schedule for Letting Bids: Establish a schedule for letting bids for each portion of the Work pursuant to the schedule for the construction of the Work established for the Project;

§ 2.3.2.3.1.2 Dates for Advertisement of Bids: Establish dates for advertising for and opening of bids;

§ 2.3.2.3.1.3 Location of Bid Opening and Reading and Availability of Bids: All bids will be opened at the Owner's administrative offices. All submitted bids shall be available for public inspection thereafter after review for completeness during the normal business hours for the Owner's administrative offices; and the Construction Manager shall provide to each submitting bidder a summary of the bids within five (5) business days of the opening of the bids;

§ 2.3.2.3.1.4 Publication of Bids: Arrange for publication of advertisement for bids, which publication shall fix the day and hour upon which the bids shall be returned or received, and the date, hour and location the bids will be opened, and that the bids shall be opened in the presence of the bidders, or representatives of the bidders, when the hour is reached for the bids to close;

§ 2.3.2.3.1.5 Provision of Construction Documents: Make available to all prospective bidders the Plans and Specifications for the portion of the Work being let for bids upon payment by such prospective bidders for the cost of the Plans and Specifications;

§ 2.3.2.3.1.6 Pre-Bid Conferences: Be in attendance at and conduct pre-bid conferences with firms interested in submitting bids as Subcontractors following the schedule for the Project;

§ 2.3.2.3.1.7 Specify Required Information From Bidders: Confirm with all prospective Subcontract bidders that they will provide all information requested of bidders on the Work required by the Owner in the bid documents;

§ 2.3.2.3.1.8 Presence at Bid Openings: Be present at all bid openings;

§ 2.3.2.3.1.9 Minimum Number of Bids and Evaluation of Bids: For a bid package to proceed to award there must be not less than three (3) bona fide bids submitted, unless such requirement is waived for good cause by the Owner's Designated Representative; "good cause" shall be determined on a case-by-case basis in consideration of the receipt of competitive nature of the bids received and the progress of the Work. In consultation with the Owner and Project Architect, evaluate each bid and bidder, and make recommendations to the Owner regarding which bids will be accepted as the lowest responsible bid for portions of the Work being bid; and,

§ 2.3.2.3.1.10 Low Responsible Bidder: For purposes of the Work of this Agreement, the term "lowest responsible bidder" shall mean financial responsibility, the general ability and capacity of the bidder to perform the Work, the bidder's facilities and suitability for the task, and those qualities which the bidder must necessarily have in order to be able to perform the contract strictly in accordance with its terms.

§ 2.3.2.3.1.11 Construction Manager Assistance in Determining Low Bid: For purposes of the Work of this Agreement, upon identifying the responsible bidders for a portion of the Work, the Construction Manager shall advise on which of the responsible bidders has submitted the lowest bid. The lowest total price is not always dispositive of this question because public bodies retain an official discretion to determine which bid offers the best value to their constituents. The Owner shall have discretion to award the contract to one other than the lowest of the responsible bidders whenever a submitted bid contains a relevant advantage; e.g. for example, a bid that promises an early completion date or construction with higher quality materials.

§ 2.3.2.3.1.11.1 The Construction Manager shall provide to each submitting bidder notice of the bid determined to be the low responsible bidder within ten (10) business days of the determination by the Owner.

§ 2.3.2.3.2 Bidding By Construction Manager: Should the Construction Manager or a construction contractor in any way affiliated with the Construction Manager as defined by the Owner submit a bid for a portion of the Work being let for bids, the same procedures and processes as required of all bidders shall be followed, **except that any bid by the Construction Manager must be submitted Twenty-Four (24) hours before all other bids are due to be submitted (unless granted permission otherwise by the Owner)**, and the bid of the Construction Manager or a construction contractor affiliated in any way with the Construction Manager may only be accepted if such bid is the lowest

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responsible dollar amount bid. Any bid by Construction Manager that is accepted by Owner shall be deemed and treated as Self-Performed Work (as described in Section 6.3 below).

§ 2.3.2.3.3 Non-Acceptance by Owner of Low Bid Determined By Construction Manager: If the Guaranteed Maximum Price has been established and a specific bidder among those whose bids are received through the competitive bidding process (1) is determined by the Construction Manager to be the lowest responsible bid; (2) is qualified to perform that portion of the Work; (3) has submitted a bid which conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a change in the Work be issued to adjust the schedule of the Work and the Guaranteed Maximum Price by the difference between the bid of the person or entity determined by the Construction Manager to be the low bid and the amount of the Subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3.4 Conformance By Material Suppliers: Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the bidding provisions herein and the payment provisions of subparagraph 6.2.

§ 2.3.2.3.5 Rebidding of Work: In cooperation with the Architect and Owner, the Construction Manager shall assist with the rebidding of any portion of the Work for which no satisfactory bid has been received.

§ 2.3.2.3.6 Bid Bonds: The Construction Manager may require bidders to submit bid bonds or other bid security and, as applicable, evidence of the ability to obtain payment and performance bonds and certificates of insurance acceptable to the Construction Manager and Owner as a prerequisite to bidding on portions of the Work to be performed by Subcontract.

§ 2.3.2.4 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below. Any Self-Performed Work by the Construction Manager (as defined in Section 6.3 below) shall be on a lump sum basis and shall not be subject to audit for actual cost.

§ 2.3.2.5 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.

§ 2.3.2.6 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, the Owner's Designated Representative, and Architect.

§ 2.3.2.7 Upon the execution of the Guaranteed Maximum Price Amendment, 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. The Owner acknowledges that the Construction Manager's schedule (including all critical path activities and all activities with float) is a working tool that the Construction Manager shall manage as its discretion dictates. The schedule adopted with the acceptance of GMP Amendment is not a Contract Document; however, it does not alter the Construction Manager's obligation to substantially complete the Work by the specified date of Substantial and Final Completion. The Construction Manager may revise the schedule throughout the Project as it deems necessary, and as agreed to by Owner, so long as it does not defer the specified date of Substantial and Final Completion. As part of its responsibility for the means and methods of construction, the Construction Manager shall have exclusive authority to determine the sequencing and duration of all direct construction schedule activities. As such, the Construction Manager shall have the exclusive use of any float in the schedule, given that float is clearly defined and all critical path activities and durations are agreed upon by the owner. The Construction Manager shall ensure a schedule is available to all Subcontractors and track progress on a daily basis.

§ 2.3.2.8 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

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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.

§ 2.3.2.9 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 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.

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 execution of the Guaranteed Maximum Price Amendment, 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 Project Budget, 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.

§ 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 as determined by the Owner) 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, and shall notify the Owner and Architect promptly of any actual or perceived inconsistent, incorrect, or inaccurate information discovered by them or their Subcontractors.

§ 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.

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§ 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 in conjunction with the Owner's Designated Representative and Architect render decisions promptly and furnish information expeditiously, so as to avoid 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.

§ 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 an agreement between the Owner and an architect and/or engineering or design firm, including any additional services determined by the Owner to be necessary for the Preconstruction and Construction Phase services under this Agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 4.1 Basis of Compensation

§ 4.1.1 The basis for the Construction Manager's compensation for the Project to be paid by the Owner to the Construction Manager shall be established as follows:

(Paragraphs deleted)

§ 4.1.1.1 CM@R'S COMPENSATION FOR CONSTRUCTION PHASE BASIC SERVICES: The CM@R's Compensation for Basic Services shall be determined as follows:

§ 4.1.1.1.1 COMPONENTS OF CM@R'S COMPENSATION FOR BASIC SERVICES: For purposes of this Agreement, "CM@R's Compensation for Basic Services" shall mean the reimbursement for (1) the Direct Personnel Expense for the personnel assigned to the Project to perform the Construction Phase services of CM@R for the Project according to the Construction Documents; and, (2) a Construction Phase services only fee to cover the CM@R's corporate overhead, profit and risk for construction of the Project to be paid only if financing for the project is approved and a Notice to Proceed issued by the Owner. Such CM@R's Compensation for Basic Services shall include all compensation to be paid to the CM@R for anticipated Project Manager, and Site Superintendent direct personnel expense.

§ § 4.1.1.1.1.1 DIRECT PERSONNEL EXPENSE: An employee's "Direct Personnel Expense" as used in this Article 4 shall mean the direct salaries of all of the CM@R's personnel engaged in the Project, and the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, pensions and similar contributions and benefits, and all costs for transportation and subsistence (meals and lodging) relating to the Project.

§ 4.1.1.1.1.2 DETERMINATION OF MAXIMUM PERSONNEL EXPENSE. The CM@R shall prepare an Efforts Schedule for the Construction Phase services for the Project based upon the Scope of the Work established by the Owner. The Efforts Schedule shall identify the positions and specific personnel to be assigned to the Project excluding personnel at the CM@R's principal office or offices other than the site office, and setting forth the anticipated number of hours per month that the CM@R's project specific personnel assigned to the Project (e.g. the Project Executive, Project Manager and Site Superintendent) will be providing services during the Pre-Construction and Construction Phases of the Project. The Efforts Schedule shall specifically provide for personnel hours dedicated to the Project Completion and Warranty Work services to be provided by the CM@R, which shall be separately

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identified and set off as a dedicated portion of the CM@R's Maximum Personnel Expense (MPE) which shall be available to compensate the CM@R for such services. The Efforts Schedule shall also provide for the hourly rates to be charged to the Owner for the Direct Personnel Expense for each of the personnel identified and assigned to the Project by the CM@R. The maximum personnel cost for each position shall be calculated based upon the following formula: Total Anticipated Hours x Hourly Rate = Total Anticipated Cost.

§ 4.1.1.1.1.2.1.1 NEGOTIATION OF FINAL EFFORTS SCHEDULE. Upon completion of the Efforts Schedule, the CM@R will meet with the Owner and review the Efforts Schedule, and negotiate and agree upon the positions and personnel to be assigned to the Project, and the hours and hourly rate for each such position to be included in the Final Efforts Schedule in light of the overall Construction Budget and scope.

§ 4.1.1.1.1.2.2 EXECUTION OF FINAL EFFORTS SCHEDULE. The Owner and CM@R shall then sign the Final Efforts Schedule for Construction Phase services which shall be attached to this Agreement; see Appendix "B" attached. The Final Efforts Schedule shall establish the Maximum Personnel Expense (MPE) to be paid by the Owner for the services of the CM@R's personnel for the Construction Phase of the Project. Upon establishment of the Final Efforts Schedule for each such phase, the CM@R's compensation for basic services shall be calculated as set forth in Article 5.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Sections 2.1 through 2.5, 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 General Conditions as defined in Attachment B – CM@R proposal plus the Cost of the Work as defined in Section 6.1.1 plus any amount allocable from Construction Manager's "Cost of the Work Contingency" as allowed by this agreement and agreed to at the time the parties execute the Guaranteed Maximum Price Amendment plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

§ 5.1.1.1 CM@R COMPENSATION - CONSTRUCTION PHASE PERSONNEL EXPENSES. The CM@R's personnel expenses for Construction Phase services pursuant to paragraphs 2.1 through 2.5 of this Agreement for the Project shall be reimbursed by multiplying the stated hourly rates for each personnel position set forth in the Final Efforts Schedule for the months of February 2019 through February 2021 times the actual hours expended for each such personnel not to exceed the MPE of **FIVE HUNDRED FORTY-SEVEN THOUSAND, SIX HUNDRED FIFTY AND NO/100THS DOLLARS ($547,650..00)** for such phase of CM@R services set forth in the Final Efforts Schedule plus any savings realized in 4.1.2 above. Savings derived from an under-run to the total MPE set forth on the Final Efforts Schedule shall be applied to over-runs elsewhere within the GMP, shall be applied to the Construction Contingency, or shall accrue to the Owner.

§ 5.1.1.2 CM@R'S FEE FOR CORPORATE OVERHEAD, PROFIT AND RISK: The fixed fee to cover the CM@R's corporate overhead, profit and risk shall be the sum of **TWO PERCENT (2.0%)** of the total Cost of the Work as defined herein PROVIDED, that should the Cost of the Work exceed the GMP, the Construction Manager's fee shall be calculated based upon the amount of the Cost of the Work set forth in the GMP.

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

§ 5.1.2.1 ADJUSTMENT OF THE EFFORTS SCHEDULE AND MPE FOR CHANGES IN THE SCOPE OF THE WORK: Adjustments on account of changes in the Scope of the Work subsequent to the execution of the Agreement may be the basis for an adjustment of the CM@R's Efforts Schedule and attendant MPE; such adjustment shall be determined based upon the revised Schedules and Scope of the Work, and added to the Agreement by addendum.

§ 5.1.3 As described in section Article 5.3

(Paragraphs deleted)
§ 5.1.4 Rental rates for Construction Manager-owned equipment, which are not furnished as a part of subcontracted work by Construction Manager and which are necessary only for Work related to changes in scope, including

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subcontractor changes in scope, shall be at or below the amounts as are set forth on the rental rate schedule attached as Attachment F– Rental Equipment Rates, which rates shall be in effect for the duration of the performance of the Work. Such rental rates, and all other equipment agreed to be necessary for the Work, shall be included into the accepted Guaranteed Maximum Price Amendment.

(Table deleted)

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner. 100% of savings for the Cost of the Work and Contingency shall inure to the benefit of the Owner.

Not Applicable.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion and the Date of Final Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 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 as demonstrated to the Owner by the Construction Manager using the critical path method of scheduling in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Sections 7.2.2 and 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction, or may be determined through mutual agreement of the Owner and Construction Manager.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Sections 7.2.2 and 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

(Paragraph deleted)

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Expenses to Be Reimbursed

§ 6.1.1 For purposes of this Article the term Expenses to be Reimbursed (or Reimbursable Expenses) shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work to include the total cost of all Subcontracts, Multiple Prime Contracts, or Construction Manager's Self-Performed Work (as defined in Section 6.3 below) for the construction of the Project and site improvements described in the Contract Documents, and Construction Manager's Compensation for Basic Services, and other expenses to be reimbursed, as defined in this Article 6. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior 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. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Labor Costs shall not include wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.2 Labor Costs shall not include wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.3 Labor Costs shall not include wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.4 Labor Costs shall not include 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; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

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§ 6.2.5 Labor Costs shall not include bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and the Construction Manager's Self-Performed Work. Subcontracts, bid packages, or any other work that the Owner approves to be performed by or awarded to the Construction Manager, regardless of whether or not Construction Manager utilizes its own forces, shall be on a lump sum basis (the "Self-Performed Work"). The lump sum amount of any Self-Performed Work shall be deemed to be a reimbursable Cost of the Work under this section regardless of whether the lump sum amount may actually be higher or lower than the actual cost incurred by Construction Manager. The lump sum amount(s) for any Self-Performed Work shall not be subject to audit for actual costs.

§ 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 Aid-to-Construction, and Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Aid-to-Construction. The Construction Manager or a subcontractor upon written authorization of the Construction Manager may upon approval of the Owner's Designated Representative be reimbursed for costs of labor and material for work that is incidental to the construction of the Work of the Project but necessary to maintain the quality, budget and/or schedule of the Work; such reimbursement to be made on a cost plus ten percent (10%) basis. Such Aid-to-Construction work need not be bid as long as it is determined to be incidental to the original bid work of a subcontractor by the Owner's Designated Representative. The Aid-to-Construction shall be a cost-not-to-exceed line item in the Reimbursable Expense section of the GMP provided by the Construction Manager.

§ 6.5.2 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, seasonal protection, temporary water and utilities, safety measures, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site

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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.

§ 6.5.3 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.

§ 6.5.4 Costs of cleaning and removal of debris from the site of the Work and its proper and legal disposal, to include all requirements of material separation, recycling, reuse, and disposal to achieve the project goals.

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

§ 6.5.6 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.

§ 6.5.7 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval. Photo documentation, Owner inspection and insurance coverage shall be required prior to payment by the Owner.

§ 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, PROVIDED, that the Owner is an exempt entity under the tax laws of the State of Nebraska and is not subject to sales, use or similar taxes.

§ 6.6.2.1 The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of Neb. Rev. Stat. § 77-2704.15. For the purpose of establishing exemption, it is understood and agreed that the Construction Manager may be required to segregate materials and labor costs at the time a Contract for the Work is awarded. Construction Manager will accept Purchase Agent Appointment and Exempt Sales Certificate forms from the Owner. Construction Manager shall obtain Resale Certificates from Contractor's suppliers. Failure of Contractor or any Sub-Contractor to obtain Resale Certificates from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Construction Manager shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONSTRUCTION MANAGER HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONSTRUCTION MANAGER OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 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

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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 or subject to the Guaranteed Maximum Price. 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.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

§ 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.

§ 6.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

(Paragraph 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 or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming 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 and including the General Conditions costs 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:

.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 to 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 to 6.7;

.7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

.8 Costs for services incurred during the Preconstruction Phase.

.9 Cost of General Conditions, other than costs approved through Change Orders by the Owner, in excess of the fixed General Conditions Lump Sum.

§ 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

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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, daily diaries, superintendent reports, 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. Amounts paid for Construction Manager's Self-Performed Work are not subject to audit for actual cost.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Owner, Owner's Designated Representative, and 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.

§ 7.1.2 PAYMENT OF CM@R'S COMPENSATION

§ 7.1.2.1 PAYMENT OF CM@R'S COMPENSATION FOR PRE-CONSTRUCTION AND CONSTRUCTION PHASE PERSONNEL SERVICES: Based upon Applications for Payment submitted to the Project Architect by the CM@R, the Owner shall make progress payments to the CM@R as compensation for Pre-Construction and Construction Phase Personnel services for Direct Personnel Expense for actual hours worked by CM@R personnel for supervision of the Work and for Expenses to be Reimbursed based upon invoices submitted on a monthly basis as provided below and elsewhere in the Contract Documents.

§ 7.1.2.1.1 The period covered by each Application for Payment submitted by the CM@R for Pre-Construction and Construction Phase Personnel services and Expenses to be Reimbursed shall be one (1) calendar month ending on the last day of the month.

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§ 7.1.2.1.2 The portion of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services to be paid with each Application for Payment shall be determined by the actual hours worked by the CM@R's personnel for the Project as confirmed by the Project Architect and Owner.

§ 7.1.2.1.3 Provided an Application for Payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services is received by the Owner's representatives not later than the TWENTY-THIRD (23RD) day of the month, the Owner shall pursuant to Nebraska Construction Prompt Pay Act, Neb. Rev. Stat. § 45-1203 et seq., pay the amount due within THIRTY (30) days after receipt of a correct notice of amount due for the goods or services provided.

§ 7.1.2.2 PAYMENT OF CM@R'S FEE FOR CORPORATE OVERHEAD, PROFIT AND RISK: Based upon Applications for Payment submitted to the Owner by the CM@R, the Owner shall make progress payments to the CM@R of the CM@R's Fee for Corporate Overhead, Profit and Risk, based on the CM@R's GMP amount pending determination of final cost of the work, subject to a retainage amount of FIVE PERCENT (5%) to be held by the Owner. Payment of the CM@R'S Fee for Corporate Overhead, Profit and Risk (OPR Fee) shall be made in proportion of the Cost of the Work completed based upon the following formula:

- OPR Fee of $ x Cost of the Work completed to date = portion of OPR fee due, less retainage and previous OPR payments.

The OPR fee shall be subject to the retainage in the amount of FIVE PERCENT (5%) of the OPR Fee paid pursuant to the foregoing formula.

§ 7.1.2.3 FINAL PAYMENT OF CM@R FEES AND OPR

§ 7.1.2.3.1 CONDITIONS OF FINAL PAYMENT: Final payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services and CM@R'S Fee for Corporate Overhead, Profit and Risk, including any retainage held by the Owner shall be made by the Owner to the CM@R when (1) the Contract has been fully performed by the CM@R, including the CM@R's correction of nonconforming Work to the satisfaction of the Owner; (2) a final Application for Payment of all Subcontracts has been received and approved by the Owner; (3) a final accounting for the Expenses to be Reimbursed has been submitted by the CM@R and reviewed and approved by the Owner; (4) a final Certificate for Payment has then been issued by the Owner to all Subcontractors; and (5) the Architect has certified the total Cost of the Work for the Project pursuant to Paragraph 1.4.3. Such final payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services and CM@R'S Fee For Corporate Overhead, Profit and Risk shall be made by the Owner not more than THIRTY (30) days after the issuance of the Owner's final Certificate for Payment to all Subcontractors. The amount of the final payment of the CM@R's Compensation for Basic Services shall be calculated pursuant to the provisions of Article 4 and Article 5.

§ 7.1.3 PAYMENT OF COST OF THE WORK AND REIMBURSEABLE EXPENSES: Payment of the Cost of the Work, including all subcontracts held by the Construction Manager for the performance of the Work of the Project, and of all reimbursable expenses pursuant to Article 6 shall be governed by subparagraph 7.1.3 through 7.2.4 hereof.

§ 7.1.3.1 Provided that an Application for Payment is received by the Architect not later than the FIRST (1st) of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the TWENTY-FIRST (21st) day of the month the application is received. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than THIRTY (30) days after the Architect receives the Application for Payment pursuant to Nebraska Construction Prompt Pay Act, Neb. Rev. Stat. § 45-1203 et seq.

§ 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, Owner's Designated Representative 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.

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§ 7.1.4.1 With each Application for Payment of the Expenses to be Reimbursed, the CM@R shall submit payrolls, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner or Project Architect to demonstrate the cash disbursements made by the Owner on the Project on account of the Expenses to be Reimbursed.

§ 7.1.4.1.1 In taking action on the CM@R's Applications for Payment for Expenses to be Reimbursed, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the CM@R and shall not be deemed to represent that the Owner has made a detailed examination, audit or arithmetic verification of the documentation submitted or other supporting data and that the Owner has made exhaustive or continuous on-site inspections or that the Owner has made examinations to ascertain how or for what purposes the CM@R has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the interests of the Owner.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner and Architect may require, including but not limited to Subcontractors' and Supplier breakdowns of their respective costs into a schedule of values as required by the Owner. This schedule, unless objected to by the Owner or the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Construction Manager's Fee, and subtract retainage in the amount of TEN PERCENT (10%) for the first FIFTY PERCENT (50%) of the GMP paid pursuant to the foregoing schedule, and with no retainage requirement for the last FIFTY PERCENT (50%), UNLESS the Owner notifies the Construction Manager in writing that retainage will be withheld on the second FIFTY PERCENT (50%) and the amount of such retainage, such notice to be provided with the last GMP payment attributable to the first FIFTY PERCENT (50%) of the GMP.

.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 to substantiate prior Applications for Payment, 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 nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 7.1.8 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 and this Agreement.

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§ 7.1.9 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.

§ 7.1.10 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 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 GMP, 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 Owner and 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, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

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 bonds as set forth in Article 11 of AIA Document A201–2007.

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

(Table deleted)

§ 8.1 COVERAGE – OCCURRENCE BASIS: Coverages, written on an occurrence basis, shall be maintained without interruption from date of commencement of the Contractor's Work until date of final payment and termination of any coverage required to be maintained after final payment to the Contractor.

§ 8.2 CERTIFICATES OF INSURANCE: Certificates of insurance acceptable to the Owner shall be filed by the Contractor with the Owner prior to commencement of the Contractor's Work. These certificates and the insurance policies required by this Article 8 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. 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.

§ 8.3 PERFORMANCE AND PAYMENT BOND: The CM@R shall as required by **Neb. Rev. Stat**. § 52-118 furnish payment bonds covering faithful performance of this CM@R Agreement and payment of obligations arising thereunder with minimum Best Rating "A".

§ 8.3.1 Pre-GMP Performance and Payment Bond Amounts: Prior to approval by the Owner of the final negotiated GMP, the total amount of each of the CM@R's payment and performance bonds during this phase of the Project shall be the sum total of the following: (1) the CM@R's Compensation for Basic Services set forth in Articles 4 and 5 of this Agreement; and (2) the total contract amount for all subcontracts awarded prior to approval of the GMP.

§ 8.3.2. Post-GMP Performance and Payment Bond Amounts: Upon approval by the Owner of the final negotiated GMP, the total amount of the CM@R's payment and performance bond shall be the sum total of the GMP amount.

§ 8.3.3 Allowance for Subcontractor Performance and Payment Bonds: In subcontracting Work on the Project, the CM@R, in its sole discretion, may require certain subcontractors on certain portions of the Work to obtain and furnish performance and payment bonds in the amount of such subcontract sums. The GMP shall include an allowance of not more than **THIRTY PERCENT (30%) of the GMP** for costs associated with such subcontractor-furnished performance and payment bonds to be used by the CM@R in its sole discretion.

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 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

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker for claims arising from or relating to the Construction Manager's services.

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(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, 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 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager 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.

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 Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the

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amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above.

§ 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 Guaranteed Maximum Price 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 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

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

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases, as amended and attached hereto.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases, as amended and attached hereto.

§ 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, as amended and attached hereto, 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 CONSTRUCTION MANAGER'S RESPONSIBILITY AND SUPERVISION OF CONSTRUCTION SITE AND ON-SITE PERSONNEL:**

§ **11.5.1.1** **ACTS OR OMISSIONS OF CONSTRUCTION MANAGER'S EMPLOYEES:** The Construction Manager shall be responsible to the Owner for acts and omissions of the Construction Manager's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Construction Manager or any of its Subcontractors. As part of that responsibility, Construction Manager shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Construction Manager's employees, subcontractors, and all other persons carrying out the Contract.

§ **11.5.1.2** **SITE SECURITY IDENTIFICATION:** Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. See, Job Site Security Requirements, Appendix "C", attached hereto and incorporated herein by this reference.

§ **11.5.1.3** **VEHICLE PARKING:** Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager's subcontractors, to park their personal

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motor vehicles on Owner's property only in the parking places designated by the Owner. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense.

§ **11.5.1.4** **COMPLIANCE WITH APPLICABLE ORDINANCES:** Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow, applicable ordinances of the municipality in which the Project is located. In addition, if not covered by the municipality's tree ordinance, Construction Manager shall barricade and protect all trees on the Project.

§ **11.5.1.5** **THEFT DETERRENCE PROGRAM:** Construction Manager shall consult and coordinate with Owner with analysis of cost of the institution of a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Construction Manager's and Construction Manager's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Construction Manager's forces or Construction Manager's subcontractor's forces' actions, omissions, or failure to secure the Work or adjoining property.

§ **11.5.2 EQUAL OPPORTUNITY EMPLOYER:** By signing this Agreement, the Construction Manager does hereby agree, certify, warrant and represent on behalf of itself, that it is an equal opportunity employer and actively recruits a well-qualified and diverse staff including minority applicants, and does not discriminate against any employee or applicant for employment by reason of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status. By submitting a proposal and signing an Agreement with the Owner, the Construction Manager and any Contractor agrees to actively continue and implement this policy throughout any awarded project.

§ **11.5.3 COMPLIANCE WITH STATUTES:** As a material term of this Agreement, the Construction Manager shall at all times comply with all applicable federal and state statutes. Compliance with applicable laws shall consist of consultation with the Project Team in complying with and satisfying applicable codes, ordinances, rules, and regulations of any governmental authority having jurisdiction over the construction of each Project. With regard to the supervision of contractors performing the work of the Projects, the Construction Manager shall be responsible for determining the applicability of such codes, ordinances, rules, and regulations to work of the Project, except those applicable to the design services of the Project Architect; for investigating, confirming and/or verifying compliance therewith; for filing of all documents that are required for compliance therewith; and for obtaining the approval of governmental authorities having jurisdiction over the Project, including, but not limited to:

(a) E-Verification of Immigration Status: Compliance with federal and state immigration verification system regulations to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska.

(b) OSHA: Compliance with federal occupational safety and health standards by all contractors performing the Work of the project. A project specific safety plan shall be written, provided to the Project Team, and followed by all forces on the project with OSG+HA being the minimum standard requirements.

§ **11.5.4 EQUAL EMPLOYMENT OPPORTUNITY AND VERIFICATION OF IMMIGRATION STATUS:** The Construction Manager shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs; and specifically shall comply with all requirements of the federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska, if required by state or federal law or regulation.

§ **11.5.5.1** **GOVERNANCE:** Unless otherwise noted, the terms used in this Agreement shall have the same meaning as those in General Conditions.

§ **11.5.5.2** **EXTENT OF CONTRACT:** This Contract which includes this Agreement and the other documents incorporated herein by reference represents the entire and integrated Agreement between the Owner and 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 the Owner and Construction Manager. If anything in any document incorporated into this Agreement is inconsistent with this Agreement, this Agreement shall govern.

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§ **11.5.5.3** **OWNERSHIP AND USE OF DOCUMENTS:** The Drawings, Specifications and other documents prepared by the Architect and copies thereof furnished to the Construction Manager is for use solely with respect to this Project. They are not to be used by the Construction Manager, Contractor, Subcontractors, Sub-subcontractors or suppliers on other projects, or for additions to this Project outside the scope of the Work, without the specific written consent of the Owner and Architect. The Construction Manager, Subcontractors, Sub-subcontractors and suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents.

§ **11.5.5.4** **CLAIMS FOR CONSEQUENTIAL DAMAGES.** The Owner hereby expressly reserves the right to claim consequential damages against the CM@R for claims, disputes or other matters in question arising out of or relating to the subject matter of this Agreement. For purposes of this paragraph, the term "consequential damages" shall mean those damages incurred by the Owner as a consequence of the negligence of the CM@R. Such damages incurred by the Owner include injuries to persons or damage to property or economic loss.

§ **11.5.5.5** **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Nebraska and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any dispute shall be Colfax County, Nebraska, or, if no county is specified, then in the county in which the District's main administrative office is located.

§ **11.5.5.6** **ASSIGNMENT:** Once this Agreement is accepted and signed by the Owner, the Owner and Construction Manager respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without the 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.

§ **11.5.5.7** **FORCE MAJEURE:** None of the parties hereto shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

§ **11.5.5.8** **INDEPENDENT CONTRACTOR:** The Construction Manager shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Owner for any purpose. The Construction Manager shall assume sole responsibility for any debts or liabilities that may be incurred by Construction Manager in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing Construction Manager or its agents and/or employees to act as an agent or representative of or on behalf of the Owner, or to incur any obligation of any kind on behalf of the Owner. Construction Manager agrees that no health/hospitalization benefits, workers' compensation, and/or similar benefits available to Owner employees will extend to the benefit of Construction Manager or the Construction Manager's agents and/or employees as a result of this Contract.

§ **11.5.5.9** **KICKBACKS:** The Construction Manager certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Construction Manager breaches or violates this warranty, the Owner may, at its discretion, terminate this Contract without liability to the Owner, or deduct from the Contract price or consideration, or otherwise recover the full amount of any commission, percentage, brokerage, or contingency fee.

§ **11.5.5.10** **NOTICE:** All notices or invoices arising out of, or from, the provisions of this Contract shall be in writing and given to the parties at the address provided under this Contract, either by regular mail, facsimile, e-mail, or

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delivery in person. All notices sent via the U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

§ **11.5.5.11** **SEVERABILITY:** This Agreement is subject to all applicable federal and state laws, rules, and regulations. Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of this Contract shall continue in full force and effect, and either party may attempt to renegotiate the terms affected by the severance.

§ **11.5.5.12** **NO WAIVER OF RIGHTS:** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ **11.5.5.13** **WARRANTY:** Construction Manager warrants that it has the ability to perform the agreed upon services; it shall provide suitable resources to perform work in accordance with this Agreement; it will provide the agreed upon services on a timely basis; it shall perform services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently providing construction management services under similar circumstances, and with the requirements of the Contract Documents; and it is responsible for the construction of the Work of the Project in accordance with all designs, drawings, specifications, and other services furnished by Owner through the Project Architect for the Project.

§ **11.5.5.14** This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ **11.5.5.15** Execution of this Agreement shall constitute approval and acceptance of all terms, covenants and conditions as modified and contained in the Contract Documents.

§ **11.5.5.16** Contractor stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ **11.5.5.17** In the event of any litigation, arbitration, mediation or any other dispute resolution proceeding between the parties hereto arising out of the Contract Documents or the performance of this Contract, each party shall be responsible for their own costs and attorneys' fees.

§ **11.5.5.18** Nothing in this Contract or any of the Contract Documents shall be construed to support or authorize an award of liquidated damages against Construction Manager relating to any claim arising out of the Contract Documents or the performance of this Contract.

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 A133–2009, 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 with a Guaranteed Maximum Price

.2 AIA Document A201–2007, General Conditions of the Contract for Construction

.3

(Paragraphs deleted)

Other documents:

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User Notes: (1748325194)

(List other documents, if any, forming part of the Agreement.)

Appendix "A" – Excel 16 Division Spreadsheet Report
Appendix "B" – Construction Manager's Maximum Personnel Expense - Efforts Schedule:
Appendix "C" – Job Site Security Requirements
Appendix "D" – CM@R Payment and Performance Bonds
Appendix "E" – CM@R Certificate of Insurance
Appendix "F" – CM@R Rental Rate Schedule

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

COLFAX COUNTY SCHOOL DISTRICT 19-0123, A/K/A SCHUYLER COMMUNITY SCHOOLS	**HAUSMANN CONSTRUCTION, INC.**
OWNER *(Signature)*	***CONSTRUCTION MANAGER AT RISK***
Richard Brabec, President Board of Education	Matt Schendt, Vice President
(Name/Title)	*(Name/Title)*

(Row deleted)

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Appendix A

Excel 16 Division Spreadsheet Report

APPENDIX A - AIA Document A133 - 2009

16 DIVISION REPORT

SCHUYLER COMMUNITY SCHOOLS - EXISTING SCHUYLER CENTRAL HIGH SCHOOL BUILDING AND EXTERIOR SITE

Group	Phase	Description	Takeoff Quantity	Labor Cost/Unit	Labor Amount	Material Cost/Unit	Material Amount	Sub Cost/ Unit	Sub Amount	Equip Cost/Unit	Equip Amount	Total Cost/Unit	Total Amount
1000.000		**GENERAL CONDITIONS**											
	1000.050	Supervision											
	1000.100	General Conditions											
	1010.270	CM Equipment											
	1500.000	Site Maintenance/Access											
	1510.000	Aid to Construction											
		GENERAL CONDITIONS		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
2000.000		**SITEWORK**											
	2100.000	Site Clearing											
	2120.000	Structure Clearing											
	2140.000	Dewatering											
	2200.000	Earthwork											
	2270.000	Erosion Control											
	2275.000	Sediment Traps											
	2281.000	Soil Treatment											
	2444.000	Fencing & Gates											
	2513.000	Asphalt Paving											
	2515.000	Concrete Paving											
	2515.002	Pavement Marking & Traffic Signs											
	2700.000	Drainage Systems											
	2800.000	Site Accessories											
	2810.000	Underground Sprinklers											
	2900.000	Seeding & Sod											
		SITEWORK		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
3000.000		**CONCRETE**											
	3100.000	Concrete Formwork											
	3200.000	Reinforcing Steel											
	3300.000	Concrete											
	3410.000	Structural Precast											
	3450.000	Architectural Precast											
		CONCRETE		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
4000.000		**MASONRY**											
	4200.000	Masonry											
		MASONRY		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
5000.000		**METALS**											
	5120.000	Structural Steel											
	5210.000	Bar Joists											
	5300.000	Metal Decking											
	5400.000	Cold Formed Metal Framing											
	5500.000	Miscellaneous Steel											
	5810.000	Expansion Joint Covers											
		METALS		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
6000.000		**CARPENTRY**											
	6100.000	Rough Carpentry											
	6220.000	Millwork											
	6650.000	Solid Polymer Fabrications											
		CARPENTRY		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
7000.000		**THERM & MOIST PROTECTION**											
	7110.000	Sheet Waterproof											
	7200.000	Insulation											
	7270.000	Firestopping											
	7410.000	Manfact Roof/Wall Panels											
	7530.000	Flex Sheet Roof											
	7620.000	Sheet Mtl Flashing & Trim											
	7720.000	Roof Accessories											
	7900.000	Caulking											

SCHUYLER COMMUNITY SCHOOLS - EXISTING SCHUYLER CENTRAL HIGH SCHOOL BUILDING AND EXTERIOR SITE

		THERM & MOIST PROTECTION		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
8000.000		**DOORS AND WINDOWS**											
	8100.000	Metal Doors & Frames & Hardware Material											
	8210.000	Wood Doors											
	8305.000	Access Doors											
	8330.000	Coiling Doors and Grilles											
	8360.000	Sectional Overhead Doors											
	8390.000	Storm Doors/Overhead Coiling Storm Shutters											
	8410.000	Aluminum Entrances											
	8520.000	Aluminum Windows											
	8700.000	Finish Hardware Installation Labor											
	8720.000	Door Operators											
	8800.000	Mirrors											
		DOORS AND WINDOWS		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
9000.000		**FINISHES**											
	9200.000	Plaster Finish Sys Ceilings											
	9250.000	Gypsum Board											
	9300.000	Tile											
	9510.000	Acoustical Ceilings											
	9550.000	Gymnasium Floor Sys Wood Flooring											
	9650.000	Vct Flooring											
	9660.000	Synthetic Athletic Flooring											
	9675.000	Epoxy Flooring											
	9680.000	Carpet											
	9900.000	Painting											
		FINISHES		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
10000.000		**SPECIALTIES**											
	10100.000	Chalk & Tack Boards											
	10150.000	Compartments & Cubicles											
	10160.000	Toilet Partitions											
	10260.000	Corner Guards/Crash Rails											
	10350.000	Flag Poles											
	10430.000	Exterior Signs											
	10440.000	Interior Signs											
	10500.000	Lockers											
	10520.000	Fire Protect. Specialties											
	10652.000	Operable Partitions											
	10800.000	Toilet & Bath Accessories											
		SPECIALTIES		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
11000.000		**EQUIPMENT**											
	11130.000	Audio - Visual Screens											
	11400.000	Food Service Equipment											
	11450.000	Residential Equipment											
	11490.000	Gymnasium Equipment											
	11610.000	Laboratory Fume Hoods											
		EQUIPMENT		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
12000.000		**FURNISHINGS**											
	12500.000	Window Treatment											
	12760.000	Gymnasium Bleachers											
		FURNISHINGS		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
14000.000		**CONVEYING SYSTEMS**											
	14200.000	Elevator											
		CONVEYING SYSTEMS		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
15000.000		**MECHANICAL**											
	15000.100	Complete Mechanical											
	15300.000	Fire Protection											
	15400.000	Plumbing											

SCHUYLER COMMUNITY SCHOOLS - EXISTING SCHUYLER CENTRAL HIGH SCHOOL BUILDING AND EXTERIOR SITE

	15495.000	Site Utilities											
	15500.000	HVAC Systems											
	15950.000	Controls											
	15990.000	Test, Adjust and Balance											
		MECHANICAL		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
16000.000		**ELECTRICAL**											
	16010.000	Electrial Complete											
	16720.000	Fire Alarm/Detection Sys											
	16740.000	Data Cabling											
	17000.000	Security Electronics											
		ELECTRICAL		0.00	0	0.00	0	0.00	0	0.00	0	0.00	0

Appendix B

Construction Manager's Maximum Personnel Expense – Efforts Schedule

APPENDIX B - AIA Document A133 - 2009
MPE EFFORTS SCHEDULE
SCHUYLER COMMUNITY SCHOOLS - EXISTING SCHUYLER CENTRAL HIGH SCHOOL BUILDING AND EXTERIOR SITE

		2019											2020												2021			
	Hourly Rate	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Hours	Total MPE
PROJECT EXECUTIVE																												
Matt Schendt	**Incl. in Fee**	**5**	**5**	**10**	**10**	**15**	**15**	**15**	**15**	**15**	**15**	**15**	**15**	**15**	**15**	**15**	**10**	**10**	**10**	**10**	**5**	**5**	**5**	**5**	**5**	**5**	**265**	**$0**
AREA MANAGER																												
Steve Thiele	**Incl. in Fee**	**20**	**20**	**20**	**43**	**43**	**43**	**35**	**35**	**35**	**35**	**35**	**20**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**514**	**$0**
SR. PROJECT MANAGER																												
Jesse Volpp	**$85**	**25**	**30**	**30**	**30**	**30**	**40**	**40**	**40**	**40**	**40**	**40**	**40**	**30**	**30**	**30**	**30**	**30**	**30**	**30**	**15**	**15**	**10**	**10**	**10**	**5**	**700**	**$59,500**
PROJECT MANAGER																												
Klay Kasik	**$65**	**0**	**0**	**40**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**87**	**40**	**20**	**1840**	**$119,600**
GENERAL SUPERINTENDENT																												
Sam Gutz	**$92**	**0**	**10**	**10**	**10**	**25**	**30**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**35**	**30**	**30**	**30**	**30**	**20**	**715**	**$65,780**
SUPERINTENDENT																												
Pete Starkus	**$85**	**0**	**0**	**0**	**15**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**173**	**87**	**3562**	**$302,770**
Hours (Subtotals)		50	65	110	195	373	388	385	385	385	385	385	370	350	350	350	345	345	345	345	325	320	315	315	268	147	7596	
Maximum Personal Expense																												**$547,650**

Appendix C

Job Site Security Requirements

Appendix "C"

JOB SITE SECURITY REQUIREMENTS

SCHUYLER COMMUNITY SCHOOLS

Existing Schuyler Central High School Building and exterior site

The Schuyler Community Schools– AIA A201, General Conditions of Contract for Construction provides as follows:

§ 3.4.8 CRIMINAL HISTORY CHECKS

§ 3.4.8.1 Upon request of the Owner or the Owner's Representative the Contractor shall comply with the provisions of subparagraphs 3.4.8.1.1 through 3.4.8.1.4, to-wit:

§ 3.4.8.1.1 Contractor shall obtain all criminal history information regarding the "covered employees", as defined below, of the Contractor and certifications of criminal history compliance from all agents and subcontractors of the Contractor. Before beginning any Work on the Project, Contractor will provide written certification to the Owner that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

§ 3.4.8.1.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.8.1.3 For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 19 years of age or enrolled in a public school: a felony offense under Nebraska Criminal Code Article 3 Offenses Against The Person; an offense for which a defendant is required to register as a sex offender under the Nebraska Sex Offender Registration Act, Neb. Rev. Stat. §§ 29-4001 et seq.; or an equivalent offense under federal law or the laws of another state.

§ 3.4.8.1.4 OWNER'S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

In addition, Contractor will at least annually obtain criminal history record information that relates to any employee of the Contractor and certifications of criminal history compliance from all agents, or subcontractors of the Contractor or a Subcontractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or, other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present".

Job-Site Security Protocol:

1. Prior to performing any work or entering on the Project site, all contractors and subcontractors, and suppliers and materialmen shall sign a "Contractor/Supplier Criminal Records Certification," a copy of which is attached hereto, certifying that such contractor shall not assign to work on the Schuyler Community Schools building project an employee having a criminal record as defined by the Owner's policy, regulations, practices or directives, including but not limited to any of the following: (a) a felony; (b) rape, including statutory rape, or any other sexual assault; (c) sexual conduct with a minor of any kind; (d) abuse of a minor or child of any kind; (e) endangerment of a child or debauching a minor; (f) public indecency; (g) prostitution, pandering, or keeping a place of prostitution; (h) assault or battery; (i) kidnapping, false imprisonment or abduction; (j) child pornography; or (k) any offense in which a minor was a victim or a witness. Such certification shall remain on file at all times during the contractor's presence on the site.

2. The Contractor shall establish a school building construction site security protocol which shall include providing all employees of the contractors, employees of sub-contractors to the contractors, and other project related personnel with a "Project" badge or sticker created by the Contractor; each badge or sticker shall have a unique identifier number. This unique identifier number must be logged by the Contractor's Site Superintendent or Owner's Representative so as to associate each individual's name and company with the number on the badge. A copy of the log shall be kept at all times in the office of the Contractor's Site Superintendent and must be submitted to the Owner's superintendent's office at the end of each week. If wearing the Contractor-provided "Project" badge is not desirable and will interfere with the work being performed by that individual, the Contractor shall provide a sticker with the necessary information for identification for affected personnel, which shall include the unique number on the identification. This sticker may be affixed to the individual worker's hard hats. All means of identification other than what is provided by the Contractor must be approved by the Contractor's on-site Superintendent or Owner's Representative prior to implementation by the contractor. Identification must be visible at all times. Personnel failing to comply with the job-site security requirements may be required by the Contractor or Schuyler Community Schools personnel to leave the job-site.

3. A copy of the list of properly certified works and other personnel authorized to be on the work site shall be provided by each contractor to the Owner's Representative for the Project and kept in the on-site offices.

Schuyler Community Schools

Contractor/Subcontractor/Supplier Criminal Records Certification

Our firm hereby certifies and agrees not to knowingly assign or knowingly allow any individual or agent to do any work at the Schuyler Community Schools on the project located in Schuyler, Nebraska, or other locations under the Contract entered into between our firm and the Schuyler Community Schools who has a criminal record of a serious nature as defined by Schuyler Community Schools policy, regulations, practices or directives, and as expressed in the "Schuyler Community Schools – Criminal Records Directive". A list of individual workers complying with this Directive is attached.

Our firm authorizes, gives consent, and agrees to periodically certify same to Schuyler Community Schools. Our firm further authorizes, gives consent, and agrees to cooperate in obtaining any additional authorization or consent necessary, to assure compliance with this requirement, and to immediately reassign and remove any individual or agent from the work site who the firm learns is not in full compliance with the requirements of this Certification.

Dated this ____ day of _____, 201_.

_____
Name of Contract Vendor

By: _____
An Authorized Official

Schuyler Community Schools

Criminal Records Directive

(a) Definitions

1. "Crimes of a Serious Nature."
   a. Convictions for certain crimes, no matter when committed, will constitute "crimes of a serious nature." These crimes include convictions for the following: (i) a felony involving murder, manslaughter, personal injury to another, assault, battery, other use of a weapon of any kind or manner; (ii) a felony involving rape, including statutory rape, or any other sexual assault; (iii) a felony or misdemeanor involving sexual conduct with a minor of any kind; (iv) a felony or misdemeanor involving abuse of a minor or child of any kind; (v) a felony or misdemeanor involving endangerment of a child or debauching a minor; (vi) a felony or misdemeanor kidnapping, false imprisonment or abduction; or (vii) a felony or misdemeanor for child pornography.

   b. Convictions for the following crimes committed in the 7 years prior to when the employee is to work at the site of an awarded project will constitute "crimes of a serious nature:" (i) a felony involving the theft of money or property of a value of more than $1,000; (ii) a felony involving prostitution, pandering, or keeping a place of prostitution; (iii) a felony involving public indecency; (iv) a felony for drug possession or sales; and (v) a felony for DUI.

2. "Site of an Awarded Project" shall be defined to include the location of the physical work to be completed on the project where it is expected that minors under the age of 16 will be present on a regular basis during the completion of the contractors' scope of the work. The Site of an Awarded Project shall not include a Contractor's, Subcontractor's, or Supplier's home office.

(b) To help prevent any individuals or agents who have committed crimes of a serious nature from working at the site of an awarded project, the Contractor shall:

1. Require that each of its employees who are to work at the Site of an Awarded Project to complete the "Criminal Record Disclosure" prior to when the employee is to begin work at the Site of an Awarded Project.

   Unless the Contractor has actual or constructive knowledge that an employee omitted information or misrepresented information in completing the Criminal Record Disclosure, the Contractor shall not be liable for damages incurred as a direct or indirect result of such omission or misrepresentation.

2. Include this provision in each of its subcontracts and require that each of its Subcontractors' employees complete the Criminal Record Disclosure prior to when the Subcontractor's employee is to begin work at Site of an Awarded Project.

   Unless the Contractor or Subcontractor has actual or constructive knowledge that an employee omitted information or misrepresented information in completing the Criminal Record Disclosure, neither the Contractor nor the Subcontractor shall be liable for damages incurred as a direct or indirect result of such omission or misrepresentation.

3. Include this provision in each of its Supplier agreements where supplies are to be delivered to the Site of an Awarded Project by the Supplier and require that each of such Suppliers' employees complete the Criminal Record Disclosure prior to when the Supplier's employee is to deliver the supplies to the Site of an Awarded Project.

   Unless the Contractor or Supplier has actual or constructive knowledge that an employee omitted information or misrepresented information in completing the Criminal Record Disclosure, neither the Contractor nor the Supplier shall be liable for damages incurred as a direct or indirect result of such omission or misrepresentation.

4. Upon receipt of the names of the questionnaire for each employee, the Contractor, Subcontractor or Supplier shall conduct a search on the Nebraska State Patrol - Sex-Offender Registry website, http://www.nsp.state.ne.us/SOR/find.cfm, to confirm such employee is not listed thereon.

5. In the event that the Project Architect, Contractor, Subcontractor, Supplier or Owner determine that an employee has a record of crimes of a serious nature to immediately reassign and remove any individual or agent from the work site who is not in full compliance with the requirements of this paragraph.

Schuyler Community Schools

Certified Worker List

Firm Name: _____ Date: _____
Contractor/Subcontractor/Supplier

Worker Name	Years with Firm	General Job Description
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CRIMINAL RECORD DISCLOSURE

PLEASE PRINT

This disclosure must be updated within 7 days of any NEW charges or convictions.

Name _____
Last First Middle

Address _____
Street City State Zip Code

Telephone Number (_____)_____-_____ Social Security Number _____-_____-_____
Area Code

I understand the purpose of this document is to disclose to my employer any criminal events in my personal history that may preclude me from working on selected jobsites that contractually prohibit workers with a criminal record of a serious nature. I acknowledge the information provided is true and accurate. It is understood and agreed upon that any misrepresentation by me in this document will be sufficient cause for dismissal.

1. Have you ever been convicted of a felony? ☐ Yes ☐ No
   A conviction will not necessarily disqualify you from your current employment, but it may limit your ability to participate on specific projects. If yes, please attach a separate sheet detailing the nature of offense and terms of sentencing.

2. Have you been charged or convicted of any of the following crimes: (include date of any incident)
   - Rape, including statutory rape? ☐ Yes ☐ No
   - Sexual assault? ☐ Yes ☐ No
   - Sexual conduct of any kind with a minor? ☐ Yes ☐ No
   - Abuse of any kind of a minor or child? ☐ Yes ☐ No
   - Endangerment of a child or debauching a minor? ☐ Yes ☐ No
   - Public indecency? ☐ Yes ☐ No
   - Prostitution, pandering, or keeping a place of prostitution? ☐ Yes ☐ No
   - Assault or battery? ☐ Yes ☐ No
   - Kidnapping, false imprisonment or abduction? ☐ Yes ☐ No
   - Child pornography? ☐ Yes ☐ No
   - Any offense in which a minor was a victim? ☐ Yes ☐ No

   If you answered yes to any of the above, please attach a separate sheet detailing the charge or conviction, including where the charge or conviction occurred, when the events giving rise to the event occurred, and any other information that you would like us to know about the charge or conviction.

3. Are you now, or have you ever been, listed as a Registered Sex Offender in any State? ☐ Yes ☐ No

4. Are you currently on probation or work release? ☐ Yes ☐ No
   If yes, for what charge and how long a duration? _____

5. On a separate sheet, please identify each city, county, and state in which you have lived for more than three months and the approximate dates in which you lived in each location.

I hereby attest this information and the information attached to be true and accurate.

Signature of Employee _____ Date _____/_____/_____

Appendix D

CM@R Payment and Performance Bond

(To be attached upon receipt from CM@R)

Appendix E

CM@R Certificate of Insurance

(To be attached upon receipt from CM@R)

Appendix F

CM@R Rental Rate Schedule

HAUS EQUIPMENT

Rental Rates 2019

Derek Heiss (402) 416.5072
Haus Equipment

Equipment	Model	Fuel	Day	Week	Month
Aerial Equipment					
40' Straight 4x4	Genie S40	Diesel	$225	$500	$1,300
45' Straight 4x4	Genie S45, JLG 460SJ	Diesel	$245	$575	$1,450
65' Straight 4x4	Genie S65, JLG 660SJ	Diesel	$300	$750	$1,975
70' Straight with Tracks	Aichi ISR70J	Diesel	$500	$1,325	$3,500
80' Straight 4 X4	Genie S80 w/skypower	Diesel	$475	$1,200	$3,000
85' Straight 4x4	Genie S85, S85 w/skypower, JLG 860SJ	Diesel	$525	$1,350	$3,175
Electric Scissor Lift					
19' Interior Lift	Genie 1930, Skyjack 3219	Electric	$95	$200	$350
26' Interior Lift	Genie 2632, Skyjack 3226, Skyjack 4626	Electric	$125	$275	$485
32' Interior Lift	Skyjack 4632	Electric	$150	$350	$675
40' interior Lift	JLG 4069	Electric	$215	$515	$1,250
Rough Terrain Scissor Lift					
26' with Outriggers	Genie 2668, Genie 2669	Dual	$135	$375	$850
33' with Outriggers	Genie 3369	Dual	$180	$460	$950
Skidsteers					
Wheel ≤ 2,500 lbs	Case, Mustang, Bobcat	Diesel	$165	$500	$1,450
Wheel > 2,500 lbs	Mustang 2600R, 2700V, Gehl V400	Diesel	$175	$600	$1,800
Track < 3,000 lbs	Mustang 1650RT, 2100RT, 2500RT	Diesel	$185	$700	$2,200
Track 3,200 lbs	3200VT, TR320	Diesel	$225	$850	$2,475
Telehandlers					
6,000 lb 4x4, 34'-42' Reach	Manitou 6034, JLG 6-42A	Diesel	$265	$650	$1,750
8,000 lb 4x4, 44'	Gehl RS8-44	Diesel	$275	$850	$2,300
9,000 lb 4x4, 44'-50' Reach	Gehl RS9-50, JLG 9-43A	Diesel	$325	$950	$2,750
10,000 lb 4x4 55' reach	Gehl RS10-55, JLG 10-55A, Cat TL10-55	Diesel	$425	$1,150	$3,100
Warehouse Forklifts					
5,000 lb Interior	Toyota	Gas/LP	$215	$600	$1,300
Loaders					
Wheel Loader	Deere 544K	Diesel	$700	$1,900	$6,000
Track Loader	Caterpillar 953C, 953D	Diesel	$850	$2,400	$6,500
Cranes					
100 Ton	Link-Belt 80100 Rough Terrain	Diesel	$1,600	$4,600	$16,800
110 Ton	Link-Belt 80110 Rough Terrain	Diesel	$1,850	$4,850	$17,900
130 Ton	Link-Belt 80130 Rough Terrain	Diesel	$2,600	$7,500	$22,500
160 Ton	Link-Belt 80160 Rough Terrain	Diesel	$2,750	$8,250	$28,000
Excavators					
Mini Excavator	Mustang 170Z	Diesel	$155	$425	$1,250
Mini Excavator	Deere 27D	Diesel	$165	$475	$1,475
Mini Excavator	Deere 35D, Mustang 350Z	Diesel	$185	$575	$1,625
Mini Excavator	Mustang 450Z	Diesel	$215	$700	$1,850
Mini Excavator	Deere 50G	Diesel	$260	$800	$2,000
Backhoe	Deere 410J	Diesel	$300	$1,100	$3,200
Pumps					
2" Trash, 5.5 Hp gas		Gas	$30	$90	$250
2" Electric, submersible		Electric	$25	$75	$255
Air Compressors					
185 CFM Towable	Sullair		$100	$275	$600
Portable	Hitachi		$45	$100	$125

Equipment	Model	Fuel	Day	Week	Month
Heaters					
170,000 BTU	L.B. White Tradesman	LP	$50	$100	$275
400,000 BTU	L.B. White Tradesman	LP	$85	$125	$300
500,000 BTU	Sure Flame	LP	$85	$155	$375
170,000 BTU	L.B. White Premier 170DF	Dual	$95	$135	$400
350,000 BTU	L.B. White Premier 350DF	Dual	$115	$175	$475
400,000 BTU	Frost Fighter 400DF	Dual	$120	$185	$500
1 Million BTU	Sure Flame	Dual	$195	$325	$775
				Hose Rental: $1/ft/month	
Attachments					
Man Basket 10'			$50	$100	$300
Plate Packer	Kent		$75	$150	$475
Hydraulic Breaker			$135	$415	$1,300
Power Auger	Edge		$75	$250	$700
Broom	Edge, Virnig		$125	$225	$550
Brush Cutter			$100	$250	$725
Excavator Buckets	10", 12", 18"		$15	$50	$100
Forklift Hook	Star 6k or 12k capacity		$35	$100	$275
Forklift Spreader Bar	Star		$75	$150	$350
Hippo Hopper			$50	$115	$350
Skip Boxes			$150	$325	$1,000
Snow Blade	Edge		$100	$350	$700
Welding Attachment	Millermatic 141		$60	$135	$300
Miscellaneous					
Ground Thaw Machine	Heat King, Frost Buster	Diesel	$775	$2,300	$6,500
42" Fan		Electric	$25	$75	$175
Air Scrubber			$75	$200	$550
Dehumidifier	Drieaz	Electric	$65	$175	$500
Power Washer 3000 PSI	Generac	Gas	$50	$150	$400
Demo Saw	Husqvarna Soft Cut 150	Mix	$65	$105	$215
Concrete Mixer		Electric	$45	$130	$350
Concrete Blankets			$10/ea	$15/ea	$33/ea
Jumping Jack Compactor	Mikasa MTX-60HD	Gas	$45	$150	$450
Electric Jackhammer			$100	$200	$450
Floor Buffer		Electric	$85	$125	$350
Pneumatic Jackhammer			$100	$200	$450
Plate Compactor	Wacker Neuson	Gas	$45	$150	$450
Trench Roller	Wacker/Viper, Multiquip, Bomag	Diesel	$120	$450	$1,000
Core Drill	Husqvarna	Electric	$50	$150	$500
Light Tower	Multiquip NightHawk LT12, Wanco	Gas	$125	$225	$550
Gar-Bro Bucket			$95	$245	$780
Trash Chute			$125	$350	$1,000
3K Generator	Honda	Diesel	$60	$175	$450
7K Generator	Kubota Lowboy, Honda	Diesel	$175	$425	$800
25K Generator	Wacker	Diesel	$125	$345	$1,100
Generator/Welder	Bobcat 250Amp	Diesel	$70	$150	$385
110 Amp Welder	Miller 211 Autoset	Electric	$70	$150	$385
Dingo Utility Loader	Toro TX1000	Diesel	$125	$400	$1,000
UTV 2-Door	Polaris 900XP, Honda RZR	Gas	$100	$250	$800
UTV 4-Door	Polaris 1000XP	Gas	$150	$325	$1,000
Water Truck	Sterling, International	Diesel	$240	$700	$2,000
Delivery/Pick Up Charges					
Lincoln City Limits	$175 one time fee or $75/hour for smaller items				
Out of City Limits	$155 per hour (some exclusions apply)				

Additions and Deletions Report for
AIA® Document A133™ – 2009

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of the 11th day of February in the year 2019

...

Colfax County School District 19-0123, a/k/a Schuyler Community Schools
A political subdivision of the State of Nebraska
401 Adam Street
Schuyler, NE 68661
402-352-3527
(Hereinafter referred to as "Owner").

(Name, legal status and address)

Hausmann Construction, Inc.
A Nebraska corporation
8885 Executive Woods Drive
Lincoln, NE 68512
402-438-3230
(Hereinafter referred to as "Construction Manager" or "CM@R").

...

Schuyler Community Schools - Construction of additions and renovations to the existing Schuyler Central High School building located on the Owner's property at 401 Adam Street, Schuyler, Nebraska. The addition shall consist of a new building addition to include an approximately 32,500 total square foot new gymnasium, cafeteria, kitchen, locker rooms, and mezzanine, plus site work, kitchen equipment, gym fixtures and other furnishings, fixtures, and equipment. The renovation / remodel shall consist of the conversion of the existing approximately 11,500 square foot gymnasium to a theater, including seating and other furnishings, fixtures, and equipment. (Hereinafter referred to as "the Project").

...

(Name, legal status and address)

The Clark Enersen Partners, Inc.
A Nebraska corporation
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291
(Hereinafter referred to as "Architect" or "Project Architect").

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Dr. Dan Hoesing
Superintendent of Schools
Schuyler Community Schools
401 Adam Street
Schuyler, Nebraska 68661
402-352-3527
(Hereinafter referred to as "Owner's Designated Representative".

...

Matt Schendt,
Hausmann Construction, Inc.
11627 Virginia Plaza, Suite #106
La Vista, NE 68128
402-979-8200

...

Tim Ripp, AIA
The Clark Enersen Partners, Inc.
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291

12 SCOPE OF THE AGREEMENT

~~**EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT**~~

...

1.2.1 Term of Agreement: The term of this Agreement between the Owner and the CM@R shall be for a period commencing with the issuance of the Notice to Proceed with the Project, and shall continue through the occurrence of one of the following events, whichever occurs first in time:

.1 The completion of all services provided by the Construction Manager for the Project under the terms of this Agreement, with the term of this Agreement to extend twelve (12) months after the issuance by the Architect of the Certificate of Substantial Completion for the Project.

.2 The termination of this Agreement according to its terms; INCLUDING termination pursuant to Article 10 in the event the legal voters of the Owner do not approve the bond issue to finance the project.

§ 1.2.2 This Agreement shall not create a continuing contract for construction management services for future building projects or bond elections beyond the terms of this Agreement.

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, as amended and attached hereto, 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,~~ A201–2007 as amended and attached hereto, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 as amended and attached hereto shall mean the Construction Manager. In the event that there are conflicting provisions between this Agreement and the General Conditions, the provisions of this Agreement shall control.

§ 1.4 Definitions

§ 1.4.1 THE PROJECT: For purposes of this Agreement, "the Project" shall mean the Schuyler Community Schools additions and renovations project, located in Schuyler, Nebraska. The Project shall have a single Project Budget, plans and specifications, schedule, and Guaranteed Maximum Price (GMP).

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§ 1.4.1.1 PROJECT BUDGET: The Project Budget for the Work performed under this Agreement, plus the Construction Manager's compensation under Articles 4 and 5 of the Agreement and all Expenses to be Reimbursed, as defined in Article 6 of this Agreement, is approximately ELEVEN MILLION, EIGHT HUNDRED THOUSAND DOLLARS ($11,800,000.00) (hereinafter "the Project Budget"). The total budget for the entire Project, including the Cost of the Work, Construction Manager's compensation and reimbursable expenses, and the Architect's compensation and reimbursable expenses, is TWELVE MILLION, FIVE HUNDRED THOUSAND DOLLARS ($12,500,000.00).

§ 1.4.2 THE WORK: For purposes of this Agreement, "the Work" shall mean the Subcontracts or Multiple Prime Contracts or Self-Performed Work by the Construction Manager (as defined in Section 6.3 below), if any, for the construction of the Project. The CM@R is responsible for the construction, administration and/or supervision of the Work under the Construction Documents.

§ 1.4.3 COST OF THE WORK: For purposes of this Agreement, "Cost of the Work" shall mean the total cost of all Subcontracts, Construction Manager's Self-Performed Work (as defined in Section 6.3 below) for the construction of the Project and site improvements described in the Contract Documents, all Aid-to-Construction costs, and all Expenses to be Reimbursed, as defined in Article 6 to this Agreement. "Cost of the Work" shall not include the Construction Manager's Compensation under Articles 4 and 5 of this Agreement, the cost of any insurance and surety contracts purchased or controlled by the Owner, or any other contracts or agreements that are not part of or described by the Construction Documents, or Architect/Engineering or other professional fees and expenses.

§ 1.4.4. EXPENSES TO BE REIMBURSED: For purposes of this Agreement, "Expenses to be Reimbursed" shall mean those expenses incurred by the CM@R that are to be reimbursed pursuant to the provisions of Article 6.

§ 1.4.5 CONSTRUCTION CONTINGENCY: For purposes of this agreement, the term "Construction Contingency" as referred to and identified in the budget, cost estimates for the Project, including any form of guaranteed maximum price, shall mean a dollar amount not designated for any division of the Work which is available to be applied to the budget for a specified division or divisions of the Work for materials; provided that all funds identified as contingency funds are available for the project on an as needed basis and shall at all times be the sole property of the Owner. The Guaranteed Maximum Price (GMP) will contain a separately-identified contingency amount (the "Construction Contingency"). The Construction Contingency is not allocated to any particular item of the Cost of the Work and is established for the Construction Manager's use as may be required for costs incurred in the Work from causes, or details which should have been anticipated by the Construction Manager at the time of the Owner's approval of the GMP, or for costs incurred by the Construction Manager to manage the Work. Such causes or details are limited to refinement of details of design within the scope of standards, quality and quantities which were reasonably inferable from the Construction Documents at the time of the Owner's approval of the GMP. The Construction Manager, with Owner's written approval, may utilize the Construction Contingency for any of the above items within the Cost of the Work without the necessity of a Change Order, without constituting a change in the Scope of the Work, and without resulting in any change in the GMP. Depletion of the Construction Contingency shall not justify an increase to the GMP. All savings in the Construction Contingency will accrue and be available for use, only as detailed above, by the CM@R until the CM@R's final accounting. In the final accounting, all supporting documentation for all uses of the Construction Contingency shall be provided to Owner. Upon final accounting, all remaining monies in the Construction Contingency shall accrue to the Owner.

§ 1.4.6 GUARANTEED MAXIMUM PRICE: For purposes of this Agreement, "Guaranteed Maximum Price" or "GMP" shall mean the total of the sum of the Cost of the Work for the project plus the Construction Manager's fees under Articles 4 and 5 hereof, which amount is guaranteed by the CM@R not to exceed the amount provided in resolution of the Board of Education of the Owner approving such GMP, subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum as adjusted by approved changes in the Work is referred to in the Contract Documents as the Guaranteed Maximum Price or GMP. IF THE GUARANTEED MAXIMUM PRICE IS EXCEEDED FOR THE PROJECT, AS THE CASE MAY BE, THE CONSTRUCTION MANAGER SHALL BE RESPONSIBLE FOR PAYMENT FROM ITS OWN RESOURCES WITH NO CONTRIBUTION FROM THE OWNER OF THE DIFFERENCE BETWEEN THE FINAL PRICE AS DEFINED AT PARAGRAPH 1.4.7 BELOW AND THE GUARANTEED MAXIMUM PRICE AS ADJUSTED BY CHANGE ORDERS, IF ANY.

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§ 1.4.7 FINAL PRICE: For purposes of this Agreement, "Final Price" or "FP" shall mean the sum of the final Cost of the Work, Expenses to be Reimbursed, and the CM@R's Compensation for Basic Services as calculated by the Owner (hereinafter the "Final Price" or "FP"). The Final Price shall be determined by the Owner based upon disbursements made by the Owner for the Project to construct the Work under the Contract Documents. The Owner shall notify the Construction Manager of the Final Price not less than thirty (30) days following the issuance of the Certificate of Substantial Completion by the Architect for the Work. The Construction Manager shall have the right to inspect the records of the Owner and conduct an audit to confirm the Owner's calculation of the Final Price; provided, that the CM@R must request such audit within thirty (30) days of the receipt from the Owner of the Final Price calculation or the right to such audit shall be waived and the Final Price calculated by the Owner shall be final and binding on all parties.

§ 1.4.8 PROJECT TEAM: For purposes of this agreement, "Project Team" shall mean the Owner, including the Superintendent, Board Facilities Committee and other parties assigned by the Owner, the Owner's Designated Representative, the Construction Manager, the Project Architect, and the Fiscal Agent.

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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~~ consult with 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. Unless the Construction Manager specifically provides design services, any recommendations and/or advice provided by the Construction Manager concerning potential value engineering options or design alternatives shall be in the capacity of a Construction Manager and not as a licensed design professional.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and ~~periodically~~ monthly update a Project schedule for the Owner and 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 Guaranteed Maximum Price proposal; 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.

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§ 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~~ volume, competent subcontractor estimates, or similar conceptual estimating techniques for the Architect's and Owner's Designated Representative's review and Owner's approval. If the Architect or Construction Manager suggests 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 Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's and Owner's Designated Representative'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~~ Budget and make recommendations for corrective action.

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The Construction Manager shall ~~develop bidders' interest in the Project.~~ use due diligence to develop bidders' interest in the Project, which may include Construction Manager's Self-Performed Work (as defined in Section 6.3 below) with an emphasis on developing and encouraging local contractor interest.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's and Owner's Designated Representative's review and the Owner's acceptance, a procurement schedule for items that must be ~~ordered~~ procured well in advance of construction. The Construction Manager shall expedite and coordinate the ~~ordering~~ ordering, procurement and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them. Prior to the establishment of the Guaranteed Maximum Price (GMP) the Construction Manager may, with the Owner's written approval, procure Subcontracts for certain scopes of the work that if procured early are deemed by both Construction Manager and Owner as beneficial to the Project. Subcontracts must be procured in accordance with the Contract Documents. Any subcontracts that may be procured before Construction Phase Services commences shall be contingent on that commencement and establish limits to the cost exposure to the Project. Such limits shall be proposed by Construction Manager and approved by Owner in writing prior to issuance of any early procurement Subcontracts by Construction Manager.

...

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. Any recommendations and/or advice provided by the Construction Manager concerning potential value engineering or design alternatives shall be in the capacity of a Construction Manager and not as a licensed design professional. Therefore, the Construction Manager shall not have any design liability and any such recommendations or advice provided by Construction Manager concerning potential value engineering or design alternatives shall be subject to the review and approval of the Owner, the Architect and the Owner's professional consultants. 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 inquire on any perceived variances they are aware of in support of the success of the overall project. The Construction Manager shall ensure that all self-performed work and work performed by its Subcontractors is performed in accordance with the contract documents. The Construction Manager shall promptly report to the Architect and Owner and the Owner's Designated Representative any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

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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~~ quasi-governmental authorities for inclusion in the Contract Documents.

...

§ 2.2.1 At a time to be ~~mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect,~~ determined pursuant to paragraph 2.2.1.1 below based upon the Excel 16 Division Spreadsheet Report form, Appendix "A", the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.1.1 The Owner shall deliver to the Construction Manager the Drawings and Specifications per the Project Schedule established by the Architect, Owner and Construction Manager. These documents will be approximately 70% complete Construction Documents (the "Basis Documents"). At the same time, the Owner will also deliver to the Construction Manager the Architect's detailed listing of any material incomplete design elements and the

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Architect's statement of intended scope with respect to such incomplete elements and divisions of the work (the "Design Intent Statement").

§ 2.2.1.1.1 The Construction Manager shall within twenty-one (21) days of the receipt of the Basis Documents and the Design Intent Statement, receipt of which shall be acknowledged in writing, prepare and submit to the Owner a Guaranteed Maximum Price (GMP) proposal based upon the standard construction industry sixteen (16) divisions of the Work, or current CSI designations, following the Excel 16 Division Spreadsheet Report in accordance with the Project specifications setting forth the estimated cost organized by materials and systems, trade categories, allowances, contingency, and other items, along with qualifications and assumptions based upon the Basis Documents and the Design Intent Statement and all information required under paragraph 2.2.3 below.

§ 2.2.1.1.2 The Construction Manager, Owner, Project Architect, and selected consultants (Project Team) shall meet to identify the extent that Drawings and Specifications are anticipated to require further development by the Architect pursuant to subparagraph 2.2.2, contingencies pursuant to subparagraph 2.2.4, and reconcile any questions, discrepancies or disagreements relating to the qualifications and assumptions, the Basis Documents or the Design Intent Statement pursuant to subparagraph 2.2.5. The reconciliation shall be documented by an addendum to the GMP qualifications and assumptions that shall be approved in writing by the Project Team.

§ 2.2.1.1.3 The Construction Manager shall then prepare and submit to the Owner within twenty-one (21) days of the receipt of the addendum to the GMP, a final GMP proposal.

§ 2.2.1.1.4 The Owner shall provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment pursuant to subparagraph 2.2.8.

§ 2.2.1.1.5 The final negotiated GMP shall not exceed the Project Budget established for construction. If the GMP exceeds the Project Budget, the Owner reserves the right to terminate the agreement with the CM.

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.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the ~~Contract;~~Contract upon which the GMP is based;

...

.3 A statement of the proposed Guaranteed Maximum Price, including a detailed statement of the estimated Cost of the Work organized by ~~trade categories or systems,~~ Construction Specifications Institute (CSI) Divisions corresponding with the Specifications, detailed list, descriptions, and estimates of allowances, contingency, and the Construction Manager's Fee;

.4 The anticipated ~~date~~ dates of Substantial Completion and Final Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner and Construction Manager must mutually accept the Guaranteed Maximum Price. The date must not be less than two (2) calendar weeks nor more than four (4) calendar weeks.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include ~~its contingency~~ a Cost of Work Contingency for the Construction Manager's exclusive use ~~to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.~~ with the Owner's prior review of cost proposals and consent which shall not be unreasonably withheld. The term "Cost of Work Contingency" shall mean the line item included by the Construction Manager in the Guaranteed Maximum Price proposal that is available to cover the net amount of any additional costs resulting from unforeseen conditions and events not evidenced at the time that the parties execute the Guaranteed Maximum Price Amendment, to the extent that such conditions or events do not result in or constitute a change in the Work. Examples of such unforeseen conditions and events include, but are not limited to, the following:

.1 Unanticipated cost overruns (including cost overruns resulting from errors or omissions in Scope of Work) on the Construction Manager's General Conditions, and procurement of Subcontracts or other purchases of materials or labor costs;

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.2 Expediting or acceleration costs required to meet the date of Substantial Completion but only to the extent not related to the fault of Construction Manager.

The amount of the Cost of the Work Contingency to be included in the final Guaranteed Maximum Price Proposal shall be a percentage of the aggregate value of the Cost of the Work. The detailed statement of the Cost of the Work Contingency shall contain backup documentation and separate values for encumbered versus invoiced Cost of Work. Specifically excluded as unforeseen conditions, as described above, shall be cost overruns of Construction Manager's self-perform lump sum cost work, if any.

§ 2.2.4.2 The Construction Manager shall provide the Owner and Architect with a report on the status of the Cost of Work Contingency on a monthly basis throughout the duration of the Project after the Guaranteed Maximum Price has been established. In each such monthly report on the status of the Cost of Work Contingency, the Construction Manager shall identify (i) any amounts added to the Cost of Work Contingency which are a result of positive variances or savings in the components of the Cost of the Work, (ii) any amount allocable up to the date of the report which are a result of negative variances in components of the Cost of the Work, and (iii) any amounts reserved from the Cost of Work Contingency for anticipated negative variances in components of the Cost of the Work which have been identified but not fully evaluated. After being adjusted for items (i) through (iii) above, the remaining amount of the Cost of Work Contingency shall be designated as the unallocated portion of the Cost of Work Contingency. All charges to the Cost of Work Contingency by Construction Manager shall be subject to providing the background information required in the Change Order process.

§ 2.2.4.3 The Construction Manager may, at its discretion, make portions of the Cost of the Work Contingency available for the Owner's use at their discretion. This is to allow the Owner's use of the funds when they are in excess of the expected potential risk at the stage of the Project.

§ 2.2.4.4 If, at the time Owner makes the final payment to the Construction Manager, there is a balance in the Cost of Work Contingency, it shall inure to the benefit of the Owner.

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2.2.6.1 In the event that the Owner and Construction Manager are not able to reach agreement upon a Guaranteed Maximum Price by the date specified in the Guaranteed Maximum Price proposal, Owner may terminate this Agreement in accordance with the provisions herein or, at Owner's sole discretion to do so, work with the Construction Manager to make value engineering and/or schedule changes in order to achieve a mutually agreed upon GMP.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the ~~agreed upon~~ agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Owner shall provide such revisions in a manner that does not unreasonably delay, disrupt, or hinder the Construction Manager's performance of the Work. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

...

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier. The performance of the Construction Phase services is contingent upon (i) the Owner providing physical and legal access to the Project; and (ii) the Owner providing satisfactory evidence of financing pursuant to Section 3.1.2.

§ 2.3.1.3 On-Site Staffing: The CM@R shall maintain exclusively for the Project a competent, duly licensed and certified full-time staff at the Project Site to coordinate and direct the Work and progress of the Subcontractors. All of the CM@R's on-site management and supervisory personnel shall be consistent with the CM@R's interview presentation and shall not be removed or replaced without the Owner's consent, which consent will not be unreasonably withheld. The Owner shall have the right to direct the CM@R to remove or replace any on-site personnel whose performance becomes unsatisfactory to the Owner. In such event the CM@R shall promptly replace

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such personnel without consideration of any additional compensation for the replacement. Such on-site staffing shall include the following personnel who shall perform the following duties:

§ 2.3.1.3.1 Project Manager: CM@R's project manager, while not required to be present full-time at the site, shall remain assigned to this Work, and be available on an as-needed basis throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion and Final Completion have been completed or corrected in accordance with the Construction Documents.

§ 2.3.1.3.2 On-Site Superintendent(s): The CM@R shall have a Superintendent on the site of the Work at all times the Work is being performed. CM@R's Superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion have been completed or corrected. From Substantial Completion until Final Completion, the Superintendent shall be on the site as necessary to ensure that Final Completion occurs within the time specified. The CM@R's Superintendent's services shall include: (1) Review of all stages of construction to become intimately familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents; (2) shall be responsible to assure that the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work performed by the Contractor are in compliance with the Contract Documents and all local, state and federal regulations; (3) shall make continuous on-site inspections to check quality or quantity of the Work; and, (5) shall keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

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§ 2.3.2.1 ~~Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.~~**ACTUAL PERFORMANCE OF THE WORK:** All of the Work on the Project, except such work identified and approved by the Owner's Designated Representative as an Aid–to-Construction as a Reimbursable Expense under Article 6 or work performed by the Construction Manager as Self-Performed Work (under Section 6.3), shall be performed under contracts to be held by the Construction Manager as the contracting party and such contract shall be covered by the Construction Manager's payment and performance bonds (hereinafter referred to as "Subcontracts"). Upon reaching an agreement outlined in section 2.1.7 or the Drawings and Specifications are at the appropriate level for any given bid or proposal package as determined by the Construction Manager and approved by the Owner the Construction Manager shall advertise for competitive bids or proposals for each Subcontract and award such Subcontracts as set forth below. As part of the process of obtaining competitive bids for the Work, the Construction Manager shall perform the following responsibilities.

§ 2.3.2.2 ~~If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.~~**CONSTRUCTION MANAGER DEVELOPMENT OF BID PACKAGES:** The Construction Manager shall develop bid packages and solicit Subcontractor and Supplier interest in the Project with emphasis on the development of bid packages that will encourage participation by local contractors, which may include Construction Manager's Self-Performed Work (as defined in Section 6.3 below).

§ 2.3.2.3 ~~Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost plus fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive~~

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~~the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.~~**ADVERTISEMENT FOR COMPETITIVE BIDS:** The Construction Manager shall advertise for competitive bids for all portions of the Work pursuant to the bid process that shall include (a) preparing invitations for bids and proposals and proposed contract documents; (b) publishing public notice which includes the general nature of the proposed work, fixes the hour, date, time and place where such bids and proposals shall close, or be received or opened, and provides the name and telephone number of a person to be contacted by anyone interested in submitting a bid and proposal to contract for such work in a newspaper of general circulation in the area at least fourteen (14) days prior to bid and proposal opening and providing other public notice; (c) establishing evaluation criteria, interview and selection procedures which may include consultations with one or more bidders according to the requirements of any federal, state, and local laws applicable, with the board giving approval to and making the award of any final contracts; and (d) preparing, signing, executing and delivering all documents, and taking or causing to be taken all other necessary or appropriate action to complete the bidding and proposal process for each contract; and that the above shall and is hereby determined to be the regular manner established by the Owner for advertising for bids and proposals for all contracts for the Project.

§ 2.3.2.3.1 In implementing the forgoing bid process, the Construction Manager shall be generally responsible to including, but not limited to:

§ 2.3.2.3.1.1 Schedule for Letting Bids: Establish a schedule for letting bids for each portion of the Work pursuant to the schedule for the construction of the Work established for the Project;

§ 2.3.2.3.1.2 Dates for Advertisement of Bids: Establish dates for advertising for and opening of bids;

§ 2.3.2.3.1.3 Location of Bid Opening and Reading and Availability of Bids: All bids will be opened at the Owner's administrative offices. All submitted bids shall be available for public inspection thereafter after review for completeness during the normal business hours for the Owner's administrative offices; and the Construction Manager shall provide to each submitting bidder a summary of the bids within five (5) business days of the opening of the bids;

§ 2.3.2.3.1.4 Publication of Bids: Arrange for publication of advertisement for bids, which publication shall fix the day and hour upon which the bids shall be returned or received, and the date, hour and location the bids will be opened, and that the bids shall be opened in the presence of the bidders, or representatives of the bidders, when the hour is reached for the bids to close;

§ 2.3.2.3.1.5 Provision of Construction Documents: Make available to all prospective bidders the Plans and Specifications for the portion of the Work being let for bids upon payment by such prospective bidders for the cost of the Plans and Specifications;

§ 2.3.2.3.1.6 Pre-Bid Conferences: Be in attendance at and conduct pre-bid conferences with firms interested in submitting bids as Subcontractors following the schedule for the Project;

§ 2.3.2.3.1.7 Specify Required Information From Bidders: Confirm with all prospective Subcontract bidders that they will provide all information requested of bidders on the Work required by the Owner in the bid documents;

§ 2.3.2.3.1.8 Presence at Bid Openings: Be present at all bid openings;

§ 2.3.2.3.1.9 Minimum Number of Bids and Evaluation of Bids: For a bid package to proceed to award there must be not less than three (3) bona fide bids submitted, unless such requirement is waived for good cause by the Owner's Designated Representative; "good cause" shall be determined on a case-by-case basis in consideration of the receipt of competitive nature of the bids received and the progress of the Work. In consultation with the Owner and Project Architect, evaluate each bid and bidder, and make recommendations to the Owner regarding which bids will be accepted as the lowest responsible bid for portions of the Work being bid; and,

§ 2.3.2.3.1.10 Low Responsible Bidder: For purposes of the Work of this Agreement, the term "lowest responsible bidder" shall mean financial responsibility, the general ability and capacity of the bidder to perform the Work, the bidder's facilities and suitability for the task, and those qualities which the bidder must necessarily have in order to be able to perform the contract strictly in accordance with its terms.

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§ 2.3.2.3.1.11 Construction Manager Assistance in Determining Low Bid: For purposes of the Work of this Agreement, upon identifying the responsible bidders for a portion of the Work, the Construction Manager shall advise on which of the responsible bidders has submitted the lowest bid. The lowest total price is not always dispositive of this question because public bodies retain an official discretion to determine which bid offers the best value to their constituents. The Owner shall have discretion to award the contract to one other than the lowest of the responsible bidders whenever a submitted bid contains a relevant advantage; e.g. for example, a bid that promises an early completion date or construction with higher quality materials.

§ 2.3.2.3.1.11.1 The Construction Manager shall provide to each submitting bidder notice of the bid determined to be the low responsible bidder within ten (10) business days of the determination by the Owner.

§ 2.3.2.3.2 Bidding By Construction Manager: Should the Construction Manager or a construction contractor in any way affiliated with the Construction Manager as defined by the Owner submit a bid for a portion of the Work being let for bids, the same procedures and processes as required of all bidders shall be followed, **except that any bid by the Construction Manager must be submitted Twenty-Four (24) hours before all other bids are due to be submitted (unless granted permission otherwise by the Owner)**, and the bid of the Construction Manager or a construction contractor affiliated in any way with the Construction Manager may only be accepted if such bid is the lowest responsible dollar amount bid. Any bid by Construction Manager that is accepted by Owner shall be deemed and treated as Self-Performed Work (as described in Section 6.3 below).

§ 2.3.2.3.3 Non-Acceptance by Owner of Low Bid Determined By Construction Manager: If the Guaranteed Maximum Price has been established and a specific bidder among those whose bids are received through the competitive bidding process (1) is determined by the Construction Manager to be the lowest responsible bid; (2) is qualified to perform that portion of the Work; (3) has submitted a bid which conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a change in the Work be issued to adjust the schedule of the Work and the Guaranteed Maximum Price by the difference between the bid of the person or entity determined by the Construction Manager to be the low bid and the amount of the Subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3.4 Conformance By Material Suppliers: Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform to the bidding provisions herein and the payment provisions of subparagraph 6.2.

§ 2.3.2.3.5 Rebidding of Work: In cooperation with the Architect and Owner, the Construction Manager shall assist with the rebidding of any portion of the Work for which no satisfactory bid has been received.

§ 2.3.2.3.6 Bid Bonds: The Construction Manager may require bidders to submit bid bonds or other bid security and, as applicable, evidence of the ability to obtain payment and performance bonds and certificates of insurance acceptable to the Construction Manager and Owner as a prerequisite to bidding on portions of the Work to be performed by Subcontract.

§ 2.3.2.4 ~~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.~~Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below. Any Self-Performed Work by the Construction Manager (as defined in Section 6.3 below) shall be on a lump sum basis and shall not be subject to audit for actual cost.

§ 2.3.2.5 ~~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.~~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.

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§ 2.3.2.6 ~~Upon the execution of the Guaranteed Maximum Price Amendment, 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.~~ 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, the Owner's Designated Representative, and Architect.

§ 2.3.2.7 ~~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.~~Upon the execution of the Guaranteed Maximum Price Amendment, 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. The Owner acknowledges that the Construction Manager's schedule (including all critical path activities and all activities with float) is a working tool that the Construction Manager shall manage as its discretion dictates. The schedule adopted with the acceptance of GMP Amendment is not a Contract Document; however, it does not alter the Construction Manager's obligation to substantially complete the Work by the specified date of Substantial and Final Completion. The Construction Manager may revise the schedule throughout the Project as it deems necessary, and as agreed to by Owner, so long as it does not defer the specified date of Substantial and Final Completion. As part of its responsibility for the means and methods of construction, the Construction Manager shall have exclusive authority to determine the sequencing and duration of all direct construction schedule activities. As such, the Construction Manager shall have the exclusive use of any float in the schedule, given that float is clearly defined and all critical path activities and durations are agreed upon by the owner. The Construction Manager shall ensure a schedule is available to all Subcontractors and track progress on a daily basis.

§ 2.3.2.8 The Construction Manager shall ~~develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.~~ 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.

§ 2.3.2.9 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

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§ 3.1.3 The Owner shall establish and periodically update the Owner's ~~budget for the Project,~~ Project Budget, 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 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 as determined by the Owner) 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

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information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of ~~the Work.~~the Work, and shall notify the Owner and Architect promptly of any actual or perceived inconsistent, incorrect, or inaccurate information discovered by them or their Subcontractors.
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The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall in conjunction with the Owner's Designated Representative and Architect render decisions promptly and furnish information expeditiously, so as to avoid 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.

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

...

The Owner shall retain an Architect to provide services, duties and responsibilities as described in ~~AIA Document B133™–2014, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition. 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.~~an agreement between the Owner and an architect and/or engineering or design firm, including any additional services determined by the Owner to be necessary for the Preconstruction and Construction Phase services under this Agreement.

~~ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES~~
ARTICLE 4 COMPENSATION AND PAYMENTS FOR CONSTRUCTION PHASE SERVICES
§ 4.1 Basis of Compensation
§ 4.1.1 ~~For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager~~ The basis for the Construction Manager's compensation for the Project to be paid by the Owner to the Construction Manager shall be established as follows:

~~§ 4.1.2~~ ~~For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:~~
~~*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*~~

~~§ 4.1.3~~ ~~If the Preconstruction Phase services covered by this Agreement have not been completed within ( ) 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 on the Project 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 upon presentation of the Construction Manager's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.~~
~~*(Insert rate of monthly or annual interest agreed upon.)*~~

~~% ~~

§ 4.1.1.1 CM@R'S COMPENSATION FOR CONSTRUCTION PHASE BASIC SERVICES: The CM@R's Compensation for Basic Services shall be determined as follows:

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§ 4.1.1.1.1 COMPONENTS OF CM@R'S COMPENSATION FOR BASIC SERVICES: For purposes of this Agreement, "CM@R's Compensation for Basic Services" shall mean the reimbursement for (1) the Direct Personnel Expense for the personnel assigned to the Project to perform the Construction Phase services of CM@R for the Project according to the Construction Documents; and, (2) a Construction Phase services only fee to cover the CM@R's corporate overhead, profit and risk for construction of the Project to be paid only if financing for the project is approved and a Notice to Proceed issued by the Owner. Such CM@R's Compensation for Basic Services shall include all compensation to be paid to the CM@R for anticipated Project Manager, and Site Superintendent direct personnel expense.

§ § 4.1.1.1.1.1 DIRECT PERSONNEL EXPENSE: An employee's "Direct Personnel Expense" as used in this Article 4 shall mean the direct salaries of all of the CM@R's personnel engaged in the Project, and the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, pensions and similar contributions and benefits, and all costs for transportation and subsistence (meals and lodging) relating to the Project.

§ 4.1.1.1.1.2 DETERMINATION OF MAXIMUM PERSONNEL EXPENSE. The CM@R shall prepare an Efforts Schedule for the Construction Phase services for the Project based upon the Scope of the Work established by the Owner. The Efforts Schedule shall identify the positions and specific personnel to be assigned to the Project excluding personnel at the CM@R's principal office or offices other than the site office, and setting forth the anticipated number of hours per month that the CM@R's project specific personnel assigned to the Project (e.g. the Project Executive, Project Manager and Site Superintendent) will be providing services during the Pre-Construction and Construction Phases of the Project. The Efforts Schedule shall specifically provide for personnel hours dedicated to the Project Completion and Warranty Work services to be provided by the CM@R, which shall be separately identified and set off as a dedicated portion of the CM@R's Maximum Personnel Expense (MPE) which shall be available to compensate the CM@R for such services. The Efforts Schedule shall also provide for the hourly rates to be charged to the Owner for the Direct Personnel Expense for each of the personnel identified and assigned to the Project by the CM@R. The maximum personnel cost for each position shall be calculated based upon the following formula: Total Anticipated Hours x Hourly Rate = Total Anticipated Cost.

§ 4.1.1.1.1.2.1 NEGOTIATION OF FINAL EFFORTS SCHEDULE. Upon completion of the Efforts Schedule, the CM@R will meet with the Owner and review the Efforts Schedule, and negotiate and agree upon the positions and personnel to be assigned to the Project, and the hours and hourly rate for each such position to be included in the Final Efforts Schedule in light of the overall Construction Budget and scope.

§ 4.1.1.1.1.2.2 EXECUTION OF FINAL EFFORTS SCHEDULE. The Owner and CM@R shall then sign the Final Efforts Schedule for Construction Phase services which shall be attached to this Agreement; see Appendix "B" attached. The Final Efforts Schedule shall establish the Maximum Personnel Expense (MPE) to be paid by the Owner for the services of the CM@R's personnel for the Construction Phase of the Project. Upon establishment of the Final Efforts Schedule for each such phase, the CM@R's compensation for basic services shall be calculated as set forth in Article 5.

§ 5.1 For the Construction Manager's performance of the Work as described in ~~Section 2.3,~~ Sections 2.1 through 2.5, the Owner shall pay the Construction Manager the Contract Sum in current ~~funds. The Contract Sum is~~ funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the General Conditions as defined in Attachment B – CM@R proposal plus the Cost of the Work as defined in Section 6.1.1 plus any amount allocable from Construction Manager's "Cost of the Work Contingency" as allowed by this agreement and agreed to at the time the parties execute the Guaranteed Maximum Price Amendment plus the Construction Manager's Fee.
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§ 5.1.1.1 CM@R COMPENSATION - CONSTRUCTION PHASE PERSONNEL EXPENSES. The CM@R's personnel expenses for Construction Phase services pursuant to paragraphs 2.1 through 2.5 of this Agreement for the Project shall be reimbursed by multiplying the stated hourly rates for each personnel position set forth in the Final Efforts Schedule for the months of February 2019 through February 2021 times the actual hours expended for each such personnel not to exceed the MPE of **FIVE HUNDRED FORTY-SEVEN THOUSAND, SIX HUNDRED FIFTY AND NO/100THS DOLLARS ($547,650..00)** for such phase of CM@R services set forth in the Final Efforts Schedule plus any savings realized in 4.1.2 above. Savings derived from an under-run to the total MPE set forth on the

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Final Efforts Schedule shall be applied to over-runs elsewhere within the GMP, shall be applied to the Construction Contingency, or shall accrue to the Owner.

§ 5.1.1.2 CM@R'S FEE FOR CORPORATE OVERHEAD, PROFIT AND RISK: The fixed fee to cover the CM@R's corporate overhead, profit and risk shall be the sum of **TWO PERCENT (2.0%)** of the total Cost of the Work as defined herein PROVIDED, that should the Cost of the Work exceed the GMP, the Construction Manager's fee shall be calculated based upon the amount of the Cost of the Work set forth in the GMP.

...

§ 5.1.2.1 ADJUSTMENT OF THE EFFORTS SCHEDULE AND MPE FOR CHANGES IN THE SCOPE OF THE WORK: Adjustments on account of changes in the Scope of the Work subsequent to the execution of the Agreement may be the basis for an adjustment of the CM@R's Efforts Schedule and attendant MPE; such adjustment shall be determined based upon the revised Schedules and Scope of the Work, and added to the Agreement by addendum.

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

As described in section Article 5.3

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

~~**§ 5.1.5** Unit prices, if any:~~
~~*(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)*~~
§ 5.1.4 Rental rates for Construction Manager-owned equipment, which are not furnished as a part of subcontracted work by Construction Manager and which are necessary only for Work related to changes in scope, including subcontractor changes in scope, shall be at or below the amounts as are set forth on the rental rate schedule attached as Attachment F– Rental Equipment Rates, which rates shall be in effect for the duration of the performance of the Work. Such rental rates, and all other equipment agreed to be necessary for the Work, shall be included into the accepted Guaranteed Maximum Price Amendment.

~~Item~~	~~Units and Limitations~~	~~Price per Unit ($0.00)~~

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.
~~(Insert specific provisions if the Construction Manager is to participate in any savings.)~~100% of savings for the Cost of the Work and Contingency shall inure to the benefit of the Owner.

Not Applicable.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion and the Date of Final Completion shall be subject to adjustment as provided in the Contract Documents.
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§ 5.3.1 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 as demonstrated to the Owner by the Construction Manager using the critical path method of scheduling in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in ~~Section~~ Sections

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7.2.2 and 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for ~~Construction.~~Construction, or may be determined through mutual agreement of the Owner and Construction Manager.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in ~~Section~~ Sections 7.2.2 and 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

...

~~**§ 5.3.5** If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.~~

§ 6.1 ~~Costs to Be Reimbursed~~Expenses to Be Reimbursed

§ 6.1.1 ~~The term Cost of the Work~~ For purposes of this Article the term Expenses to be Reimbursed (or Reimbursable Expenses) shall mean costs necessarily incurred by the Construction Manager in the proper performance of the ~~Work.~~ Work to include the total cost of all Subcontracts, Multiple Prime Contracts, or Construction Manager's Self-Performed Work (as defined in Section 6.3 below) for the construction of the Project and site improvements described in the Contract Documents, and Construction Manager's Compensation for Basic Services, and other expenses to be reimbursed, as defined in this Article 6. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior 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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§ 6.2.1 ~~Wages~~ Labor Costs shall not include wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site ~~workshops.~~workshops; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.2 ~~Wages~~ Labor Costs shall not include 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.)~~site; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.3 ~~Wages~~ Labor Costs shall not include wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the ~~road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.~~road; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

§ 6.2.4 Labor Costs shall not include 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.~~pensions; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

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§ 6.2.5 ~~Bonuses,~~ Labor Costs shall not include bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior ~~approval.~~approval; such costs are included in the Construction Manager's Fees under Article 4 and Article 5.

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Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the ~~subcontracts.~~subcontracts and the Construction Manager's Self-Performed Work. Subcontracts, bid packages, or any other work that the Owner approves to be performed by or awarded to the Construction Manager, regardless of whether or not Construction Manager utilizes its own forces, shall be on a lump sum basis (the "Self-Performed Work"). The lump sum amount of any Self-Performed Work shall be deemed to be a reimbursable Cost of the Work under this section regardless of whether the lump sum amount may actually be higher or lower than the actual cost incurred by Construction Manager. The lump sum amount(s) for any Self-Performed Work shall not be subject to audit for actual costs.

...

§ 6.5 Aid-to-Construction, and 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.~~**Aid-to-Construction**. The Construction Manager or a subcontractor upon written authorization of the Construction Manager may upon approval of the Owner's Designated Representative be reimbursed for costs of labor and material for work that is incidental to the construction of the Work of the Project but necessary to maintain the quality, budget and/or schedule of the Work; such reimbursement to be made on a cost plus ten percent (10%) basis. Such Aid-to-Construction work need not be bid as long as it is determined to be incidental to the original bid work of a subcontractor by the Owner's Designated Representative. The Aid-to-Construction shall be a cost-not-to-exceed line item in the Reimbursable Expense section of the GMP provided by the Construction Manager.

§ 6.5.2 ~~Rental charges for temporary facilities,~~ Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, seasonal protection, temporary water and utilities, safety measures, 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.~~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.

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

§ 6.5.4 Costs of ~~document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.~~cleaning and removal of debris from the site of the Work and its proper and legal disposal, to include all requirements of material separation, recycling, reuse, and disposal to achieve the project goals.

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

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§ 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.~~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.

§ 6.5.7 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval. Photo documentation, Owner inspection and insurance coverage shall be required prior to payment by the Owner.

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§ 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.~~liable, PROVIDED, that the Owner is an exempt entity under the tax laws of the State of Nebraska and is not subject to sales, use or similar taxes.

§ 6.6.2.1 The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of Neb. Rev. Stat. § 77-2704.15. For the purpose of establishing exemption, it is understood and agreed that the Construction Manager may be required to segregate materials and labor costs at the time a Contract for the Work is awarded. Construction Manager will accept Purchase Agent Appointment and Exempt Sales Certificate forms from the Owner. Construction Manager shall obtain Resale Certificates from Contractor's suppliers. Failure of Contractor or any Sub-Contractor to obtain Resale Certificates from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Construction Manager shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONSTRUCTION MANAGER HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONSTRUCTION MANAGER OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

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§ 6.6.9 ~~Subject to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.~~

...

§ 6.7.4 The costs described in Sections 6.1 through 6.7 and including the General Conditions costs 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.

...

.9 Cost of General Conditions, other than costs approved through Change Orders by the Owner, in excess of the fixed General Conditions Lump Sum.

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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, daily diaries, superintendent reports, 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. Amounts paid for Construction Manager's Self-Performed Work are not subject to audit for actual cost.

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...

§ 7.1.1 Based upon Applications for Payment submitted to the Owner, Owner's Designated Representative, and 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.

§ 7.1.2 ~~The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:~~**PAYMENT OF CM@R'S COMPENSATION**

§ 7.1.2.1 PAYMENT OF CM@R'S COMPENSATION FOR PRE-CONSTRUCTION AND CONSTRUCTION PHASE PERSONNEL SERVICES: Based upon Applications for Payment submitted to the Project Architect by the CM@R, the Owner shall make progress payments to the CM@R as compensation for Pre-Construction and Construction Phase Personnel services for Direct Personnel Expense for actual hours worked by CM@R personnel for supervision of the Work and for Expenses to be Reimbursed based upon invoices submitted on a monthly basis as provided below and elsewhere in the Contract Documents.

§ 7.1.2.1.1 The period covered by each Application for Payment submitted by the CM@R for Pre-Construction and Construction Phase Personnel services and Expenses to be Reimbursed shall be one (1) calendar month ending on the last day of the month.

§ 7.1.2.1.2 The portion of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services to be paid with each Application for Payment shall be determined by the actual hours worked by the CM@R's personnel for the Project as confirmed by the Project Architect and Owner.

§ 7.1.2.1.3 Provided an Application for Payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services is received by the Owner's representatives not later than the TWENTY-THIRD (23RD) day of the month, the Owner shall pursuant to Nebraska Construction Prompt Pay Act, Neb. Rev. Stat. § 45-1203 et seq., pay the amount due within THIRTY (30) days after receipt of a correct notice of amount due for the goods or services provided.

§ 7.1.2.2 PAYMENT OF CM@R'S FEE FOR CORPORATE OVERHEAD, PROFIT AND RISK: Based upon Applications for Payment submitted to the Owner by the CM@R, the Owner shall make progress payments to the CM@R of the CM@R's Fee for Corporate Overhead, Profit and Risk, based on the CM@R's GMP amount pending determination of final cost of the work, subject to a retainage amount of FIVE PERCENT (5%) to be held by the Owner. Payment of the CM@R'S Fee for Corporate Overhead, Profit and Risk (OPR Fee) shall be made in proportion of the Cost of the Work completed based upon the following formula:

- OPR Fee of $ x Cost of the Work completed to date = portion of OPR fee due, less retainage and previous OPR payments.

The OPR fee shall be subject to the retainage in the amount of FIVE PERCENT (5%) of the OPR Fee paid pursuant to the foregoing formula.

§ 7.1.2.3 FINAL PAYMENT OF CM@R FEES AND OPR

§ 7.1.2.3.1 CONDITIONS OF FINAL PAYMENT: Final payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services and CM@R'S Fee for Corporate Overhead, Profit and Risk, including any retainage held by the Owner shall be made by the Owner to the CM@R when (1) the Contract has been fully performed by the CM@R, including the CM@R's correction of nonconforming Work to the satisfaction of the Owner; (2) a final Application for Payment of all Subcontracts has been received and approved by the Owner; (3) a final accounting for the Expenses to be Reimbursed has been submitted by the CM@R and reviewed and approved by the Owner; (4) a final Certificate for Payment has then been issued by the Owner to all Subcontractors; and (5) the Architect has certified the total Cost of the Work for the Project pursuant to Paragraph 1.4.3. Such final payment of the CM@R's Compensation for Pre-Construction and Construction Phase Personnel services and CM@R'S Fee For Corporate Overhead, Profit and Risk shall be made by the Owner not more than THIRTY (30) days after the issuance

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of the Owner's final Certificate for Payment to all Subcontractors. The amount of the final payment of the CM@R's Compensation for Basic Services shall be calculated pursuant to the provisions of Article 4 and Article 5.

§ 7.1.3 ~~Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment.~~**PAYMENT OF COST OF THE WORK AND REIMBURSEABLE EXPENSES:** Payment of the Cost of the Work, including all subcontracts held by the Construction Manager for the performance of the Work of the Project, and of all reimbursable expenses pursuant to Article 6 shall be governed by subparagraph 7.1.3 through 7.2.4 hereof.
~~(Federal, state or local laws may require payment within a certain period of time.)~~**§ 7.1.3.1** Provided that an Application for Payment is received by the Architect not later than the FIRST (1st) of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the TWENTY-FIRST (21st) day of the month the application is received. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than THIRTY (30) days after the Architect receives the Application for Payment pursuant to Nebraska Construction Prompt Pay Act, Neb. Rev. Stat. § 45-1203 et seq.

§ 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~~ Owner, Owner's Designated Representative 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.

§ 7.1.4.1 With each Application for Payment of the Expenses to be Reimbursed, the CM@R shall submit payrolls, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner or Project Architect to demonstrate the cash disbursements made by the Owner on the Project on account of the Expenses to be Reimbursed.

§ 7.1.4.1.1 In taking action on the CM@R's Applications for Payment for Expenses to be Reimbursed, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the CM@R and shall not be deemed to represent that the Owner has made a detailed examination, audit or arithmetic verification of the documentation submitted or other supporting data and that the Owner has made exhaustive or continuous on-site inspections or that the Owner has made examinations to ascertain how or for what purposes the CM@R has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the interests of the Owner.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the ~~Architect may require.~~ Owner and Architect may require, including but not limited to Subcontractors' and Supplier breakdowns of their respective costs into a schedule of values as required by the Owner. This schedule, unless objected to by the Owner or the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

.3 Add the Construction Manager's Fee, ~~less retainage of percent (%). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be 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;~~and subtract retainage in the amount of TEN PERCENT (10%) for the first FIFTY PERCENT (50%) of the GMP paid pursuant to the foregoing schedule, and with no retainage requirement for the last FIFTY PERCENT (50%), UNLESS the Owner notifies the Construction Manager in writing that retainage will be withheld on the second FIFTY PERCENT (50%) and the amount of such retainage, such notice to be provided with the last GMP payment attributable to the first FIFTY PERCENT (50%) of the GMP.

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.4 Subtract ~~retainage of percent (%) from that portion of~~ the ~~Work that the Construction Manager self-performs;~~

~~.5~~ ~~Subtract the~~ aggregate of previous payments made by the Owner;

~~.6~~ .5 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

~~.7~~ .6 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 7.1.8 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.~~ agreements and this Agreement.

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

...

§ 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 Owner and 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.

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~~**Type of Insurance or Bond** **Limit of Liability or Bond Amount ($0.00)**~~

§ 8.1 COVERAGE – OCCURRENCE BASIS: Coverages, written on an occurrence basis, shall be maintained without interruption from date of commencement of the Contractor's Work until date of final payment and termination of any coverage required to be maintained after final payment to the Contractor.

§ 8.2 CERTIFICATES OF INSURANCE: Certificates of insurance acceptable to the Owner shall be filed by the Contractor with the Owner prior to commencement of the Contractor's Work. These certificates and the insurance policies required by this Article 8 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. 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.

§ 8.3 PERFORMANCE AND PAYMENT BOND: The CM@R shall as required by **Neb. Rev. Stat**. § 52-118 furnish payment bonds covering faithful performance of this CM@R Agreement and payment of obligations arising thereunder with minimum Best Rating "A".

§ 8.3.1 Pre-GMP Performance and Payment Bond Amounts: Prior to approval by the Owner of the final negotiated GMP, the total amount of each of the CM@R's payment and performance bonds during this phase of the Project shall be the sum total of the following: (1) the CM@R's Compensation for Basic Services set forth in Articles 4 and 5 of this Agreement; and (2) the total contract amount for all subcontracts awarded prior to approval of the GMP.

§ 8.3.2. Post-GMP Performance and Payment Bond Amounts: Upon approval by the Owner of the final negotiated GMP, the total amount of the CM@R's payment and performance bond shall be the sum total of the GMP amount.

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§ 8.3.3 Allowance for Subcontractor Performance and Payment Bonds: In subcontracting Work on the Project, the CM@R, in its sole discretion, may require certain subcontractors on certain portions of the Work to obtain and furnish performance and payment bonds in the amount of such subcontract sums. The GMP shall include an allowance of not more than **THIRTY PERCENT (30%) of the GMP** for costs associated with such subcontractor-furnished performance and payment bonds to be used by the CM@R in its sole discretion.

...

[**X**] Litigation in a court of competent jurisdiction

...

The Architect will serve as the Initial Decision Maker ~~pursuant to Section 15.2 of AIA Document A201–2007 for Claims~~ for claims arising from or relating to the Construction Manager's ~~Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.~~ services.
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§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 ~~above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.~~above.

...

§ 11.1 Terms in this Agreement shall have the same meaning as those in ~~A201–2007.~~A201–2007, as amended and attached hereto.

...

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction ~~Phases.~~Phases, as amended and attached hereto.

...

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction ~~Phases.~~Phases, as amended and attached hereto.

...

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, as amended and attached hereto, 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.

...

§ 11.5.1 CONSTRUCTION MANAGER'S RESPONSIBILITY AND SUPERVISION OF CONSTRUCTION SITE AND ON-SITE PERSONNEL:

§ 11.5.1.1 ACTS OR OMISSIONS OF CONSTRUCTION MANAGER'S EMPLOYEES: The Construction Manager shall be responsible to the Owner for acts and omissions of the Construction Manager's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the

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Construction Manager or any of its Subcontractors. As part of that responsibility, Construction Manager shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Construction Manager's employees, subcontractors, and all other persons carrying out the Contract.

§ **11.5.1.2 SITE SECURITY IDENTIFICATION:** Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. See, Job Site Security Requirements, Appendix "C", attached hereto and incorporated herein by this reference.

§ **11.5.1.3 VEHICLE PARKING:** Construction Manager shall require all construction workers, whether Construction Manager's own forces or the forces of Construction Manager's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense.

§ **11.5.1.4 COMPLIANCE WITH APPLICABLE ORDINANCES:** Construction Manager shall follow, and shall require all employees, agents or subcontractors to follow, applicable ordinances of the municipality in which the Project is located. In addition, if not covered by the municipality's tree ordinance, Construction Manager shall barricade and protect all trees on the Project.

§ **11.5.1.5 THEFT DETERRENCE PROGRAM:** Construction Manager shall consult and coordinate with Owner with analysis of cost of the institution of a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Construction Manager's and Construction Manager's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Construction Manager's forces or Construction Manager's subcontractor's forces' actions, omissions, or failure to secure the Work or adjoining property.

§ **11.5.2 EQUAL OPPORTUNITY EMPLOYER:** By signing this Agreement, the Construction Manager does hereby agree, certify, warrant and represent on behalf of itself, that it is an equal opportunity employer and actively recruits a well-qualified and diverse staff including minority applicants, and does not discriminate against any employee or applicant for employment by reason of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status. By submitting a proposal and signing an Agreement with the Owner, the Construction Manager and any Contractor agrees to actively continue and implement this policy throughout any awarded project.

§ **11.5.3 COMPLIANCE WITH STATUTES:** As a material term of this Agreement, the Construction Manager shall at all times comply with all applicable federal and state statutes. Compliance with applicable laws shall consist of consultation with the Project Team in complying with and satisfying applicable codes, ordinances, rules, and regulations of any governmental authority having jurisdiction over the construction of each Project. With regard to the supervision of contractors performing the work of the Projects, the Construction Manager shall be responsible for determining the applicability of such codes, ordinances, rules, and regulations to work of the Project, except those applicable to the design services of the Project Architect; for investigating, confirming and/or verifying compliance therewith; for filing of all documents that are required for compliance therewith; and for obtaining the approval of governmental authorities having jurisdiction over the Project, including, but not limited to:

(a) E-Verification of Immigration Status: Compliance with federal and state immigration verification system regulations to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska.

(b) OSHA: Compliance with federal occupational safety and health standards by all contractors performing the Work of the project. A project specific safety plan shall be written, provided to the Project Team, and followed by all forces on the project with OSG+HA being the minimum standard requirements.

§ **11.5.4 EQUAL EMPLOYMENT OPPORTUNITY AND VERIFICATION OF IMMIGRATION STATUS:** The Construction Manager shall comply with applicable laws, regulations and special requirements of the Contract Documents

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regarding equal employment opportunity and affirmative action programs; and specifically shall comply with all requirements of the federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska, if required by state or federal law or regulation.

§ 11.5.5.1 **GOVERNANCE:** Unless otherwise noted, the terms used in this Agreement shall have the same meaning as those in General Conditions.

§ 11.5.5.2 **EXTENT OF CONTRACT:** This Contract which includes this Agreement and the other documents incorporated herein by reference represents the entire and integrated Agreement between the Owner and 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 the Owner and Construction Manager. If anything in any document incorporated into this Agreement is inconsistent with this Agreement, this Agreement shall govern.

§ 11.5.5.3 **OWNERSHIP AND USE OF DOCUMENTS:** The Drawings, Specifications and other documents prepared by the Architect and copies thereof furnished to the Construction Manager is for use solely with respect to this Project. They are not to be used by the Construction Manager, Contractor, Subcontractors, Sub-subcontractors or suppliers on other projects, or for additions to this Project outside the scope of the Work, without the specific written consent of the Owner and Architect. The Construction Manager, Subcontractors, Sub-subcontractors and suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents.

§ 11.5.5.4 **CLAIMS FOR CONSEQUENTIAL DAMAGES.** The Owner hereby expressly reserves the right to claim consequential damages against the CM@R for claims, disputes or other matters in question arising out of or relating to the subject matter of this Agreement. For purposes of this paragraph, the term "consequential damages" shall mean those damages incurred by the Owner as a consequence of the negligence of the CM@R. Such damages incurred by the Owner include injuries to persons or damage to property or economic loss.

§ 11.5.5.5 **GOVERNING LAW:** The Contract shall be governed by the laws of the State of Nebraska and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any dispute shall be Colfax County, Nebraska, or, if no county is specified, then in the county in which the District's main administrative office is located.

§ 11.5.5.6 **ASSIGNMENT:** Once this Agreement is accepted and signed by the Owner, the Owner and Construction Manager respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without the 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.

§ 11.5.5.7 **FORCE MAJEURE:** None of the parties hereto shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

§ 11.5.5.8 **INDEPENDENT CONTRACTOR:** The Construction Manager shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Owner for any purpose. The Construction Manager shall assume sole responsibility for any debts or liabilities that may be incurred by Construction Manager in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing Construction Manager or its agents and/or employees to act as an agent or representative of or on behalf of the Owner, or to incur any obligation of any kind on behalf of the Owner. Construction Manager agrees that no

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health/hospitalization benefits, workers' compensation, and/or similar benefits available to Owner employees will extend to the benefit of Construction Manager or the Construction Manager's agents and/or employees as a result of this Contract.

§ **11.5.5.9** **KICKBACKS:** The Construction Manager certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Construction Manager breaches or violates this warranty, the Owner may, at its discretion, terminate this Contract without liability to the Owner, or deduct from the Contract price or consideration, or otherwise recover the full amount of any commission, percentage, brokerage, or contingency fee.

§ **11.5.5.10** **NOTICE:** All notices or invoices arising out of, or from, the provisions of this Contract shall be in writing and given to the parties at the address provided under this Contract, either by regular mail, facsimile, e-mail, or delivery in person. All notices sent via the U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

§ **11.5.5.11** **SEVERABILITY:** This Agreement is subject to all applicable federal and state laws, rules, and regulations. Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of this Contract shall continue in full force and effect, and either party may attempt to renegotiate the terms affected by the severance.

§ **11.5.5.12** **NO WAIVER OF RIGHTS:** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ **11.5.5.13** **WARRANTY:** Construction Manager warrants that it has the ability to perform the agreed upon services; it shall provide suitable resources to perform work in accordance with this Agreement; it will provide the agreed upon services on a timely basis; it shall perform services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently providing construction management services under similar circumstances, and with the requirements of the Contract Documents; and it is responsible for the construction of the Work of the Project in accordance with all designs, drawings, specifications, and other services furnished by Owner through the Project Architect for the Project.

§ **11.5.5.14** This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ **11.5.5.15** Execution of this Agreement shall constitute approval and acceptance of all terms, covenants and conditions as modified and contained in the Contract Documents.

§ **11.5.5.16** Contractor stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ **11.5.5.17** In the event of any litigation, arbitration, mediation or any other dispute resolution proceeding between the parties hereto arising out of the Contract Documents or the performance of this Contract, each party shall be responsible for their own costs and attorneys' fees.

§ **11.5.5.18** Nothing in this Contract or any of the Contract Documents shall be construed to support or authorize an award of liquidated damages against Construction Manager relating to any claim arising out of the Contract Documents or the performance of this Contract.

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~~.3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:~~

~~.4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:~~

~~.5~~ Other documents:

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Appendix "A" – Excel 16 Division Spreadsheet Report
Appendix "B" – Construction Manager's Maximum Personnel Expense - Efforts Schedule:
Appendix "C" – Job Site Security Requirements
Appendix "D" – CM@R Payment and Performance Bonds
Appendix "E" – CM@R Certificate of Insurance
Appendix "F" – CM@R Rental Rate Schedule

COLFAX COUNTY SCHOOL DISTRICT 19-0123, A/K/A SCHUYLER COMMUNITY SCHOOLS	**HAUSMANN CONSTRUCTION, INC.**
OWNER *(Signature)*	***CONSTRUCTION MANAGER*** ~~*(Signature)*~~***AT RISK***
Richard Brabec, President Board of Education	Matt Schendt, Vice President
(Name/Title)	*(Name/Title)*
~~*(Printed name and title)*~~	~~*(Printed name and title)*~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Rex R. Schultze, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:06:32 ET on 02/08/2019 under Order No. 5551106211 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 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 with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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AIA® Document A201™ – 2007

General Conditions of the Contract for Construction

the following PROJECT:
(Name and location or address)
Schuyler Community Schools – Additions and renovations to Schuyler Central High School building, Schuyler, Nebraska

THE OWNER:
(Name, legal status and address)
Colfax County School District 19-0123, a/k/a Schuyler Community Schools
A political subdivision of the State of Nebraska
401 Adam Street
Schuyler, NE 68661
402-352-3527
(Hereinafter referred to as "Owner").

THE ARCHITECT:
(Name, legal status and address)

The Clark Enersen Partners, Inc.
A Nebraska corporation
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291
(Hereinafter referred to as "Architect" or "Project Architect").

THE CONTRACTOR:
(Name, legal status, address and other information)

Hausmann Construction, Inc.
A Nebraska corporation
8885 Executive Woods Drive
Lincoln, NE 68512
402-438-3230
(Hereinafter referred to as "Construction Manager" or "CM@R").

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.

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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, as amended, between the Owner and Contractor (hereinafter the Agreement, as amended,) and consist of the Agreement, as amended, Conditions, all sections of the Project Manual, including the Contract, as amended (General, Supplementary and other Conditions), Drawings, Specifications and Addenda issued prior to execution of the Contract, other documents listed in the Agreement, as amended, 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 Owner or Architect.

§ 1.1.1.1 The Agreement, as amended, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if signed by Contractor and the authorized representative of Owner's Board of Education. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein. Any reference to any Contract Document shall mean the document as amended and/or supplemented for this Project.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract, as amended, 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 written Modification signed by Contractor, approved by Owner's Board of Education, and signed by the representative of Owner's Board of Education who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. 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.

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Education. If an approved Contract Document requiring signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract.

§ 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. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, specifications, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications and the standards set forth in Section 2.1.4 of AIA Document B201-2007, as amended. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the

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Project, and are free from material defects or omissions. The Construction Documents shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of construction documents.

§ 1.1.3.1 The Work shall include the obligation of the Contractor to visit the site of the Project prior to submitting a proposal. Such site visit shall be for the purpose of familiarizing the Contractor with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, including all existing site conditions, access to the site, physical characteristics of the site and surrounding areas.

§ 1.1.3.2 Nothing in these General Conditions shall be interpreted as imposing on either the Owner or the Architect or their respective agents, employees, officers, directors, or consultants any duty, obligation, or authority with respect to any items that are not intended to be incorporated into the completed Project, or that do not comprise the Work including, but not limited to, the following: shoring, scaffolding, hoists, weatherproofing, or any temporary facility or activity because these are the sole responsibility of the Contractor.

§ 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, and shop drawings following approval by the Architect.

§ 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 CONSTRUCTION DOCUMENTS

Construction Documents 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. Construction Documents may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 MANUFACTURER'S SPECIFICATIONS

All references to the "Manufacturer's Specifications", "Manufacturer's Directions" or "Manufacturer's Recommendations" shall mean and refer to the referenced manufacturer's published specifications or manuals. Upon written approval of the Architect, such publications shall be made a part of and incorporated into the Contract Specifications as though repeated therein in full, and all manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned accordingly, unless specified to the contrary by the Architect.

§ 1.1.9 PROJECT MANUAL

The Project Manual is a volume assembled for the Work which includes the bidding or proposal requirements, sample forms, Conditions of the Contract and Specifications.

§ 1.1.10 PROJECT MANUAL ADDENDA

Project Manual Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.11 APPROVED, APPROVED EQUAL, APPROVED EQUIVALENTS, OR EQUAL

The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

§ 1.1.12 ABBREVIATIONS

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AIA:	American Institute of Architects
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ASA:	American Standards Association
ASTM:	American Society of Testing Materials
AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NES:	National Electrical Code
NIC:	Not in Contract. Indicates work not to be done by this Contractor under this Agreement
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
UL:	Underwriters Laboratories, Inc.

§ 1.1.13 BIDS or BIDDING

The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Nebraska public letting statutes.

§ 1.1.14 CONTRACT SUM

"Contract Sum" shall mean the Guaranteed Maximum Price, when the Agreement is a Construction Manager at Risk Agreement (A133-2009), and the Contract Sum, when the Agreement is a Contractor Agreement (A101-2007).

§ 1.1.15 MISCELLANEOUS DEFINITIONS

§ 1.1.15.1 FURNISH

The term "furnish", unless specifically limited to context, means furnishing to the Project Site the items specified to include unpacking and assembly if necessary. "Install" means incorporation in the Work, including all necessary labor, materials, equipment and connections necessary to complete installation. "Provide" means furnish and install.

§ 1.1.15.2 BUSINESS DAY

The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's President for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Education on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

§ 1.1.15.3 CALENDAR DAY

A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

§ 1.1.15.4 HOLIDAYS

Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

§ 1.1.15.5 WORK DAY

Work days are all calendar days except Holidays.

§ 1.1.15.6 ANTICIPATED WEATHER DAYS

An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.4 lists required Anticipated Weather Days.

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§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

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

§ 1.2.1.1 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless he shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of his Proposal. The Architect, in ease of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

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

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

§ 1.2.3.1 In case of conflicting provisions between or within the Drawings and Specifications, the Contractor is deemed to have accepted the reasonable method of completing the Work as agreed to by the Owner and the Contractor.

§ 1.2.3.2 All repeated features must be constructed alike, although drawn in detail only once, and similarly all detail and ornament must be continued throughout all moldings, bands, etc.

§ 1.2.3.3 Wherever Work is specified to be done "as directed", the Contractor must obtain specific direction from the Owner's representative before undertaking such Work.

§ 1.2.4 The Contractor is solely responsible for coordination of bidding and Scope of Work of Subcontractors and shall assume full responsibility for complete coordination of the various Subcontractors.

§ 1.2.5 In the interest of conciseness, references to specification sections and details are preceded by the word "see". Any such reference is to be interpreted to include the phrase "and comply with".

§ 1.2.6 Wherever an article, device or piece of equipment is referred to in the singular, such reference shall apply to as many of such articles as are shown in the Contract Documents or as are required to complete the installation.

§ 1.2.7 RELATION OF SPECIFICATIONS AND DRAWINGS

General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the most expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

§ 1.2.8 MATERIALS, EQUIPMENT AND PROCESSES

Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the bidding instructions which results in equipment requiring area not shown on the Construction Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and

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Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting completion. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) calendar days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contractor Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

§ 1.2.9 STANDARDS AND REQUIREMENTS

When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

§ 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. These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND CONSTRUCTION DOCUMENTS

§ 1.5.1 Provided that all payments have been made to the Arcihtect in accordance with the agreement with the Owner, all Contstruction Documents shall be exclusively owned by the Owner and the Owner shall own all copyrights in and to the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Construction Documents. 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 any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce the Construction Documents 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 Construction Documents on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the copyright holder. All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

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§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Construction Documents 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 Nebraska public school district identified in the Contract Documents. The Board of Education, by majority vote, is the only representative of the Owner, a public school district and political subdivision of the State of Nebraska, having the power to enter into or amend a contract, to approve changes in the scope of Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, or agree to an extension to the date of Substantial or Final Completion. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the President, who may delegate responsibilities as appropriate. Owner's Board of Education hereby delegates to the President or designee the authority to approve changes to the Work where such changes are within the Owner's contingency. Any such change shall be confirmed in writing between the Contractor and Owner's President or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the President or Board of Education; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 2.1.2 It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Nebraska. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents beyond the amount of professional liability or E&O insurance provided by Architect.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 The Owner, being a political subdivision of the State of Nebraska, must have adequate funds and financing as provided by law prior to award and execution of the Contract Documents.

§ 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 If requested in writing by the Contractor prior to the start of the Work, the Owner shall furnish surveys known to the Owner; the Owner shall furnish surveys describing physical characteristics, legal limitations and utility

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locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the legal description of the site, the Contractor shall not 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 beyond the amount of professional liability or E&O insurance provided by surveyor. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements beyond the amount of professional liability or E&O insurance provided by surveyor.

§ 2.2.4 The Owner shall furnish, for information only and not as a Contract Document, such surveys or other information as it has in its possession as to the physical characteristics, legal limitations and utility locations for the site of the Project as it has in its possession. The Contractor shall confirm the location of each utility on the approved plans therefor on file with the public works department. The Contractor shall not be responsible for additional cost incurred should the utilities not be found in the location shown on said approved plans, either horizontally or vertically. The Contractor represents that he has inspected the site and available documents, and has satisfied himself as to the condition thereof including, without reasonable limitation, all apparent structural, surface and subsurface conditions thereof. The Contractor shall make no claims for any subsurface conditions shown or which could be reasonably ascertained from any investigations, including soil borings, tests and reports provided by the Owner.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor an electronic version of the Construction Documents for purposes of making reproductions pursuant to Section 1.5.2 along with a to be determined number of hardcopy sets at no cost.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct defective Work that is not in accordance with the requirements of the Contract Documents or the Construction 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. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's President.

§ 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 Document and fails within a seven (7) day period after receipt of written notice from the Owner to commence and continue correction of any such default or neglect with diligence and promptness, the Owner may upon written notice to the Contractor, and without prejudice to other remedies it may have, correct any such deficiency. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the necessary cost of correcting any such deficiency, including compensation for the Architect's and other consultants' additional services and expenses made necessary by such default, neglect or failure.

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 and includes the Construction Manager at Risk, if applicable.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents, and submittals approved pursuant to Section 3.12.

§ 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 activities of the Owner (or Owner's Owner's Designated Representative or Program Manager (if any), if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract and GMP Amendment by Contractor is a representation that the Contractor has visited the site, become familiar with the nature and location of the Work, the site, the specific conditions under which the Work is to be performed, and all matters which may in any way affect the Work or its performance. The Contractor represents and warrants by submission of a Proposal that he has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports and the site of the Work, and that, from his own investigations, he has satisfied himself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work. The Contractor further represents that the Contractor is familiar with all applicable codes, ordinances, laws, regulations and rules as they apply to the Work, and that the Contractor will abide by same. Claims for additional time or additional compensation as a result of Contractor's failure to follow the foregoing procedure and familiarize himself with all local conditions and the Contract Documents will not be permitted.

§ 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 solely for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; 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. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality or omission in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all claims relating thereafter are specifically waived..

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor his warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for his position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because

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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 when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. 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. The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 By entering into the Agreement with the Owner for the Work, the Contractor acknowledges that it has examined the Contract Documents, the character of the site and any existing structures, and is acquainted with the Work and the Contract Documents.

§ 3.2.6 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and/or hazardous materials surveys for the particular job sites involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. In the event of a conflict between this section or between section 3.14.3 hereof and the One-Call Notification System Act, Neb. Rev. Stat. § 76-2301 et seq., the One-Call Notification System Act shall prevail and control.

§ 3.2.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or his Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.8 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

.1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;

.2 Generally prevailing climatic conditions;

.3 Anticipated labor supply and costs;

.4 Availability and cost of materials, tools and equipment; and

.5 Other similar issues.

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§ 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. Consistent with the prevailing construction industry performance for similar projects in the area and such other performance standards expressly imposed on the Contractor by the Contract Documents. 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. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall if required by Owner, require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall if required by Owner, contain a current photograph and the worker's name in a typeface large enough to be seen from a reasonable distance. The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property.

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

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all trades and sub-contractors.

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§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

.1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;

.2 The special shoring requirements, if any, of the Owner; and

.3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.

.4 Trench excavation safety protection shall be a separate pay item, if not included in a lump sum bid, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Section 3.3.6 are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for qualified, careful, and efficient workers and labor eligible to work in accordance with state and federal law. In addition, unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for 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. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 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 prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After the Contract has been executed, the Owner and the Architect will consider a formal request for the substitution of products and place those specified only under the conditions set forth in the specifications. Substitutions and alternates may be rejected without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Owner, in consultation with the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect and the Owner: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the

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adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 By making requests for substitutions based on Section 3.4.2 above, the Contractor:

§ 3.4.2.3.1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

§ 3.4.2.3.2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;

§ 3.4.2.3.3 certifies that the cost data represented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

§ 3.4.2.3.4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

§ 3.4.2.4 Whether or not the Owner or the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitute.

§ 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. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4 For all equipment furnished by others to be installed by the Contractor, the Contractor shall use manufacturer's detailed drawings as approved by the Architect, to establish roughing-in dimensions and location of services.

§ 3.4.5 The Contractor shall inspect all materials as delivered to the premises and shall reject any materials that will not conform with the Contract Documents when properly installed.

§ 3.4.6 Including, but not limited to, the specific requirements of Section 10.1, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal and state laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct his work so as to protect the Contractor from the consequences of his own conduct.

§ 3.4.7 Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This Section requiring advance notice does not apply to a publicly-held corporation.

§ 3.4.8 CRIMINAL HISTORY CHECKS

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§ 3.4.8.1 Upon request of the Owner or the Owner's Representative the Contractor shall comply with the provisions of subparagraphs 3.4.8.1.1 through 3.4.8.1.4, to-wit:

§ 3.4.8.1.1 Contractor shall obtain all criminal history information regarding the "covered employees", as defined below, of the Contractor and certifications of criminal history compliance from all agents and subcontractors of the Contractor. Before beginning any Work on the Project, Contractor will provide written certification to the Owner that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

§ 3.4.8.1.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.8.1.3 For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 19 years of age or enrolled in a public school: a felony offense under Nebraska Criminal Code Article 3 Offenses Against The Person; an offense for which a defendant is required to register as a sex offender under the Nebraska Sex Offender Registration Act, Neb. Rev. Stat. §§ 29-4001 et seq.; or an equivalent offense under federal law or the laws of another state.

§ 3.4.8.1.4 OWNER'S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

In addition, Contractor will at least annually obtain criminal history record information that relates to any employee of the Contractor and certifications of criminal history compliance from all agents, or subcontractors of the Contractor or a Subcontractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or, other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present".

§ 3.5 WARRANTY

(Paragraph deleted)

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. 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 (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy or assumed beneficial use of the damaged or defective portion of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and

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equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Section are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten (10) business days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this Section shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

.1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or

.2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or

.3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, any and all manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Sections 3.5.1, 3.5.2, and 3.5.3 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period. Contractor shall prosecute such warranty work without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

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§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

.1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;

.2 Verify that the documents are in proper form and contain full information;

.3 Co-sign warranties when required by the express terms of the Contract Documents;

.4 Bind all warranties, both electronically and in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;

.5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;

.6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified; and

.7 Separate each warranty with index tab sheets keyed to the Table of Contents listing.

.8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

§ 3.6 TAXES

Owner is an exempt entity under the tax laws of the State of Nebraska. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of Neb. Rev. Stat. § 77-2704.15. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept Purchase Agent Appointment and Exempt Sales Certificate forms from the Owner. Contractor shall obtain Resale Certificates from Contractor's suppliers. Failure of Contractor or any Sub-Contractor to obtain Resale Certificates from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 3.7.1 The Contractor shall be responsible for making and submitting application for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a land-disturbing-activity permit for the Project. The Owner's consultants will prepare a Storm Water Pollution Prevention Plan (SWPPP) and the Notice of Intent (NOI) for the project, and shall obtain the NPDES storm water construction permit. The Contractor shall implement all measures identified in the SWPPP. The Contractor shall be responsible for implementing all measures identified in the SWPPP, conducting regular site inspections, complying with all record keeping requirements included in the NPDES permit and the SWPPP, implementing all maintenance measures identified during inspections, and amending the SWPPP as necessary if erosion control measures are found to be ineffectual. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with all regulations administered by the Nebraska Department of Environmental Quality (NDEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering

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services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner. Owner hereby holds Contractor harmless from and agrees to indemnify Contractor for all fines, penalties, costs, damages and expenses arising out of, caused by, or related to mistakes made by Owner's consultants in their preparation of the SWPPP and NOI.

§ 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. In addition, Contractor shall authorize posting of any invoices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

§ 3.7.3 If the Contractor performs Work when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, Contract Documents, 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 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 written notice to the Owner, the Owner's Designated Representative or Program Manager (if any), and the Architect before conditions are disturbed and in no event later than three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Education and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) calendar days of the Architect's recommendation.

§ 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 in writing. 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.

§ 3.7.6 Copies of any and all permits, licenses and certificates shall be delivered to the Owner as soon as they are obtained. Along with the request for final payment, the Contractor shall deliver the originals of such permits, licenses and certificates to the Owner.

§ 3.7.7 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner and the Program Manager. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

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§ 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, unless required to do so by the terms of the Construction Documents.

§ 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 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, or the Owner's Contingency, at Owner's discretion shall be adjusted accordingly. The amount of the adjustment 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.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three (3) written proposals unless this requirement is waived by the Owner's designated representative, and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the Owner.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during performance of the Work. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The responsibility of the superintendent is to supervise, schedule, coordinate and manage field operations. The superintendent is not to be used as a tradesman. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees. The Superintendent shall provide his or her email address and cell phone number to the Owner and the Architect and shall be available to be contacted during all business hours, and outside of business hours in the event of an emergency. The Superintendent shall be fluent in all languages necessary to effectively communicate with Contractor's staff assigned to the Project, and with all Subcontractors, in order to supervise and direct the Work and assist emergency responders.

§ 3.9.1.1 As directed by the Architect or Owner's Representative, there is to be held at a location designated by the Architect or Owner's Representative, a meeting called by the superintendent as representative of the Contractor of the representatives of the various trades engaged about the Work for furthering the progress of the Work and giving of clarifications by the Architect and instructions by the Owner. If the Contractor's representatives fail to attend or to execute the instructions given to them, they shall on request of the Owner be dismissed from the Work and other representatives must be immediately substituted.

§ 3.9.1.2 The Contractor shall not change the Superintendent without the prior written consent of the Owner, which consent shall not be unreasonably withheld. The Superintendent shall be present at the Project until substantial completion. At the Owner's request, the Contractor shall assign a different Superintendent to the Project.

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§ 3.9.2 Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within thirty (30) calendar days of Substantial Completion.

§ 3.9.3 Contractor's project manager, while not required to be present full-time at the site, shall remain assigned to this Work, and be available on an as-needed basis throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected in accordance with the Construction Documents.

§ 3.9.4 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under General Conditions for such day.

§ 3.9.5 Questions about plan interpretation or directions shall be submitted by Contractor's superintendent to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, ten (10) calendar days after being awarded the Contract and as part of its Guaranteed Maximum Price proposal, 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. The construction schedule shall not be changed without the written consent of the Owner and Architect. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval. The Owner's or Architect's silence as to a submitted schedule that exceeds time limits current under the Contract Documents shall not relieve the Contractor of its obligation to meet those time limits, nor shall it make the Owner or Architect liable for any of Contractor's damages incurred as a result of increased construction time or not meeting those time limits. Similarly, the Owner's or Architect's silence as to a Contractor's schedule showing performance in advance of such time limits shall not create or infer any rights in favor of the Contractor for performance in advance of such time limits.

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect's and Owner's Representative's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals. Neither the Contractor's preparation nor the Architect's receipt or review shall modify the Contractor's responsibility to make required submittals or to do so in a timely manner to provide for review in accordance with Section 4.2.7 as modified herein, except to the extent that the Architect's review extends more than seven (7) calendar days after notice to the Architect that a timely review is needed. The submittal schedule shall include a resource table listing all contractors, sub-contractors, design team, and Owner, and shall be resource-loaded. The Contractor shall also generate an activity-within-resource report and keep these current.

§ 3.10.2.1 The schedule of submittals shall be submitted along with the construction schedule.

§ 3.10.2.2 Submission and review of the schedule shall not relieve the Contractor of its obligations to meet the time limits of the Contract.

§ 3.10.2.3 Additional provisions for submittal of the construction schedules are included in the specifications.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to the Owner, Owner's Designated Representative or Program Manager (if any) and Architect.

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§ 3.10.4 Should the Contractor fail to comply with the progress schedule or, in the Owner's opinion, otherwise fails, refuses, or neglects to supply a sufficient amount of labor or material in the prosecution of the Work, Owner shall have the right to (1) direct the Contractor to furnish such additional labor and/or materials as may, in the Owner's opinion, be required to comply with the progress schedule or otherwise diligently prosecute the Work, or (2) furnish such additional labor and/or materials as may be required to comply with said schedule. Any costs incurred by Owner pursuant to the exercise of its rights under this Section shall be borne by the Contractor and shall not increase the Contract Sum.

§ 3.10.5 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

§ 3.11.1 The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, most current Construction Schedule, 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, field test records, inspection certificates or records, manufactures' certificates, Product Data, Samples and similar required submittals. These shall be available to the Architect, the Owner, and the Program Manager at all times 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. The Contractor shall also display the most current Construction Schedule at the Site for reference and reliance by the Owner and Architect.

§ 3.11.2 In addition to any other requirement in the Contract Documents and prior to installation, the Owner may require the Contractor to furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

§ 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 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.

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§ 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. The Contractor must provide the Architect, with copies to the Owner and Owner's Designated Representative or Program Manager (if any), with copies of all submittals made to regulatory agencies.

§ 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 verified that the information contained within such submittals complies with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 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. The Contractor must correct, at its sole cost and expense and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 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, except for any such errors or omissions which are within Architect's statutory or contractual design responsibility.

§ 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. 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. Unless the Contractor is providing professional services as allowed herein, the Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents. A licensed professional architect or engineer must prepare plans, specifications and estimates for all the Work, as governed by the Nebraska Engineers and Architects Regulation Act. In the event that Contractor retains a licensed design professional under the terms of this Section, Contractor shall require that the licensed design professional carry comprehensive general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's

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compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (l5) calendar days prior to the date the Contractor needs the reviewed submittals and samples returned. Additional provisions for shop drawings, product data and samples are included in the specifications. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) calendar days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) calendar days of the date of the approval of the Contract Sum or Guaranteed Maximum Price. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or his consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed professional engineer.

§ 3.13 USE OF SITE

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

§ 3.13.2 The Contractor shall provide adequate protection throughout the course of the Work for all trees and shrubs on the site indicated in the Contract Documents as not to be removed. The Contractor shall be responsible for damage to any such trees or shrubs during the period of construction and shall replace or repair any trees or shrubs damaged by the Contractor, its Subcontractors or employees, with plantings acceptable to the Owner at no cost to the Owner. Damaged sod areas shall be seeded acceptable to the Owner. All landscape repairs shall carry one (1) year full guarantee.

§ 3.13.3 The Contractor shall enforce the Owner's instructions regarding signs, advertisements, noise, fires and smoking.

§ 3.13.4 The Contractor shall keep the site of construction reasonably free from weeds during the course of construction. The Contractor shall cut all weeds on the site so as to discourage further germination.

§ 3.13.5 All utilities, curbs, drives, streets, buildings, mechanical and electrical equipment, etc., which are damaged or cut during construction and are to be used after construction shall be repaired such that the quality of the repaired item equals or exceeds its condition prior to construction.

§ 3.13.6 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

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§ 3.13.7 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.8 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.9 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

3.13.10 Work will be performed by Contractor in accordance with the Contract Documents, or other applicable law governing the Contractor's performance of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Time. The Contractor must not permit work outside of hours established in the Contract Documents on a Saturday, Sunday or other County, State or federal holiday without the written consent of the Owner, given after prior written notice to the Architect and any other applicable consultants; such consent, if given, may be conditioned upon payment by the Contractor of the Owner's, Architect's and any other applicable consultants' additional costs and fees, testing or regulatory agency costs incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent and person responsible for the protection of persons and property at the Site and compliance with all applicable laws and regulations, if different from the superintendent.

§ 3.13.11 Additional provisions for use of site are included in the Specifications.

§ 3.13.12 Work will be performed by the Contractor in accordance with the Contract Documents, or other applicable law governing the Contractor's performance of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Time. The Contractor must not permit work outside of hours established in the Contract Documents on a Saturday, Sunday or other County, State or federal holiday without the written consent of the Owner, given after prior written notice to the Architect and any other applicable consultants; such consent, if given, may be conditioned upon payment by the Contractor of the Owner's, Architect's and any other applicable consultants' additional costs and fees, testing or regulatory agency costs incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent and person responsible for the protection of persons and property at the Site and compliance with all applicable laws and regulations, if different from the superintendent.

§ 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, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. 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

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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.

§ 3.14.3 The Contractor shall locate, protect, and save from injury utilities of all kinds, either above or below grade, inside or outside of any structure, found in the areas affected by its Work. Contractor shall be responsible for all damage caused to such utility by the operation of equipment or delivery of materials or as the direct or indirect result of any of its Work and shall repair all such damage at its expense and as a part of the Work included in the Contract Documents. The Contractor shall not be entitled to any increase in the Contract Sum or the Contract Time on account of such damage to any utility.

§ 3.14.4 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.14.5 Additional provisions for cutting and patching of work are included in the Specifications.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. 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. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of his Subcontractors shall clean and restore such surfaces to their original condition.

§ 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.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.15.5 Additional provisions for cleanup are included in the Specifications.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect and their designated representatives, access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

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§ 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, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT 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 ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. 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 Owner and Architect in writing.

§ 3.18 INDEMNIFICATION

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S DESIGNATED REPRESENTATIVE OR PROGRAM MANAGER (IF ANY), ARCHITECT, OWNER'S DESIGNATED REPRESENTATIVE OR PROGRAM MANAGER, OWNER'S BOARD OF EDUCATION, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS 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 (INCLUDING THE WORK ITSELF TO THE EXTENT THE WORK IS NOT COVERED BY BUILDERS RISK INSURANCE PROCEEDS) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, 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 ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. 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. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF NEBRASKA.

§ 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 THIS SECTION 3.18 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 INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT;

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AND (3) ARISING FROM: (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY NEBRASKA LAW.

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.19 ANTITRUST VIOLATION

To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C. § 1 et seq. The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

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.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a new architect whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a new Architect has been employed by Owner.

§ 4.1.4 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architectand Owner's Designated Representative or Program Manager (if any) will provide administration of the Contract as described in the Contract Documents. The Architect and Owner's Designated Representative or Program Manager (if any) will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract Documents.

§ 4.2.2 Architect or his authorized representative shall visit the site at least once per week (or more per week when deemed necessary by the Owner's President or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, an appropriate number of job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, Owner's Designated Representative or Program Manager (if any) the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition,

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Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 4.2.3 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. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

§ 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 and Owner's Designated Representative or Program Manager (if any) about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor. 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 As further provided in the Contract Documents 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. All Certificates of Payment must be reviewed by Owner's Designated Representative or Program Manager (if any) before being submitted to the Owner. All Certificates of Payment must be reviewed andapproved by the Owner, or, at the Owner's option, by the Owner's Designated Representative or Program Manager (if any).

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, 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 or the Owner to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect.

§ 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, for the purpose of checking for conformance with the Construction Documents and the Contract Documents and all applicable laws, statutes, codes and requirements applicable to Architect's design services. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is conducted for the purpose of determining the general accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents and Contract Documents. The Architect's review of the

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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. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect, in full cooperation and coordination with the Owner, or, at the Owner's option, by the Owner's Designated Representative or Program Manager (if any), shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect, in full cooperation and coordination with the Owner, may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents and do not change the Contract Sum or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner, or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 4.2.9 The Architect, in full cooperation and coordination with the Owner, 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 make recommendations 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 or recommendations 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 recommendations, the Architect will endeavor to secure faithful performance by both Owner and Contractor.

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

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and 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, at no additional cost to the Owner.

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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.

§ 5.1.3 Subcontractors, Sub-subcontractors and material suppliers shall not contact the Architect or the Owner directly. Any information they might need shall be obtained through the Contractor.

§ 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, within ten (10) calendar days after award of the Contract, shall furnish in writing to the Owner, Owner's Designated Representative or Program Manager (if any), and 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 list of subcontractors shall be submitted in duplicate on AIA Document G805, 2001 Edition. The Architect shall reply within fourteen (14) calendar 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. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner. **The Contractor shall update this list throughout the Project and keep Owner and the Architect advised of any new Subcontractors employed**. In the event a subcontractor is replaced, the Owner and Architect shall be given a reasonable time or 14 days, whichever is less, to object to the new subcontractor. Failure of the Owner or Architect to object in a timely manner shall constitute consent to the new subcontractor doing the proposed work.

§ 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. When the parties agree on a proposed substitute Subcontractor or if the Owner requires use of a specific subcontractor, then 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.

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums shall be allowed for failure to so inspect or investigate.

§ 5.3 SUBCONTRACTUAL RELATIONS

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by 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. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement,

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except as provided below. 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, 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.

§ 5.3.2 The Contractor is fully responsible for acts and omissions of the Subcontractors and persons employed by them or under their control.

§ 5.3.3 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.4 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

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

.1 assignment is effective only after termination of the Contract either in accordance with Article 14 or abandonment of the Project by the Contractor and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing;

.2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bonds relating to the Contract; and

.3 the Subcontractor provides bonds as required by law of prime contractors and by Owner

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 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

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. The Owner reserves the right to perform other

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non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 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 Contractor shall cooperate with other separate contractors to ensure that the Work remains on schedule. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement between the Owner and Contractor. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

(Paragraph deleted)
§ 6.1.4 Additional provisions for separate contracts are included in the Specifications.

§ 6.2 CONTRACTOR'S RESPONSIBILITY
§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's separate contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's separate contractors. The Contractor shall afford the Owner and separate contractors reasonable site access and opportunity for introduction and storage or staging 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. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's separate contractors. Contractor shall review Owner's contract with Owner's separate contractors and become familiar with the requirements and scope of services contained therein.

§ 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 in writing to the Architect and Owner discovered discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results, and shall promptly report in writing to the Architect and Owner if Owner's separate contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor 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 and is performed in a timely manner, 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.

§ 6.2.3.1 If the Architect is required to provide contingent additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the contingent additional services result from negligence or an omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 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, as amended.

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§ 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, as amended.

§ 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 Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner and Owner's Designated Representative or Program Manager (if any).

§ 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 Construction Documents and 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. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a Change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The Contractor shall in no instance commence Work on or provide materials for or make changes in the Work for this Project which will require additional payment from the Owner to the Contractor until the Contractor has requested and obtained in writing either a signed written Change Order or signed written approval from the Architect and Owner's Designated Representative or Program Manager (if any) to proceed with the extra Work. The Change Order or written approval shall not be valid unless signed by a principal of the firm of the Architect's office.

§ 7.1.5 Failure of the Contractor to obtain a written Change Order or written approval from the Architect and Owner's Designated Representative or Program Manager (if any) before commencing such Work shall constitute cause for rejection of request for additional compensation for such work by the Contractor.

§ 7.1.6 Each request for approval or additional work which is to require additional payment from the Owner, or in instances whether credit is to be allowed to the Owner for omission of certain work or materials, shall be accompanied by a price quotation, including a complete cost breakdown of materials, labor, overhead and profit.

§ 7.1.7 The total Contractor mark-up for overhead, profit or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the Change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed FIVE PERCENT (5%) of the cost of the Change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the Change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed FIFTEEN PERCENT (15%) of the total cost of the Change in the Work plus one hundred twenty five dollars ($125.00) minimum charge to the Owner for any Change Order requiring an addition to the scope of the Work of the Project, and a fee of ONE PERCENT (1%) for additional bond costs.

§ 7.1.8 Allowance balances that are not used in connection with the scope to which they are allocated in the GMP Amendment may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit or fee mark-up when changes in the Work are funded by one of the Allowances.

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§ 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 or Guaranteed Maximum Price; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

§ 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 the following method:

§ 7.3.3.1 Changes in the work shall be as established in the contract documents. In the event of a Construction Change Directive that constitutes either an addition to or a deletion from the Scope of the Work for project as established at the time of execution of the contract for construction, the following adjustments shall be made:

§ 7.3.3.1.1 Cost of Work: The actual cost as determined by lump sum pricing, provided in detail, and/or unit cost pricing of such additions or deletions to the Scope of the Work shall be added or subtracted from the contract price.

§ 7.3.3.1.2 Adjustments for General Requirements, Supervision and Overhead and Profit: Upon establishment of the Cost of Work of such additions or deletions, the contract price shall be increased for additions and decreased for deletions according to and not to exceed the following;

.1 To Subcontractor for work performed by their own forces - 10% of the actual cost of the addition or deletion from the work.

.2 To Subcontractor for work performed by other then their own forces - 5% of the actual cost of the addition or deletion from the work.

.3 To Subcontractor's Subcontractor/Material supplier for work performed by Subcontractor's Subcontractor/Material supplier's own forces. - 10% of the actual cost of the addition or deletion from the work.

.4 To Subcontractor's Subcontractor/Material supplier for work performed by other than Subcontractor's Subcontractor/Material supplier's own forces. - 5% of the actual cost of the addition or deletion from the work.

§ 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 may, by mutual written agreement, be equitably adjusted.

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§ 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 and Owner 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, then the adjustment shall be determined by the Architect on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work plus the Construction Manager's Fee. Direct costs shall be limited to the following:

.1 Actual costs of labor, including social security, unemployment insurance, and workers' compensation insurance;

.2 Actual costs of materials, supplies and equipment, including cost of transportation, used in performing the Change in the Work;

.3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools; and

.4 Actual costs of premiums for all bonds and insurance, and permit fees, related to the Work.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

§ 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 plus the Contractor's allocated percent of profit and overhead as confirmed by the Architect.

§ 7.3.9 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.

(Paragraph deleted)

§ 7.4 MINOR CHANGES IN THE WORK

§ 7.4.1 With prior written notice to the Owner's representative 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 Construction Documents and the Contract Documents, subject to approval by the Owner. Such changes will be effected by written order signed by the Architect in the form of an Architect's Supplemental Instruction (ASI), and shall become binding as a part of the Contract Documents. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

§ 7.4.2 Allowance balances that are not used in connection with the scope to which they are allocated in the GMP Amendment may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit or fee mark-up when changes in the Work are funded by one of the Allowances.

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 Final Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement has been signed by the Contractor, approved by Owner's Board of Education, signed by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the notice to proceed shall not relieve the Contractor of his responsibility to comply with Article 11.

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§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect, and agreed to by Owner, in accordance with Section 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than thirty (30) calendar days after the date of Substantial Completion.

§ 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 and bench mark dates, including dates for Substantial Completion and Final Completion of the Project stated in the Contract Documents and the critical path schedule for the Project prepared by the Contractor and approved by the Owner, Appendix "A" attached hereto, are of the essence of the Contract. By executing the Agreement the Contractor stipulates 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, or prior to approval of Certificates of Insurance, and Additional Insured Endorsement and Notice of Cancellation Endorsement required to be submitted to Owner under the Contract. 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 Final Completion within the Contract Time. The Contractor must maintain at the Site, available to the Owner and Architect, a copy of the most recently approved Project Schedule. If the Contractor's progress is not maintained in accordance with the most recently approved Project Schedule, the Contractor shall promptly provide a reasonable recovery schedule to correct the delays and bring the progress of the Work back into accordance with the most recently approved Project Schedule, at no cost to the Owner.

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the Date of Final Completion.

§ 8.2.5 The Contractor shall maintain at the Site, available to the Owner, Owner's Designated Representative or Program Manager (if any) and Architect, a copy of the most recently approved Project Schedule. If the Contractor's progress is not maintained in accordance with the most recently approved Project Schedule, the Contractor shall promptly provide a reasonable recovery schedule to correct the delays and bring the progress of the Work back into accordance with the most recently approved Project Schedule, at no cost to the Owner.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 DATE OF COMMENCEMENT AND TIME OF COMPLETION

Contractor agrees that it will begin work immediately upon receipt of notice to proceed from the Owner, and that it will diligently proceed with said Work such that the same shall be completed within the time frame stated in the bid documents.

§ 8.3.2 BEST EFFORTS

The Contractor acknowledges that the services to be performed are essential to the effective operation of the Owner and that, therefore, the Contractor will exercise its best efforts to complete the services called for under this Agreement in the minimum time possible and within the time specified in such Work orders as may be issued by the Owner to the Contractor. In the event that the Contractor for good cause shown cannot complete the services for a particular task or phase within the time agreed to, the Contractor shall make a written request to the Owner in accordance with Section 8.3.4 below.

§ 8.3.3 NOTICE OF CONDITIONS CAUSING DELAY

§ 8.3.3.1 Within five (5) working days after the commencement of any condition which is causing or may cause delay in completion, the Contractor must notify the Owner in writing of the effect, if any, of such condition upon the time progress schedule and must state why and in what respects, if any, the condition is causing or may cause such delay, along with any proposed adjustments to the most recently approved Project Schedule.

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§ 8.3.3.2 Failure to strictly comply with this requirement may, in the discretion of the Owner, be deemed sufficient cause to deny any extension of time on account of delay in completion arising out of or resulting from any change, extra work, suspension, or other condition.

§ 8.3.4 EXTENSION OF TIME

§ 8.3.4.1 Any extension or extension of time for the completion of the Work may be granted by the Owner subject to the provisions of this section, but only upon written application therefor by the Contractor to the Owner.

§ 8.3.4.2 An application for an extension of time must set forth in detail the source and nature of each alleged cause of delay in the completion of the Work, the date upon which each such cause of delay began, ended, or will end, and the number of days' delay attributable to each of such causes. It must be submitted prior to completion of the Work.

§ 8.3.4.3 If such an application is made, the Contractor shall be entitled to an extension of time for delay and completion of the Work caused solely: (1) by the acts or omissions of the Owner, its officers, agents, or employees; (2) by the acts or omissions of the Architect, its officers, agents, or employees; (3) by the acts or omissions of a separate contractor employed by the Owner; (4) by changes ordered in the Work; (5) by fire, governmental actions, unusual delay in deliveries, unavoidable and unforeseeable supervening casualties, or other causes beyond the Contractor's control; (6) by delay authorized in writing by the Owner.

§ 8.3.4.4 The Contractor shall, however, be entitled to an extension of time for such causes only for the number of calendar days of delay which the Owner may determine to result solely from such causes, and then only if the Owner may determine to result solely from such causes, and then only if the Contractor shall have strictly complied with all the requirements of this section. The Owner shall make such determination within thirty (30) calendar days after receipt of the Contractor's application for an extension of time; provided, however, said application complies with the requirements of this Section.

§ 8.3.4.5 The Contractor shall not be entitled to receive a separate extension of time for each one of several causes of delay operating concurrently but, if at all, only for the actual period of delay in completion of the Work as determined by the Owner, regardless of the number of causes contributing to produce such delay. If one of several causes of delay operating concurrently results from any act, fault, or omission of the Contractor or of its Subcontractor, if any, and would of itself (regardless of the concurrent causes) have delayed the Work, no extension of time will be allowed for the period of delay resulting from such act, fault, or omission.

§ 8.3.4.6 The granting of an application for an extension of time for causes of delay other than those herein referred to shall be entirely within the discretion of the Owner. Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the Owner or any of its rights under the Contract Documents. Additionally, the Contractor shall not recover any additional compensation for any additional expense caused by such delay or delays.

§ 8.3.5 DELAY CLAIMS

Contractor represents and warrants that the provisions herein contained for extension of time are fair and adequate and that Contractor has had an opportunity to make provision for any and all delays within the contemplation of the parties. Accordingly, it is understood and agreed that Contractor shall not have or assert any claim for damages or prosecute any suit, action, cause of action, arbitration claim, or other proceeding against the Owner for such damages arising from any delay or hindrance in the completion of the Work called for in this Agreement caused by an act or omission on the part of the Owner, their agents, servants, employees or otherwise. Contractor agrees that the only possible compensation for any delay is an extension of time.

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. In the event that the Project is a Construction Management at Risk Project, then any use of the term "Contract Sum" in the Contract Documents shall be interpreted to mean "Guaranteed Maximum Price".

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§ 9.2 SCHEDULE OF VALUES

(Paragraph deleted)

§ 9.2.1 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 or in the case of a Guaranteed Maximum Price, within fifteen (15) calendar days after establishing the Guaranteed Maximum Price, 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, Owner's Designated Representative or Program Manager (if any), or Owner may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702Cmc and G703 shall be used.

§ 9.2.2 In order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

.1 Contractor's cost for Contractor's fee (if applicable), bonds and insurance, mobilization, general conditions, etc. shall be listed as individual line items.

.2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, paving, etc.

.3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, start-up, etc.).

.4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit or supervision.

.5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.

.6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 Each Application for Payment to Contractors shall be based upon the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents, which schedule of values shall be updated from time to time as Contracts are awarded or as the Owner determines necessary. The schedule of values shall allocate the entire Cost of the Work among the various portions of the Work. The schedule of values shall be 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 Application for Payment of the Subcontractors.

(Paragraphs deleted)

§ 9.3.2 Applications for Payment to Contractors shall show the percentage completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed or (2) the percentage obtained by calculating (a) the expense which has actually been incurred by each Subcontractor and/or supplier on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment, divided by (b) the share of the Project budget allocated to that portion of the Work in the schedule of values. The Contractor shall also include a spreadsheet showing the budget verses billed-to-date totals for each of the standard CSI classifications.

§ 9.3.3 Payments to Contractors shall be subject to retention of not less than ten percent (10%) of the first fifty percent (50%) of the subcontract work, and not less than five percent (5%) for the last fifty percent (50%) of the subcontract work. The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments and retention for subcontracts.

§ 9.3.4 Contractor shall submit Applications for Payment in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet to the Architect, Owner's Designated Representative or Program Manager (if any). All blanks in the form must be completed and signatures of Contractor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall

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be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that he has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application; that the Payment Application includes only Work self performed by Contractor or for which Contractor has been invoiced. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Nebraska. Contractor further understands that falsification of Contractor's Application for Payment may justify termination of Contractor's Contract with Owner.

§ 9.3.6 The Owner may approve payment for materials and equipment stored off the site under the following conditions: The Contractor shall furnish and maintain a suitable storage site and proper storage conditions which must be approved in advance by the Owner. Equipment and materials covered by an Application for Payment must be stored above grade, and must be properly protected at all times against weather, heat, cold, moisture, vandalism or theft and other hazards as the material may require. All protection must be provided by the Contractor at its own expense and must be maintained throughout the storage period. Materials and equipment must not be commingled with other similar materials or equipment, but must be stored separately and must be plainly labeled, "PROPERTY OF SCHUYLER COMMUNITY SCHOOLS" with Project name. Materials and equipment stored at the site must be stored so that they may be readily inspected, measured, and counted, at all times, by the Owner's representatives. Application for Payment for materials and equipment stored off the site must be accompanied by a bill of sale, properly identifying the material and transferring ownership of the materials to SCHUYLER COMMUNITY SCHOOLS. The bill of sale must be accompanied by an inventory of stored materials or equipment, together with a description of the storage site by street number and city, or by a legal description of the premises. The Contractor agrees that in accepting payment for the materials or equipment stored off the site, it is in no way relieved of responsibility for the safe storage of the material and its safe transportation to, and installation in, the Work or for furnishing and installing the material in strict accordance with Plans and Specifications. The Contractor further agrees that acceptance by the Owner of a bill of sale for stored materials or equipment does not imply acceptance of the same for the purposes of this Contract. Such acceptance shall not occur until completion of the Work by the Contractor and final acceptance thereof by the Owner. PROVIDED THE CONTRACTOR HAS BEEN PAID ALL AMOUNTS CERTIFIED BY ARCHITECT AND NOT REASONABLY IN DISPUTE, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM AND AGAINST ALL CLAIMS, ACTIONS, LOSSES, COSTS, DAMAGES, EXPENSES, LIABILITIES AND OBLIGATIONS, INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, RESULTING FROM (1) THE ASSERTION OR FILING OF ANY CLAIM FOR AMOUNTS ALLEGED TO BE DUE TO THE CLAIMANT FOR LABOR, SERVICES, MATERIALS, SUPPLIES, MACHINERY, FIXTURES OR EQUIPMENT FURNISHED IN CONNECTION WITH THE CONSTRUCTION OF THE WORK, (2) ANY OTHER LEGAL PROCEEDINGS INITIATED IN CONNECTION WITH THAT CLAIM.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven (7) calendar days after receipt of the Contractor's Application for Payment, return the Payment Application to the Contractor as provided in Section 9.3.4; certify, sign and issue to the Contractor a Certificate of Payment for such amount as the Architect determines is properly due, or notify the Contractor in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that the Architect has observed the progress of the Work; determined that the Work has progressed to the point indicated in the Architect's professional opinion determined that the quality of the Work is in accordance with the Construction Documents and the Contract Documents; and critically evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. The foregoing representations are subject to an evaluation of the Work for conformance with the Construction Documents and the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor

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deviations from the Construction Documents and 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 in writing to the Owner 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 unless 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. Examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

§ 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;
- **.7** repeated failure to carry out the Work in accordance with the Contract Documents;
- **.8** failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

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

§ 9.5.3 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under these Conditions, then Architect may withhold any further Certificate for Payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within twenty-one (21) calendar days if Owner disputes the Architect's Certificate for Payment or Contractor's Payment Application, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or his Surety from any obligations under the Contract Documents or Construction Documents.

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§ 9.6.1.1 Notwithstanding the above, the Owner shall retain full rights to perform its own review of each Application for Payment received from the Contractor, and may request additional clarification, information, or supporting documentation from the Contractor to support the amounts listed on any Application for Payment.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than ten (10) calendar 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. The Contractor shall, within ten (10) calendar days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide copies of such Subcontractor payments to the Owner. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner.

§ 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 (7) calendar 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. Action on the part of the Owner to require Contractor to pay a Subcontractor shall not impose any liability on Owner.

§ 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 Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor.

§ 9.6.8 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor provided the Subcontractors and materialmen are performing their work to the satisfaction of Contractor and in a manner consistent with their contracts.

§ 9.7 FAILURE OF PAYMENT

§ 9.7.1 If the Owner does not pay the Contractor any payments certified by the Architect, which is undisputed, due and owing, within thirty (30) calendar days after the date of a Certificate for Payment, then the Contractor, upon ten (10) additional calendar days' written notice to the Owner and the Architect stating that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that 1) payment has been made, or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents or the Construction Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate the Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between the Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven (7) calendar days after receipt of the

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Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) calendar days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional calendar days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or

.2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Architect has determined that the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents and Construction Documents so the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place; substantial completion of all punch list items to be performed by Subcontractors. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal operations or other intended use or prevent the Owner from performing its preparatory tasks for opening the building, provided, however, as a condition precedent to Substantial Completion, the Owner has received from Contractor (for which Contractor is responsible to provide) all certificates of occupancy and other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for beneficial occupancy of the Project. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within thirty (30) calendar days. Contractor shall complete Owner's Substantial Completion Certificate.

§ 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 and Owner's Designated Representative or Program Manager (if any) a comprehensive list of items to be completed or corrected prior to final payment (i.e. "punch list"). Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents and the Construction Documents.

§ 9.8.3 Upon receipt of the Contractor's punch list, the Owner and Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's and Architect's inspection discloses any item, whether or not included on the Contractor's punch list, which is not sufficiently complete in accordance with the Construction Documents or the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and 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. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner's Certificate of Final 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

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Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion.

§ 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. 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 and use any completed or partially completed portion of the Work at any stage. Such partial occupancy or use may commence whether or not the portion is substantially complete.

§ 9.9.2 In the event of Partial Occupancy, the Contractor shall promptly secure endorsement from its insurance carrier(s), consent from its surety(ies), if any, and shall apply to the appropriate public authorities that have jurisdiction over the Work to permit Partial Occupancy.

§ 9.9.3 In the event of Partial Occupancy before Substantial Completion as provided above, the Contractor shall cooperate with the Owner in making available for the Owner's use and benefit such building services as heating, ventilating, cooling, water, lighting, telephone, elevators, and security for the portion or portions to be occupied, and if the Work required to furnish such services is not entirely completed at the time the Owner desires to occupy the aforesaid portion or portions, the Contractor shall make every reasonable effort to complete such Work or make temporary provisions for such Work as soon as possible so that the aforementioned building services may be put into operation and use. In the event of Partial Occupancy prior to Substantial Completion, provided the Contractor has met all Milestone Dates set forth in the Contract for Construction, mutually acceptable arrangements shall be made between the Owner and the Contractor with respect to the operation and cost of necessary security, maintenance, and utilities, including heating, ventilating, cooling, water, lighting, telephone services, and elevators. The Owner shall assume proportionate and reasonable responsibility for the cost of the above services reduced by any savings to the Contractor for such services realized by reason of Partial Occupancy. Further, mutually acceptable arrangements made between the Owner and the Contractor with respect to such matters shall not be unreasonably withheld, delayed, or conditioned.

§ 9.9.4 In each instance, when the Owner elects to exercise its right of Partial Occupancy, as described herein, the Owner will give the Contractor and Architect advance written notice of its election to take the portion or portions involved, and immediately prior to Partial Occupancy, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used to determine and record the conditions of the Work.

§ 9.9.5 Partial Occupancy, or use of a portion or portions of the Work, or installation of furnishings and equipment shall not: (1) constitute evidence of Substantial Completion or Final Completion; (2) constitute acceptance of any Work or portions of any Work; (3) relieve the Contractor for responsibility for loss or damage because of or arising out of defects in or malfunctioning of any Work, material, or equipment, nor from any other unfulfilled obligations or responsibilities under the Contract Documents; or (4) commence any warranty period under the Contract Documents, provided that the Contractor shall not be liable for ordinary wear and tear resulting from such Partial Occupancy.

§ 9.9.6 Subject to the terms and conditions provided herein, if Contractor claims that delay or additional cost is involved because of Partial Occupancy by Owner, Contractor shall make such claim as provided elsewhere in the Contract Documents.

§ 9.9.7 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Owner shall obtain an endorsement to Owner's Builder's Risk Policy to provide extended coverage for partial occupancy if Owner's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

§ 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 prepare, sign and 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 Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that on the basis of the Architect's on-site visits and inspections, the Work has been completed

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in accordance with terms and conditions of the Contract Documents and Construction Documents and that the entire balance, including all retainages 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. Final payment shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and Owner (1) using AIA Document G706 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) evidence satisfactory to Owner 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 thirty (30) calendar 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) using AIA Document G707 consent of surety, if any, to final payment, and (5) except for amounts currently withheld by Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A; notarized subcontractor's liens release; and (6) 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. Before final payment can be made, Department of Labor Division of Employment Form No. 16, Certificate of Contribution Status, must be received from the State of Nebraska Department of Labor certifying that the Contractor and each of its Subcontractors have paid all contributions and interest due to and including the calendar quarter immediately preceding the date of Substantial Completion. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

§ 9.10.2.1 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, submitted on AIA Document G706, Affidavit of Payment of Debts and Claims (latest edition) or such other form as may be prescribed by the Owner;
§ 9.10.2.2 A release or waiver of liens on behalf of the Contractor and a similar release or waiver on behalf of each Subcontractor and supplier, accompanied by AIA Document G706A, Affidavit of Release of Liens (latest edition) or such other form as may be prescribed by the Owner;
§ 9.10.2.3 A certificate evidencing that the Contractor's liability insurance and Performance Bond remain in effect during the one-year correction period following Substantial Completion as set forth in Section 12.2.2.1 and 12.2.2.2;
§ 9.10.2.4 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;
§ 9.10.2.5 Consent of surety to final payment, submitted on AIA Document G707 (latest edition) or other form prescribed by the Owner;
§ 9.10.2.6 Other data required by the Owner 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 prescribed by the Owner;
§ 9.10.2.7 A certified building location survey and as-built site plan in the form and number required by the Contract Documents;
§ 9.10.2.8 All warranties and bonds required by the Contract Documents;and,
§ 9.10.2.**9** Record drawings and "as built" drawings. At the completion of the Project, the Contractor shall submit one complete set of "as built" drawings, with all changes made during construction, including concealed mechanical, electrical and plumbing items. The Contractor shall submit these as electronic, sepia, or other acceptable medium, in the discretion of the Owner. The "as-built" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be

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paid by the Owner to the Contractor within thirty (30) calendar days after Owner's Board of Education has voted to accept the Work and approve Final Payment.

§ 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, and it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall
(Paragraphs deleted)
not constitute a waiver of any Claims by the Owner.

§ 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 asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 PAYMENT CONTINGENT UPON AVAILABILITY OF APPROPRIATED FUNDS OR FUNDS APPROVED BY BOARD OF EDUCATION

§ 9.11.1.Any other provisions of the Contract Documents to the contrary notwithstanding, it is expressly understood and agreed that the legal obligation of the Owner to pay the Contract Sum or any part thereof shall be contingent upon the availability of funds specifically approved by formal action of the Board of Education of the SCHUYLER COMMUNITY SCHOOLS for the purpose of payment of the Contract Sum or any part thereof.

§ 9.11.2 It is agreed that the obligations of the Contractor herein are expressly contingent upon reasonable proof to the Contractor that the Owner has funds specifically approved by formal action of the Board of Education of the SCHUYLER COMMUNITY SCHOOLS for the purpose of payment of the Contract Sum or any part thereof.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC § 651 et seq., and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons and property and their requirements to maintain a work environment free of recognized hazards. This requirement applies continuously twenty-four (24) hours per day during the Construction Phase of the Project. Additionally, the Contractor shall comply with all safety standards and directives of the Owner's risk management consultants, including the consultants under any Owner Controlled Wrap-Up Insurance Program.

§ 10.1.2 The Contractor expressly agrees that as between Owner and Contractor, it is in charge of and in control of the Work and that it shall have sole exclusive responsibility to assure the safety of the Work. Neither the Owner nor the Architect is in charge of the Work or in control of the execution of the Work. The obligation of the Contractor under this Section 10.1.2 shall be construed to include, but not be limited to, injury or damage because the Contractor, its agents, and employees failed to use or misused any scaffold, hoist, crane, stay, ladder, support, or other mechanical contrivance erected or constructed by any person, or any or all other kinds or equipment, whether or not owned or furnished by the Contractor. The Contractor expressly agrees that it is exclusively responsible for compliance with OSHA and local regulations for construction and that it is the employer within the meaning of those regulations. Any provision in the Contract Documents in conflict with this Section shall be null and void. It is the express intent of the

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parties that this provision be given broad and liberal construction to effectuate the intent of the parties that the Contractor, and not the Architect or Owner, is in charge of the Work.

§ 10.1.3 The Contractor shall be required in compliance with the Asbestos Hazard Emergency Response Act of 1996 to certify that all products and materials supplied as part of this Project shall be free of asbestos.

§ 10.1.4 The Contractor shall be required to submit to the Owner, with a copy to the Architect and Contractor, written certificates from all known suppliers and Subcontractors that all materials and equipment used in the potable water system are lead free and that formaldehyde levels of all materials do not exceed acceptable levels established by H.U.D.

§ 10.1.5 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any controlled substance, or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription drugs; or act in contravention of warnings on medications while performing the Work or on Owner's premises.

§ 10.1.6 Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies as a result of a for-cause test, conducted immediately following removal that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.7 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a concealed weapon, and Contractor agrees that Contractor's representatives, employees, agents, and sub-contractors will abide by same.

§ 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, school personnel, students, and other persons on Owner's premises and other persons who may be affected thereby including the installation of fencing between the Work site and the occupied portion of a connecting or adjacent educational facility;

.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 other buildings, and their contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities and tracks, 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. More specifically, the Contractor shall give notice in writing at least forty-eight (48) hours before breaking ground, to all persons, public utility companies, owners of the property having structures or improvements in proximity to the site of the Work, and persons in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise who may be affected by Contractor's operations in order to provide them with time to remove any obstruction for which they are responsible and to take action to properly protect their property.

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§ 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 installing fencing, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor. Contractor shall provide reasonable full protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 10.2.4 The Contractor shall exercise the utmost care so as not to endanger life or property in the prosecution of the Work. If the Contractor is negligent, the Contractor will be responsible for any and all damages, claims and of the defense of all actions against Owner and Architect resulting from the failure to exercise such care. Explosives shall not be employed in the prosecution of the Work.

§ 10.2.5 The Contractor shall promptly remedy damage and loss to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the 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 load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

(Paragraphs deleted)
§ 10.2.8 The Contractor shall do all things necessary to protect the Owner's premises and all persons from damage and injury, when all or a portion of the Work is suspended for any reason.

§ 10.2.9 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

§ 10.2.10 The Contractor shall promptly report to the Architect and Owner or their designated representatives in writing all accidents arising out of or in connection with the Work that caused death, personal injury or property damage. This report shall give full details, including statements of witnesses, hospital reports and other information in the possession of the Contractor. In addition, in the event of any serious injury or damage, the Contractor shall immediately notify the Owner and Architect by telephone of such accident.

§ 10.2.11 The duty of the Architect to conduct construction review of the Contractor's performance does not include review of the adequacy of the Contractor's safety measures in, on, or near construction sites.

§ 10.2.12 Utilities or other services indicated to be abandoned shall be maintained in service as required until new facilities are provided, tested and ready for use. The Contractor shall schedule Work so that it does not necessitate long periods of shut-down of existing facilities and these shut-downs shall be coordinated with the Owner.

§ 10.2.13 All improvements on or about the site and adjacent property which are not to be altered, removed or otherwise changed shall be returned to the conditions which existed prior to initiation of the Work.

§ 10.3 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 twenty-one (21) calendar days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

(Paragraphs deleted)

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§ 10.4

(Paragraphs deleted)

HAZARDOUS MATERIALS

§ 10.4.1 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, polychlorinated biphenyl (PCB), mercury, or lead, 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. If Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.4.2 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. The Contractor may be entitled to an equitable adjustment regarding the Guaranteed Maximum Price, Date of Substantial Completion and/or Final Completion.

§ 10.4.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, BOARD OF EDUCATION, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SECTION 3.18.

§ 10.4.4 The Owner shall not be responsible under this Section 10.4 for materials or substances the Contractor brings to the site. 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.

§ 10.4.5 IF THE CONTRACTOR FAILS OR NEGLECTS TO IDENTIFY ANY HAZARDOUS MATERIALS OR SUBSTANCES AT THE PROJECT SITE, FAILS OR NEGLECTS TO GIVE WRITTEN NOTICE OF THE EXISTENCE OF HAZARDOUS MATERIALS OR SUBSTANCES AT THE PROJECT SITE TO THE OWNER AND ARCHITECT, OR FAILS OR NEGLECTS TO PROPERLY RENDER THE HAZARDOUS MATERIALS OR SUBSTANCES HARMLESS, THEN, TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S BOARD OF EDUCATION, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RELATED TO SUCH HAZARDOUS MATERIALS OR SUBSTANCES; 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 (INCLUDING THE WORK ITSELF TO THE EXTENT THE WORK IS NOT COVERED BY BUILDERS RISK INSURANCE PROCEEDS) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, 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 ANY WILLFUL OR

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NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. 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 SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF NEBRASKA.

§ 10.5 EMERGENCIES

§ 10.5.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. The Contractor shall promptly notify the Owner and Architect in writing within twenty-four (24) hours of any such emergency event. The Contractor shall promptly notify the Owner and Architect in writing within twenty-four (24) hours of any such emergency event.

§ 10.5.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.6 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.6.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor."

§ 10.6.2 Final Payment shall not be made until this written certification has been received.

§ 10.7 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.7.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.7.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.8 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

ARTICLE 11 INSURANCE AND BONDS

§ 11.0.1 No Work will be commenced and no equipment or materials can be shipped until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Education. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Education. Said lack

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of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five (5) business days after execution of the Contract by Owner. Satisfactory evidence shall include a duly-executed ACORD Form 25-S Certificate of Insurance naming Owner as a certificate holder with the following modifications in the "Cancellation" Section: delete (line through) the words "endeavor to"; place the number "30" in the blank; and delete the words "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives".

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Nebraska by the Nebraska Department of Insurance, and shall be underwritten by a company rated not less than A VII in A.M. Best's Key Rating Guide, Property-Casualty and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall be primary insurance with respect to the Owner, its officers, employees, representatives or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. 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, or 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.

§ 11.0.6 [omit]

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims which may arise out of, or result from, the Contractor's operations under the Contract whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including the following:

- **.1** Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Sections 11.1.3.1 and 11.1.2.4);
- **.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 the Contract Documents, including under Section 3.18.

§ 11.1.2 COVERAGES PER OCCURANCE AND CERTIFICATES OF INSURANCE

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§ 11.1.2.1 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 shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Contractor's Work until date of final payment and termination of any coverage required to be maintained after final payment to the Contractor.

§ 11.1.2.2 Certificates of insurance acceptable to the Owner and Architect shall be filed by the Contractor with the Owner and Architect prior to commencement of the Contractor's Work. These certificates required by this Article 11 shall contain a provision that coverages afforded under the policies and endorsements will not be canceled or allowed to expire until at least thirty (30) calendar days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate of insurance evidencing continuation of such coverage shall be submitted with the final Application for Payment as required in Section 9.10.2. 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 to the Owner and Architect in writing within seven (7) calendar days of Contractor's first notice of the same.

§ 11.1.2.3 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.

§ 11.1.2.4 Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

§ 11.1.2.5 The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

§ 11.1.2.6 The Contractor shall require Subcontractors to provide applicable Workers' Compensation, General Liability, and Auto Liability coverages at the Subcontractors' own expense. Such coverages shall include the Owner as an additional insured and shall provide appropriate waivers of subrogation.

§ 11.1.2.7 The Contractor and its Subcontractors shall comply with all policy conditions of the insurance policies obtained pursuant to Section 11.1.1.

§ 11.1.2.8 NEBRASKA WORKERS' COMPENSATION INSURANCE

§ 11.1.2.8.1 A copy of a certificate of insurance or a certificate of authority to self insure issued by the Nebraska Department of Insurance showing statutory workers' compensation insurance coverage for the Contractor's employees providing services on a Project is required for the duration of the Project.

§ 11.1.2.8.2 Duration of the Project includes the time from the beginning of the Work on the Project until the Contractor's work on the Project has been completed and accepted by the Owner.

§ 11.1.2.8.3 Persons providing services on the Project include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.

§ 11.1.2.8.4 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

§ 11.1.2.8.5 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts which meets the statutory requirements of Nebraska law for all employees of the Contractor providing services on the Project for the duration of the Project.

§ 11.1.2.8.6 The Contractor must provide a certificate of coverage to the Owner within seven (7) calendar days after

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being awarded the Contract.

§ 11.1.2.8.7 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

§ 11.1.2.8.8 The Contractor shall obtain from each person providing services on the Project, and provide to the Owner:

.1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and

.2 No later than seven (7) calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

§ 11.1.2.8.9 The Contractor shall notify the Owner in writing by certified mail or personal delivery, within fourteen (14) calendar days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

§ 11.1.2.8.10 The Contractor shall contractually require each person with whom it contracts to provide services on the Project to:

.1 Provide coverage, based on proper reporting of classification codes and payroll amounts, which meets statutory requirements for all of its employees providing services on the Project for the duration of the Project;

.2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;

.3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.4 Obtain from each other person with whom it contracts, and provide to the Contractor:

.1 A certificate of coverage, prior to the other person beginning work on the Project; and

.2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;

.6 Notify the Owner in writing by certified mail or personal delivery, within fourteen (14) calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and

.7 Contractually require each person with whom it contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

§ 11.1.2.8.11 By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project and that the coverage will be based on proper reporting of classification codes and payroll amounts.

§ 11.1.2.8.12 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within fourteen (14) calendar days after receipt of notice of breach from the Owner.

§ 11.1.3 LEVEL OF INSURANCE

(Paragraph deleted)

§ 11.1.3.1 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

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Workers' Compensation:	Nebraska Statutory Limit

Employer's Liability:	Annual Limits Per Insured (minimum)
Bodily Injury by Accident:	$1,000,000
Bodily Injury by Disease - policy limit:	$1,000,000
Bodily Injury by Disease - each employee:	$1,000,000

Each contractor and each subcontractor shall provide a blanket waiver of subrogation.

.1 Contractor and each Subcontractor issued a separate policy.

§ 11.1.3.2 AUTOMOBILE LIABILITY

Combined single limit of $1,000,000 per occurrence.

§ 11.1.3.3 COMMERCIAL GENERAL LIABILITY

	Annual Limits of Liability (minimum)
General Aggregate:	$5,000,000
Products/Completed Operations Aggregate:	$2,000,000
Personal/Advertising Injury Aggregate:	$2,000,000
Each Occurrence Limit:	$1,000,000

.1 Occurrence form

.2 Deductible to Contractor and Subcontractor for property damage claims not to exceed $5,000 per occurrence, provided that the level of deductible may be increased upon evidence of financial responsibility.

.3 Coverage extensions to include:

- The Contractor shall maintain completed operations coverage for three (3) years following issuance of the certificate of substantial completion for the Project.
- Blanket waiver of subrogation
- Blanket additional insured

.4 Excludes: Asbestos, Nuclear Energy, Engineers/Architect's E&O

§ 11.1.3.4 EXCESS LIABILITY

Each Occurrence:	$2,000,000 (minimum)
Annual Aggregate:	$10,000,000 (minimum)

.1 Occurrence form

.2 Coverage extensions to include:

- The Contractor shall maintain completed operations coverage for three (3) years following issuance of the certificate of substantial completion for the Project
- Blanket additional insured

.3 Excludes: Asbestos, Nuclear Energy, Engineers/Architect's E&O

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.2.2 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date on which Owner begins to occupy or use any completed or partially-completed portions of the Work. If Owner occupies or uses any completed or partially-completed portion of the Work on any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work, pursuant to Sections 9.9.1 and 11.4.4.

§ 11.2.3 Architect shall be responsible for purchasing and maintaining the Architect's liability and worker's compensation insurance as provided in the AIA Document B 104-2007, as revised.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 BUILDER'S RISK INSURANCE

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Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Nebraska, 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, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and testing of all electrical and mechanical apparatuses and associated equipment, and "soft costs". Such builder's risk insurance shall also include transit coverages for materials to be incorporated into the Project, as well as temporary off-site storage locations. Sub-limits may apply with respect to transit and off-site coverages.

§ 11.3.1.2 If the Owner does not 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 Owner, 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. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles.

§ 11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

§ 11.3.1.5 The insurance required by this Section 11.3 is not intended to cover machinery, tools or equipment owned or rented by the Contractor which are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's own expense, provide insurance coverage for owned or rented machinery, tools or equipment which shall be subject to the provisions of Section 11.3.6.

§ 11.3.1.6 Insurance provided by the Owner in favor of the Owner, Contractor and Subcontractors as described in this Section § 11.3 shall not extend to vendors or suppliers of the Contractors or Subcontractors not performing work at the Project Site.

§ 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 and include boiler and equipment breakdown coverage along with hot and cold testing coverage; 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.

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§ 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 Before an exposure to loss may occur, the Owner may provide the Contraactor 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 thirty (30) calendar days' prior written notice has been given to the Contractor.

§ 11.3.6 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 foregoing waiver afforded the Architect, his/her agents, and employees shall not extend to the liability imposed by Section 3.18.3. The Contractor shall require the Contractor's 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 in this Section 11.3.6. 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. Contractor shall be responsible for payment of the deductible, if any, in the event of an insured loss caused by or arising out of Contractor's Work. Notwithstanding any other provision to the contrary in this Section 11.3.6, this waiver of subrogation shall apply only to the extent of actual recovery of any insurance proceeds under such policies (or recoverable proceeds if Owner or Contractor fails or refuses to recover such proceeds).

§ 11.3.7 ADJUSTMENT OF LOSS

A loss insured under the Owner's builder's risk 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 11.3.9. The Owner shall be a named insured. 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.

§ 11.3.8 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. 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.

§ 11.3.9 ADJUSTMENT AND SETTLEMENT OF LOSS BY OWNER

The Owner as fiduciary shall have power to adjust and settle a loss with insurers. The Contractor shall pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. 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. 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 under the insurance proceeds.

§ 11.3.10 Partial occupancy or use shall not commence until the insurance company or companies providing this property insurance have consented to such partial occupancy or use in writing by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain such consent of the insurance company or companies and shall take no action without written mutual consent that would cause cancellation, lapse or reduction of this insurance.

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§ 11.4 PERFORMANCE AND PAYMENT BOND

§ 11.4.1 The Contractor shall, as required by Neb. Rev. Stat. § 52-118, furnish separate payment bonds, as necessary, and bonds covering faithful performance of the Contract and payment of obligations arising thereunder with minimum Best Rating "A". Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Expenses to be Reimbursed. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

§ 11.4.2 The Contractor shall deliver the required bonds to the Owner not later than five (5) business days after execution of the Contract by the Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.4.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.4.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Nebraska. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) business days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

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 or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, 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 or Owner 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

§ 12.2.1.1 The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents or Construction 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.

§ 12.2.1.2 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not promptly respond to a notice of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

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§ 12.2.2 AFTER FINAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5 and as a material term of the contract between the Owner and the Contractor, if, within one year after the date of Final Completion of the Work or designated portion thereof, 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 Construction Documents or the Contract Documents, the Contractor shall correct it promptly without additional cost to the Owner 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. 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 the Work as provided in Section 12.2.2.1.1.

§ 12.2.2.1.1 Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents or Construction Documents, including any warranty obligations, expressed or implied, or periods of limitation and repose. THE CONTRACTUAL ONE YEAR PERIOD FOR CORRECTION OF THE WORK IS IN ADDITION TO ALL WARRANTY OBLIGATIONS OF THE CONTRACTOR AND SHALL NOT BE APPLIED TO LIMIT ANY APPLICABLE STATUTORY PERIOD OF LIMITATION OR REPOSE.

§ 12.2.2.1.2 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) business days after written notice, then Owner may, upon ten (10) additional business days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The contractual 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 contractual one-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Section 12.2, but only as to that corrected Work.

§ 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.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are injured or damaged by any such parts of the Work that do not conform to the requirements of the Construction Documents or the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

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§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Construction Documents or the Contract Documents, then an equitable deduction from the Contract Sum or Guaranteed Maximum Price shall be made by agreement between Contractor and Owner.

Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

§ 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 laws of the State of Nebraska, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in Colfax County, or, if no county is specified, then the county in which the Owner's main administrative office is located.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract in whole or in part 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 invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability or effect of the remainder of the Contact Documents.

§ 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; 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. Notice may also be made by facsimile transmission to the last business number known to the party giving notice. In such case, notice will be deemed received upon electronic confirmation of receipt. The party making such facsimile transmission shall also forward a copy of such notice by regular mail. Each party to the Contract shall provide all other parties with the facsimile telephone number to which all official notices should be sent.

§ 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 at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities having jurisdiction. 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 which shall be included in the Cost of the Work. Provided, however, Owner shall bear all costs of inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the

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Owner. The Contractor shall give the Architect and Owner timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures.

§ 13.5.1.1 Special Inspection and Special Testing in addition to the test and inspections required of the Contractor: The Owner will employ Special Inspector(s) as required by the "2006 International Building Code". The Contractor shall be responsible for coordinating, notifying, and scheduling all special inspections and special testing in order to maintain the progress of the work. The Contractor shall give the Architect and Owner timely notice of when and where special inspections and special tests are to be made so that the Architect may be present for such procedures. The Owner shall bear the costs of any special inspections and special testing performed under this subsection 13.5.1.1. The Contractor shall schedule all tests, inspections or specific approvals required by law or the Contract Documents so as to avoid any delay in the Work.

§ 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, then the Owner shall provide or contract for such additional testing, inspection or approval. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 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, but not limited to, 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 with a copy to the Owner.

§ 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

Undisputed payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as provided by Neb. Rev. Stat. § 81-2404. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's Certificate for Payment for the Architect, if Owner's Board of Education meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Education meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.7 TIME LIMITS ON LITIGATION

The Owner and Contractor shall commence all litigation, 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 dispute resolution method selected in the Agreement and within the time period specified by applicable law, but in any case not more than ten (10) years after the date of Final Completion of the Work.

§ 13.8 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.8.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.8.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy,

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childbirth or related medical condition, or other protected status.

§ 13.9 CONTRIBUTIONS UNDER NEBRASKA EMPLOYMENT SECURITY LAW

The Contractor and all Subcontractors engaged to perform any part of the Work shall make payment to the Unemployment Compensation Fund of the State of Nebraska all contributions and interest due under the provisions of the Employment Security Law, Neb. Rev. Stat. §§ 48-601, et seq. (Reissue 1988), as amended, on wages paid to individuals employed in the performance of the Contract; and before final payment shall be made of the final three percent (3%) of this Contract, the Contractor shall secure and file with the Owner, and cause any Subcontractor to secure and file with the Owner, written clearance from the Commissioner of the Department of Labor of the State of Nebraska, certifying that all payments then due of contributions or interest which may have arisen under this Contract have been made by the Contractor or any Subcontractor to the Unemployment Compensation Fund.

§ 13.10 STORAGE AND DISPOSAL OF HAZARDOUS WASTE

Fines, penalties and any other action ordered by the U.S. Environmental Protection Agency or Nebraska Department of Environmental Quality arising from the performance of the Work, but excluding preexisting site conditions, are the responsibility of the Contractor and shall not be recoverable from the Owner in any fashion.

§ 13.11 WARRANTY OF EXAMINATION OF CONSTRUCTION DOCUMENTS

By signing this Agreement the Contractor does hereby agree, certify, warrant and represent on behalf of itself, and agrees to see that each Contractor performing the Work shall also agree, certify, warrant and represent to the Owner that their bids have been based on a full and complete examination of the Contract Documents and Construction Documents, including as determined necessary site examination; and that all statements, facts and representations made in all submittal documents and materials are true, correct, accurate, and complete, and may be relied upon by the Owner in considering the firm's bid. The Contractor understands it is its responsibility to immediately provide updated and correct information if any of the information changes at any time. Any omission, falsification or misrepresentation made by the Contractor or a Subcontractor in such documents and materials or any supplement thereto, will be sufficient grounds for failure to employ the Contractor or terminate any contract with the Owner. The Contractor and any Subcontractor by entering into an Agreement with the Owner consents and agrees to comply at all times with all Owner policies, regulations, directives, and practices.

§ 13.12 VERIFICATION OF IMMIGRATION STATUS

The Contractor agrees to use the federal immigration verification system to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska.

§ 13.13 RECORDS

§ 13.13.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within fourteen (14) calendar days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.13.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.14.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.13.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.14.1.

§ 13.13.4 Contractor shall keep all Construction Documents related to the Project, subject to the provisions of Section 13.14.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

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§ 13.13.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) calendar days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.14 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.14.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.14.2 Neither Architect nor Contractor shall disclose any confidential information which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to, the location and deployment of security devices, security access codes, student likenesses, student record information or employee information.

§ 13.14.3 The parties acknowledge that, as a political subdivision of the State of Nebraska, Owner is subject to, and must comply with, the provisions of the Nebraska Records Management Act.

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 ninety (90) consecutive calendar 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; or

.3 Because the Owner has not made payment of disputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

§ 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 calendar 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 then, after the applicable time period, the Contractor may, upon twenty (20) calendar days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

§ 14.1.4 If the Work is stopped for a period of ninety (90) consecutive calendar 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 twenty (20) additional calendar 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;

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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.5 fails to furnish the Owner, upon request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;

.6 engages in worker misconduct in violation of Section 3.3.2 or engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or

.7 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, subject to any prior rights of the surety, 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 (7) calendar 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. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum, then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within fourteen (14) calendar days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Sections 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 If the Contractor is declared by the Owner to be in default under the Contract, then the Contractor's Performance Bond Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

§ 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 may be adjusted, by mutual agreement for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. No adjustment shall be made to the extent

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.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. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Education has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 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 for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a written demand or assertion by the Contractor seeking, as a matter of right, payment of money, interpretation of the Contract terms, extension of time, or other relief with respect to the terms of the Contract, the Project or the Work. The responsibility to substantiate Claims shall rest with the Contractor.

§ 15.1.2 NOTICE OF CLAIMS

Claims by the Contractor must be initiated by written notice to the Owner and to the Architect. Claims by Contractor must be initiated within twenty-one (21) calendar days after occurrence of the event giving rise to such Claim or within twenty-one (21) calendar days after the Contractor first knew or should have known of the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representative. The Notice shall clearly set out the specific matter of complaint, and the impact or damages which may occur or have occurred as a result thereof, to the extent that the impact or damages can be assessed at the time of the Notice. If the impact or damages cannot be assessed as of the date of the Notice then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Any claim or portion of a claim by Contractor that has not been made the specific subject of a Notice within ninety (90) calendar days after the occurrence of the event giving rise to such claim or within ninety (90) calendar days after the Contractor first knew or should have known of the condition giving rise to the Claim, whichever is earlier, shall be waived. Contractor agrees that this is a reasonable notice requirement under Nebraska law.

§ 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, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

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§ 15.1.4 CLAIMS FOR ADDITIONAL COST OR AN INCREASE IN THE CONTRACT SUM

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum, written notice as provided herein shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.5. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Education, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

§ 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 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 Extensions of time will not be granted for delays caused by inadequate construction force, or the failure of the Contractor to place orders for equipment or materials sufficiently in advance to insure delivery when needed.

§ 15.1.5.3 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 prevented the execution of major items of work on normal working days.

§ 15.1.5.4 The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions in accordance with the rainfall table below. A rain day is defined as a day when rainfall exceeds one-half (.5) inch, or other form of precipitation that equals rainfall of one-half (.5) inch, during a 24-hour period. The number of rain days expected for each month is as follows:

Note: Prior to the execution of the Contract, Owner shall fill in the blanks below:

January	[0] calendar days	July	[2] calendar days
February	[0] calendar days	August	[2] calendar days
March	[1] calendar days	September	[2] calendar days
April	[2] calendar days	October	[1] calendar days
May	[3] calendar days	November	[1] calendar days
June	[3] calendar days	December	[0] calendar days

Data source: High Plains Regional Climate Center, Historical Climate Data Summaries, Lincoln, Nebraska, Airport Station, *at* http://www.hprcc.unl.edu/data/historical/index.php?state=ne&action=select_state&submit=Select+State (last visited Jan. 27, 2012).

§ 15.1.5.5 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract.

§ 15.1.5.6 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

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§ 15.1.5.7 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor waives all claims against the Owner for consequential damages arising out of or relating to this
(Paragraphs deleted)
Contract including, but not limited to consequential damages related to or arising out of the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration. The Owner expressly retains and reserves all claims against the Contractor for consequential damages arising out of or relating to this Contract.

§ 15.2 RESOLUTION OF CLAIMS AND DISPUTES

§ 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 Owner and Owner's Designated Representative or Program Manager (if any) will serve as the Initial Decision Maker for Claims arising from or relating to the Construction Manager's services. 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 14.2.6.1.

§ 15.2.6.1 Either party may, within thirty (30) days from the date of an initial decision, demand in writing that the other party file for mediation within sixty (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 they waive their rights to mediate or pursue dispute resolution proceedings with respect to the initial decision.

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§ 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 ALTERNATIVE DISPUTE RESOLUTION

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, may by mutual agreement of the Owner and Contractor, after written recommendation by the Architect or thirty (30) calendar days after submission of the Claim to the Architect, be subject to mediation.

§ 15.3.2 If the parties agree to resolve their Claims by mediation, such mediation shall be subject to and in accordance with the Nebraska Uniform Mediation Act. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the mediation shall be conducted by a mediation center approved by the Nebraska Office of Dispute Resolution.

§ 15.3.3 If mediation is agreed to by the parties, the parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Education, signed by the parties if approved by the Board of Education, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Nebraska.

§ 15.3.4 A party may elect at anytime to resolve their claim though litigation pursuant to Section 13.1.

§ 15.4 NO ARBITRATION

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

COLFAX COUNTY SCHOOL DISTRICT 19-0123, A/K/A SCHUYLER COMMUNITY SCHOOLS	**HAUSMANN CONSTRUCTION, INC.**
Dated this ___ day of _____, 2019	**Dated this ___ day of _____, 2019**
***OWNER** (Signature)*	***CONSTRUCTION MANAGER AT RISK (Signature)***
Richard Brabec, President Board of Education	Matt Schendt, Vice President
(Name /Title)	*(Name/Title)*

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PAGE 1

~~for~~ **the following PROJECT:**

...

Schuyler Community Schools – Additions and renovations to Schuyler Central High School building, Schuyler, Nebraska

...

(Name, legal status and address)
Colfax County School District 19-0123, a/k/a Schuyler Community Schools
A political subdivision of the State of Nebraska
401 Adam Street
Schuyler, NE 68661
402-352-3527
(Hereinafter referred to as "Owner").

(Name, legal status and address)

The Clark Enersen Partners, Inc.
A Nebraska corporation
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
402-477-9291
(Hereinafter referred to as "Architect" or "Project Architect").

THE CONTRACTOR:
(Name, legal status, address and other information)

Hausmann Construction, Inc.
A Nebraska corporation
8885 Executive Woods Drive
Lincoln, NE 68512
402-438-3230
(Hereinafter referred to as "Construction Manager" or "CM@R").

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~~(Topics and numbers in bold are section headings.)~~(Numbers and Topics in Bold are Section Headings)

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3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, ~~7.4,~~ 7.4.1, **8.3**, 9.5.1, ~~9.7, 10.3.2, 10.4,~~ 9.7.1, 10.3.2, 10.4.1, 14.3.2, 15.1.5, 15.2.5

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2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.4.6, 12.2.2, 12.2.4, **13.3**, 14, 15.4.1
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The Contract Documents are enumerated in the ~~Agreement~~ Agreement, as amended, between the Owner and Contractor (hereinafter the ~~Agreement) and consist of the Agreement, Conditions of the Contract~~ Agreement, as amended,) and consist of the Agreement, as amended, Conditions, all sections of the Project Manual, including the Contract, as amended (General, Supplementary and other Conditions), Drawings, ~~Specifications,~~ Specifications and Addenda issued prior to execution of the Contract, other documents listed in the ~~Agreement~~ Agreement, as amended, 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.~~Owner or Architect.

§ 1.1.1.1 The Agreement, as amended, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if signed by Contractor and the authorized representative of Owner's Board of Education. In the event of conflict, terms and conditions contained in the Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein. Any reference to any Contract Document shall mean the document as amended and/or supplemented for this Project.

...

The Contract Documents form the Contract for Construction. The ~~Contract~~ Contract, as amended, 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.~~ by a written Modification signed by Contractor, approved by Owner's Board of Education, and signed by the representative of Owner's Board of Education who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. 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.~~

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Education. If an approved Contract Document requiring signature has not been signed, then the missing signature shall be provided within a reasonable

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period of time. Failure to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract.

...

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. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, specifications, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications and the standards set forth in Section 2.1.4 of AIA Document B201-2007, as amended. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, and are free from material defects or omissions. The Construction Documents shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of construction documents.

§ 1.1.3.1 The Work shall include the obligation of the Contractor to visit the site of the Project prior to submitting a proposal. Such site visit shall be for the purpose of familiarizing the Contractor with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, including all existing site conditions, access to the site, physical characteristics of the site and surrounding areas.

§ 1.1.3.2 Nothing in these General Conditions shall be interpreted as imposing on either the Owner or the Architect or their respective agents, employees, officers, directors, or consultants any duty, obligation, or authority with respect to any items that are not intended to be incorporated into the completed Project, or that do not comprise the Work including, but not limited to, the following: shoring, scaffolding, hoists, weatherproofing, or any temporary facility or activity because these are the sole responsibility of the Contractor.

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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.~~diagrams, and shop drawings following approval by the Architect.

...

§ 1.1.7 ~~INSTRUMENTS OF SERVICE~~CONSTRUCTION DOCUMENTS

~~Instruments of Service~~ Construction Documents 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~~ Construction Documents may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 ~~INITIAL DECISION MAKER~~MANUFACTURER'S SPECIFICATIONS

All references to the "Manufacturer's Specifications", "Manufacturer's Directions" or "Manufacturer's Recommendations" shall mean and refer to the referenced manufacturer's published specifications or manuals. Upon written approval of the Architect, such publications shall be made a part of and incorporated into the Contract Specifications as though repeated therein in full, and all manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned accordingly, unless specified to the contrary by the Architect.

§ 1.1.9 PROJECT MANUAL

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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.~~ Project Manual is a volume assembled for the Work which includes the bidding or proposal requirements, sample forms, Conditions of the Contract and Specifications.

§ 1.1.10 PROJECT MANUAL ADDENDA

Project Manual Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.11 APPROVED, APPROVED EQUAL, APPROVED EQUIVALENTS, OR EQUAL

The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

§ 1.1.12 ABBREVIATIONS

AIA:	American Institute of Architects
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ASA:	American Standards Association
ASTM:	American Society of Testing Materials
AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NES:	National Electrical Code
NIC:	Not in Contract. Indicates work not to be done by this Contractor under this Agreement
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
UL:	Underwriters Laboratories, Inc.

§ 1.1.13 BIDS or BIDDING

The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Nebraska public letting statutes.

§ 1.1.14 CONTRACT SUM

"Contract Sum" shall mean the Guaranteed Maximum Price, when the Agreement is a Construction Manager at Risk Agreement (A133-2009), and the Contract Sum, when the Agreement is a Contractor Agreement (A101-2007).

§ 1.1.15 MISCELLANEOUS DEFINITIONS

§ 1.1.15.1 FURNISH

The term "furnish", unless specifically limited to context, means furnishing to the Project Site the items specified to include unpacking and assembly if necessary. "Install" means incorporation in the Work, including all necessary labor, materials, equipment and connections necessary to complete installation. "Provide" means furnish and install.

§ 1.1.15.2 BUSINESS DAY

The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's President for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Education on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

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§ 1.1.15.3 CALENDAR DAY
A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

§ 1.1.15.4 HOLIDAYS
Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

§ 1.1.15.5 WORK DAY
Work days are all calendar days except Holidays.

§ 1.1.15.6 ANTICIPATED WEATHER DAYS
An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.4 lists required Anticipated Weather Days.
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§ 1.2.1.1 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless he shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of his Proposal. The Architect, in ease of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

...

§ 1.2.3.1 In case of conflicting provisions between or within the Drawings and Specifications, the Contractor is deemed to have accepted the reasonable method of completing the Work as agreed to by the Owner and the Contractor.

§ 1.2.3.2 All repeated features must be constructed alike, although drawn in detail only once, and similarly all detail and ornament must be continued throughout all moldings, bands, etc.

§ 1.2.3.3 Wherever Work is specified to be done "as directed", the Contractor must obtain specific direction from the Owner's representative before undertaking such Work.

§ 1.2.4 The Contractor is solely responsible for coordination of bidding and Scope of Work of Subcontractors and shall assume full responsibility for complete coordination of the various Subcontractors.

§ 1.2.5 In the interest of conciseness, references to specification sections and details are preceded by the word "see". Any such reference is to be interpreted to include the phrase "and comply with".

§ 1.2.6 Wherever an article, device or piece of equipment is referred to in the singular, such reference shall apply to as many of such articles as are shown in the Contract Documents or as are required to complete the installation.

§ 1.2.7 RELATION OF SPECIFICATIONS AND DRAWINGS
General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the most expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

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§ 1.2.8 MATERIALS, EQUIPMENT AND PROCESSES

Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the bidding instructions which results in equipment requiring area not shown on the Construction Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting completion. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) calendar days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contractor Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

§ 1.2.9 STANDARDS AND REQUIREMENTS

When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

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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. These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization.

§ 1.5

~~OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE~~OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND CONSTRUCTION DOCUMENTS

§ 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.~~ Provided that all payments have been made to the Arcihtect in accordance with the agreement with the Owner, all Contstruction Documents shall be exclusively owned by the Owner and the Owner shall own all copyrights in and to the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the ~~Instruments of Service.~~ Construction Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with

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this Project is not to be construed as publication in derogation of ~~the Architect's or Architect's consultants'~~ any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are ~~authorized~~ granted a limited license to use and reproduce the ~~Instruments of Service~~ Construction Documents 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~~ Construction Documents 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.~~ of the copyright holder. All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

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If the parties intend to transmit ~~Instruments of Service~~ Construction Documents 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.

...

§ 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,~~ Nebraska public school district identified in the Contract Documents. The Board of Education, by majority vote, is the only representative of the Owner, a public school district and political subdivision of the State of Nebraska, having the power to enter into or amend a contract, to approve changes in the scope of Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, or agree to an extension to the date of Substantial or Final Completion. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the President, who may delegate responsibilities as appropriate. Owner's Board of Education hereby delegates to the President or designee the authority to approve changes to the Work where such changes are within the Owner's contingency. Any such change shall be confirmed in writing between the Contractor and Owner's President or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. ~~The term "Owner" means the Owner or the Owner's authorized representative.~~Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the President or Board of Education; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 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.~~It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Nebraska. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the

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basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents beyond the amount of professional liability or E&O insurance provided by Architect.

§ 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.~~ The Owner, being a political subdivision of the State of Nebraska, must have adequate funds and financing as provided by law prior to award and execution of the Contract Documents.

...

§ 2.2.3 ~~The~~ If requested in writing by the Contractor prior to the start of the Work, the Owner shall furnish surveys known to the Owner; 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~~ Other than the metes and bounds noted in the legal description of the site, the Contractor shall not 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.~~of the Work beyond the amount of professional liability or E&O insurance provided by surveyor. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements beyond the amount of professional liability or E&O insurance provided by surveyor.

§ 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.~~furnish, for information only and not as a Contract Document, such surveys or other information as it has in its possession as to the physical characteristics, legal limitations and utility locations for the site of the Project as it has in its possession. The Contractor shall confirm the location of each utility on the approved plans therefor on file with the public works department. The Contractor shall not be responsible for additional cost incurred should the utilities not be found in the location shown on said approved plans, either horizontally or vertically. The Contractor represents that he has inspected the site and available documents, and has satisfied himself as to the condition thereof including, without reasonable limitation, all apparent structural, surface and subsurface conditions thereof. The Contractor shall make no claims for any subsurface conditions shown or which could be reasonably ascertained from any investigations, including soil borings, tests and reports provided by the Owner.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor ~~one copy~~ an electronic version of the ~~Contract~~ Construction Documents for purposes of making reproductions pursuant to Section ~~1.5.2.~~1.5.2 along with a to be determined number of hardcopy sets at no cost.

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If the Contractor fails to correct defective Work that is not in accordance with the requirements of the Contract Documents or the Construction 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.~~entity. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's President.

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...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract ~~Documents~~ Document and fails within a ~~ten-day~~ seven (7) day period after receipt of written notice from the Owner to commence and continue correction of any such default or neglect with diligence and promptness, the Owner ~~may,~~ may upon written notice to the Contractor, and without prejudice to other remedies ~~the Owner~~ it may have, correct ~~such deficiencies.~~ any such deficiency. 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~~ necessary cost of correcting any such deficiency, including compensation for the Architect's and other consultants' additional services and expenses 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.~~

...

§ 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.~~representative and includes the Construction Manager at Risk, if applicable.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract ~~Documents.~~Documents, and submittals approved pursuant to Section 3.12.

§ 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,~~ Contract activities of the Owner (or Owner's Owner's Designated Representative or Program Manager (if any), if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and

.4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

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§ 3.2.1 Execution of the Contract ~~by the~~ and GMP Amendment by Contractor is a representation that the Contractor has visited the site, become ~~generally familiar with local~~ familiar with the nature and location of the Work, the site, the specific conditions under which the Work is ~~to be performed and correlated personal observations with requirements of the Contract Documents.~~to be performed, and all matters which may in any way affect the Work or its performance. The Contractor represents and warrants by submission of a Proposal that he has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports and the site of the Work, and that, from his own investigations, he has satisfied himself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within

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the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work. The Contractor further represents that the Contractor is familiar with all applicable codes, ordinances, laws, regulations and rules as they apply to the Work, and that the Contractor will abide by same. Claims for additional time or additional compensation as a result of Contractor's failure to follow the foregoing procedure and familiarize himself with all local conditions and the Contract Documents will not be permitted.

§ 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 solely 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. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 ~~The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.~~If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality or omission in the Contract Documents of which the Contractor is aware, or which could reasonably have been discovered by the review required by Section 3.2, without prompt written notice to the Owner and the Architect and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all claims relating thereafter are specifically waived..

§ 3.2.4 If the Contractor has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor his warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for his position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. 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.~~ 15 when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. 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~~ The Contractor shall be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 By entering into the Agreement with the Owner for the Work, the Contractor acknowledges that it has examined the Contract Documents, the character of the site and any existing structures, and is acquainted with the Work and the Contract Documents.

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§ 3.2.6 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and/or hazardous materials surveys for the particular job sites involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. In the event of a conflict between this section or between section 3.14.3 hereof and the One-Call Notification System Act, Neb. Rev. Stat. § 76-2301 et seq., the One-Call Notification System Act shall prevail and control.

§ 3.2.7 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or his Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.8 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

.1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;

.2 Generally prevailing climatic conditions;

.3 Anticipated labor supply and costs;

.4 Availability and cost of materials, tools and equipment; and

.5 Other similar issues.

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§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. Consistent with the prevailing construction industry performance for similar projects in the area and such other performance standards expressly imposed on the Contractor by the Contract Documents. 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

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on behalf of, the Contractor or any of its Subcontractors. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall if required by Owner, require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall if required by Owner, contain a current photograph and the worker's name in a typeface large enough to be seen from a reasonable distance. The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property.

...

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all trades and sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

.1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;

.2 The special shoring requirements, if any, of the Owner; and

.3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.

.4 Trench excavation safety protection shall be a separate pay item, if not included in a lump sum bid, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Section 3.3.6 are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

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§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for ~~labor,~~ qualified, careful, and efficient workers and labor eligible to work in accordance with state and federal law. In addition, unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for 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. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 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 prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After the Contract has been executed, the Owner and the Architect will consider a formal request for the substitution of products and place those specified only under the conditions set forth in the specifications. Substitutions and alternates may be rejected without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Owner, in consultation with the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect and the Owner: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 By making requests for substitutions based on Section 3.4.2 above, the Contractor:

§ 3.4.2.3.1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

§ 3.4.2.3.2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;

§ 3.4.2.3.3 certifies that the cost data represented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

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§ 3.4.2.3.4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

§ 3.4.2.4 Whether or not the Owner or the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitute.

§ 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. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4 For all equipment furnished by others to be installed by the Contractor, the Contractor shall use manufacturer's detailed drawings as approved by the Architect, to establish roughing-in dimensions and location of services.

§ 3.4.5 The Contractor shall inspect all materials as delivered to the premises and shall reject any materials that will not conform with the Contract Documents when properly installed.

§ 3.4.6 Including, but not limited to, the specific requirements of Section 10.1, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal and state laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct his work so as to protect the Contractor from the consequences of his own conduct.

§ 3.4.7 Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This Section requiring advance notice does not apply to a publicly-held corporation.

§ 3.4.8 CRIMINAL HISTORY CHECKS

§ 3.4.8.1 Upon request of the Owner or the Owner's Representative the Contractor shall comply with the provisions of subparagraphs 3.4.8.1.1 through 3.4.8.1.4, to-wit:

§ 3.4.8.1.1 Contractor shall obtain all criminal history information regarding the "covered employees", as defined below, of the Contractor and certifications of criminal history compliance from all agents and subcontractors of the Contractor. Before beginning any Work on the Project, Contractor will provide written certification to the Owner that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

§ 3.4.8.1.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three (3) business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

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§ 3.4.8.1.3 For the purposes of this Section, "covered employees" means employees, agents or subcontractors of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 19 years of age or enrolled in a public school: a felony offense under Nebraska Criminal Code Article 3 Offenses Against The Person; an offense for which a defendant is required to register as a sex offender under the Nebraska Sex Offender Registration Act, Neb. Rev. Stat. §§ 29-4001 et seq.; or an equivalent offense under federal law or the laws of another state.

§ 3.4.8.1.4 OWNER'S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

In addition, Contractor will at least annually obtain criminal history record information that relates to any employee of the Contractor and certifications of criminal history compliance from all agents, or subcontractors of the Contractor or a Subcontractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or, other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present".

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

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. 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 (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage, but such exclusions shall only apply after Owner has taken occupancy or assumed beneficial use of the damaged or defective portion of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Section are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents.

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§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten (10) business days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this Section shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

.1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or

.2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or

.3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, any and all manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Sections 3.5.1, 3.5.2, and 3.5.3 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period. Contractor shall prosecute such warranty work without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

.1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;

.2 Verify that the documents are in proper form and contain full information;

.3 Co-sign warranties when required by the express terms of the Contract Documents;

.4 Bind all warranties, both electronically and in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;

.5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;

.6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified; and

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.7 Separate each warranty with index tab sheets keyed to the Table of Contents listing.

.8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

~~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.~~Owner is an exempt entity under the tax laws of the State of Nebraska. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of Neb. Rev. Stat. § 77-2704.15. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept Purchase Agent Appointment and Exempt Sales Certificate forms from the Owner. Contractor shall obtain Resale Certificates from Contractor's suppliers. Failure of Contractor or any Sub-Contractor to obtain Resale Certificates from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

§ 3.7

~~PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS~~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.~~The Contractor shall be responsible for making and submitting application for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a land-disturbing-activity permit for the Project. The Owner's consultants will prepare a Storm Water Pollution Prevention Plan (SWPPP) and the Notice of Intent (NOI) for the project, and shall obtain the NPDES storm water construction permit. The Contractor shall implement all measures identified in the SWPPP. The Contractor shall be responsible for implementing all measures identified in the SWPPP, conducting regular site inspections, complying with all record keeping requirements included in the NPDES permit and the SWPPP, implementing all maintenance measures identified during inspections, and amending the SWPPP as necessary if erosion control measures are found to be ineffectual. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with all regulations administered by the Nebraska Department of Environmental Quality (NDEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner. Owner hereby holds Contractor harmless from and agrees to indemnify Contractor for all fines, penalties, costs, damages and expenses arising out of, caused by, or related to mistakes made by Owner's consultants in their preparation of the SWPPP and NOI.

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§ 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. In addition, Contractor shall authorize posting of any invoices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

§ 3.7.3 If the Contractor performs Work ~~knowing~~ when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, Contract Documents, 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~~ written notice to the Owner, the Owner's Designated Representative or Program Manager (if any), and the Architect before conditions are disturbed and in no event later than ~~21~~ three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. 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.~~ and report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Education and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) calendar days of the Architect's recommendation.

§ 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.~~ Architect in writing. 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.

§ 3.7.6 Copies of any and all permits, licenses and certificates shall be delivered to the Owner as soon as they are obtained. Along with the request for final payment, the Contractor shall deliver the originals of such permits, licenses and certificates to the Owner.

§ 3.7.7 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner and the Program Manager. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

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§ 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.~~objection, unless required to do so by the terms of the Construction Documents.

...

.1 ~~Allowances~~ allowances shall cover the cost to the Contractor of materials and equipment delivered at the site ~~and all required taxes,~~ less applicable trade discounts;

...

.3 ~~Whenever~~ 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~~ Sum, or the Owner's Contingency, at Owner's discretion shall be adjusted accordingly. The amount of the adjustment 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.

...

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three (3) written proposals unless this requirement is waived by the Owner's designated representative, and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the Owner.

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during performance of the Work. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The responsibility of the superintendent is to supervise, schedule, coordinate and manage field operations. The superintendent is not to be used as a tradesman. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees. The Superintendent shall provide his or her email address and cell phone number to the Owner and the Architect and shall be available to be contacted during all business hours, and outside of business hours in the event of an emergency. The Superintendent shall be fluent in all languages necessary to effectively communicate with Contractor's staff assigned to the Project, and with all Subcontractors, in order to supervise and direct the Work and assist emergency responders.

§ 3.9.1.1 As directed by the Architect or Owner's Representative, there is to be held at a location designated by the Architect or Owner's Representative, a meeting called by the superintendent as representative of the Contractor of the representatives of the various trades engaged about the Work for furthering the progress of the Work and giving of clarifications by the Architect and instructions by the Owner. If the Contractor's representatives fail to attend or to execute the instructions given to them, they shall on request of the Owner be dismissed from the Work and other representatives must be immediately substituted.

§ 3.9.1.2 The Contractor shall not change the Superintendent without the prior written consent of the Owner, which consent shall not be unreasonably withheld. The Superintendent shall be present at the Project until substantial completion. At the Owner's request, the Contractor shall assign a different Superintendent to the Project.

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§ 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.~~ Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within thirty (30) calendar days of Substantial Completion.

§ 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.~~ Contractor's project manager, while not required to be present full-time at the site, shall remain assigned to this Work, and be available on an as-needed basis throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected in accordance with the Construction Documents.

§ 3.9.4 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under General Conditions for such day.

§ 3.9.5 Questions about plan interpretation or directions shall be submitted by Contractor's superintendent to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion.

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§ 3.10.1 The Contractor, ~~promptly after being awarded the Contract,~~ ten (10) calendar days after being awarded the Contract and as part of its Guaranteed Maximum Price proposal, 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. The construction schedule shall not be changed without the written consent of the Owner and Architect. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval. The Owner's or Architect's silence as to a submitted schedule that exceeds time limits current under the Contract Documents shall not relieve the Contractor of its obligation to meet those time limits, nor shall it make the Owner or Architect liable for any of Contractor's damages incurred as a result of increased construction time or not meeting those time limits. Similarly, the Owner's or Architect's silence as to a Contractor's schedule showing performance in advance of such time limits shall not create or infer any rights in favor of the Contractor for performance in advance of such time limits.

§ 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~~ and keep current, for the Architect's and Owner's Representative's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows 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.~~Neither the Contractor's preparation nor the Architect's receipt or review shall modify the Contractor's responsibility to make required submittals or to do so in a timely manner to provide for review in accordance with Section 4.2.7 as modified herein, except to the extent that the Architect's review extends more than seven (7) calendar days after notice to the Architect that a timely review is needed. The submittal schedule shall

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include a resource table listing all contractors, sub-contractors, design team, and Owner, and shall be resource-loaded. The Contractor shall also generate an activity-within-resource report and keep these current.

§ 3.10.2.1 The schedule of submittals shall be submitted along with the construction schedule.

§ 3.10.2.2 Submission and review of the schedule shall not relieve the Contractor of its obligations to meet the time limits of the Contract.

§ 3.10.2.3 Additional provisions for submittal of the construction schedules are included in the specifications.

§ 3.10.3 The Contractor shall perform the Work in ~~general~~ accordance with the most recent schedules submitted to the ~~Owner and Architect.~~ Owner, Owner's Designated Representative or Program Manager (if any) and Architect.

§ 3.10.4 Should the Contractor fail to comply with the progress schedule or, in the Owner's opinion, otherwise fails, refuses, or neglects to supply a sufficient amount of labor or material in the prosecution of the Work, Owner shall have the right to (1) direct the Contractor to furnish such additional labor and/or materials as may, in the Owner's opinion, be required to comply with the progress schedule or otherwise diligently prosecute the Work, or (2) furnish such additional labor and/or materials as may be required to comply with said schedule. Any costs incurred by Owner pursuant to the exercise of its rights under this Section shall be borne by the Contractor and shall not increase the Contract Sum.

§ 3.10.5 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

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~~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.~~ **§ 3.11.1** The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, most current Construction Schedule, 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, field test records, inspection certificates or records, manufactures' certificates, Product Data, Samples and similar required submittals. These shall be available to the Architect, the Owner, and the Program Manager at all times 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. The Contractor shall also display the most current Construction Schedule at the Site for reference and reliance by the Owner and Architect.

§ 3.11.2 In addition to any other requirement in the Contract Documents and prior to installation, the Owner may require the Contractor to furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

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§ 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. The Contractor must provide the Architect, with copies to the Owner and Owner's Designated Representative or Program Manager (if any), with copies of all submittals made to regulatory agencies.

§ 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~~ verified that the information contained within such submittals complies with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 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. The Contractor must correct, at its sole cost and expense and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 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.~~thereof, except for any such errors or omissions which are within Architect's statutory or contractual design responsibility.

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§ 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.~~ professionals. 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~~ Unless the Contractor is providing professional services as allowed herein, the Contractor shall not be responsible for the

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adequacy of the performance and design criteria specified in the Contract Documents. A licensed professional architect or engineer must prepare plans, specifications and estimates for all the Work, as governed by the Nebraska Engineers and Architects Regulation Act. In the event that Contractor retains a licensed design professional under the terms of this Section, Contractor shall require that the licensed design professional carry comprehensive general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (l5) calendar days prior to the date the Contractor needs the reviewed submittals and samples returned. Additional provisions for shop drawings, product data and samples are included in the specifications. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) calendar days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) calendar days of the date of the approval of the Contract Sum or Guaranteed Maximum Price. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or his consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed professional engineer.

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~~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.~~**§ 3.13.1** 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.

§ 3.13.2 The Contractor shall provide adequate protection throughout the course of the Work for all trees and shrubs on the site indicated in the Contract Documents as not to be removed. The Contractor shall be responsible for damage to any such trees or shrubs during the period of construction and shall replace or repair any trees or shrubs damaged by the Contractor, its Subcontractors or employees, with plantings acceptable to the Owner at no cost to the Owner. Damaged sod areas shall be seeded acceptable to the Owner. All landscape repairs shall carry one (1) year full guarantee.

§ 3.13.3 The Contractor shall enforce the Owner's instructions regarding signs, advertisements, noise, fires and smoking.

§ 3.13.4 The Contractor shall keep the site of construction reasonably free from weeds during the course of construction. The Contractor shall cut all weeds on the site so as to discourage further germination.

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§ 3.13.5 All utilities, curbs, drives, streets, buildings, mechanical and electrical equipment, etc., which are damaged or cut during construction and are to be used after construction shall be repaired such that the quality of the repaired item equals or exceeds its condition prior to construction.

§ 3.13.6 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.7 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.8 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.9 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

3.13.10 Work will be performed by Contractor in accordance with the Contract Documents, or other applicable law governing the Contractor's performance of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Time. The Contractor must not permit work outside of hours established in the Contract Documents on a Saturday, Sunday or other County, State or federal holiday without the written consent of the Owner, given after prior written notice to the Architect and any other applicable consultants; such consent, if given, may be conditioned upon payment by the Contractor of the Owner's, Architect's and any other applicable consultants' additional costs and fees, testing or regulatory agency costs incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent and person responsible for the protection of persons and property at the Site and compliance with all applicable laws and regulations, if different from the superintendent.

§ 3.13.11 Additional provisions for use of site are included in the Specifications.

§ 3.13.12 Work will be performed by the Contractor in accordance with the Contract Documents, or other applicable law governing the Contractor's performance of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Time. The Contractor must not permit work outside of hours established in the Contract Documents on a Saturday, Sunday or other County, State or federal holiday without the written consent of the Owner, given after prior written notice to the Architect and any other applicable consultants; such consent, if given, may be conditioned upon payment by the Contractor of the Owner's, Architect's and any other applicable consultants' additional costs and fees, testing or regulatory agency costs incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent and person responsible for the protection of persons and property at the Site and compliance with all applicable laws and regulations, if different from the superintendent.

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§ 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.~~ properly, provided, however, that any such cutting, fitting or patching can only be

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performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. 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.
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§ 3.14.3 The Contractor shall locate, protect, and save from injury utilities of all kinds, either above or below grade, inside or outside of any structure, found in the areas affected by its Work. Contractor shall be responsible for all damage caused to such utility by the operation of equipment or delivery of materials or as the direct or indirect result of any of its Work and shall repair all such damage at its expense and as a part of the Work included in the Contract Documents. The Contractor shall not be entitled to any increase in the Contract Sum or the Contract Time on account of such damage to any utility.

§ 3.14.4 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only be performed by those skilled in performing the original Work.

§ 3.14.5 Additional provisions for cutting and patching of work are included in the Specifications.

§ 3.15.1 The ~~Contractor~~ Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. 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. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of his Subcontractors shall clean and restore such surfaces to their original condition.

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§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

§ 3.15.5 Additional provisions for cleanup are included in the Specifications.

The Contractor shall provide the Owner and Architect and their designated representatives, access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

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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.~~ THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT 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 ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. 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.~~Owner and Architect in writing.

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§ 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.~~TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S DESIGNATED REPRESENTATIVE OR PROGRAM MANAGER (IF ANY), ARCHITECT, OWNER'S DESIGNATED REPRESENTATIVE OR PROGRAM MANAGER, OWNER'S BOARD OF EDUCATION, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS 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 (INCLUDING THE WORK ITSELF TO THE EXTENT THE WORK IS NOT COVERED BY BUILDERS RISK INSURANCE PROCEEDS) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, 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 ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. 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. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF NEBRASKA.

§ 3.18.2 ~~In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor,~~

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~~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.~~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 THIS SECTION 3.18 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 INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM: (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY NEBRASKA LAW.

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.19 ANTITRUST VIOLATION

To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C. § 1 et seq. The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

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§ 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.~~Owner.

§ 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~~ new architect whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a new Architect has been employed by Owner.

§ 4.1.4 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

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§ 4.2.1 The ~~Architect~~ Architectand Owner's Designated Representative or Program Manager (if any) 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~~ Documents. The Architect and Owner's Designated Representative or Program Manager (if any) will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract Documents.

§ 4.2.2 ~~The Architect will visit the site at~~ Architect or his authorized representative shall visit the site at least once per week (or more per week when deemed necessary by the Owner's President or when necessary to protect Owner's interests) and at other 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~~ to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work 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.~~Construction Documents and the Contract Documents and on time. Furthermore, an appropriate number of job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, Owner's Designated Representative or Program Manager (if any) the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 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. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor.

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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 and Owner's Designated Representative or Program Manager (if any) about matters arising out of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor. 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.

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§ 4.2.5 ~~Based~~ As further provided in the Contract Documents 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. All Certificates of Payment must be reviewed by Owner's Designated Representative or Program Manager (if any) before being submitted to the Owner. All Certificates of Payment must be reviewed andapproved by the Owner, or, at the Owner's option, by the Owner's Designated Representative or Program Manager (if any).

§ 4.2.6 The Architect ~~has authority to~~ shall reject Work that does not conform to the Construction Documents and Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will ~~have authority to require~~ recommend to Owner additional inspection or testing of the Work in accordance with ~~Sections 13.5.2 and 13.5.3,~~ the provisions of the Contract Documents, 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 or the Owner to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect.

§ 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 Construction Documents and the Contract Documents and all applicable laws, statutes, codes and requirements applicable to Architect's design services. 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~~ with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is ~~not~~ conducted for the purpose of determining the general 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 Construction Documents and 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. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The ~~Architect will prepare Change Orders and Construction Change Directives, and~~ Architect, in full cooperation and coordination with the Owner, or, at the Owner's option, by the Owner's Designated Representative or Program Manager (if any), shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect, in full cooperation and coordination with the Owner, may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, 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.~~shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents and do not change the Contract Sum or Contract Time, then the

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Architect may issue an order for a minor change in the Work with prior written notice to the Owner, or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 4.2.9 The ~~Architect~~ Architect, in full cooperation and coordination with the Owner, will conduct inspections to determine the date or dates of Substantial Completion and the date of ~~final completion;~~ 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.
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§ 4.2.11 The Architect will interpret and ~~decide matters~~ make recommendations 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~~ or recommendations 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,~~ recommendations, 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.~~Contractor.

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

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and 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.~~information, at no additional cost to the Owner.
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§ 5.1.3 Subcontractors, Sub-subcontractors and material suppliers shall not contact the Architect or the Owner directly. Any information they might need shall be obtained through the Contractor.

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, ~~as soon as practicable~~ within ten (10) calendar days after award of the Contract, shall furnish in writing to the ~~Owner through~~ Owner, Owner's Designated Representative or Program Manager (if any), and 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~~ list of subcontractors shall be submitted in duplicate on AIA Document G805, 2001 Edition. The Architect shall reply within fourteen (14) calendar 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~~ 14 day period shall constitute notice of no reasonable objection. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner. **The Contractor shall update this list throughout the Project and keep Owner and the Architect advised of any new Subcontractors employed**. In the event a subcontractor is replaced, the Owner and Architect shall be given a reasonable time or 14 days, whichever is less, to object to the new subcontractor. Failure of the Owner or Architect to object in a timely manner shall constitute consent to the new subcontractor doing the proposed work.

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§ 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~~

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~~rejected Subcontractor was reasonably capable of performing the Work,~~ When the parties agree on a proposed substitute Subcontractor or if the Owner requires use of a specific subcontractor, then 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.

...

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums shall be allowed for failure to so inspect or investigate.

~~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.~~**§ 5.3.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by 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. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, except as provided below. 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, 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.

§ 5.3.2 The Contractor is fully responsible for acts and omissions of the Subcontractors and persons employed by them or under their control.

§ 5.3.3 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.4 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

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§ 5.4.1 Each subcontract agreement for ~~a~~ any unperformed 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~~ either in accordance with Article 14 or abandonment of the Project by the Contractor 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 and obligations of the surety, if any, obligated under ~~bond relating to the Contract.~~bonds relating to the Contract; and

.3 the Subcontractor provides bonds as required by law of prime contractors and by Owner

...

§ 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.~~Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 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.~~ Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

§ 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

...

§ 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.~~The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

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§ 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.~~ Contractor shall cooperate with other separate contractors to ensure that the Work remains on schedule. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual ~~agreement.~~ agreement between the Owner and Contractor. 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.~~

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§ 6.1.4 Additional provisions for separate contracts are included in the Specifications.

§ 6.2 ~~MUTUAL RESPONSIBILITY~~CONTRACTOR'S RESPONSIBILITY

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's separate contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's separate contractors. The Contractor shall afford the Owner and separate contractors reasonable site access and opportunity for introduction and storage or staging 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. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's separate contractors. Contractor shall review Owner's contract with Owner's separate contractors and become familiar with the requirements and scope of services contained therein.

§ 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 in writing to the Architect ~~apparent~~ and Owner discovered discrepancies or defects in such other construction that would render it unsuitable for such proper execution ~~and results. Failure of the Contractor so~~ and results, and shall promptly report in writing to the Architect and Owner if Owner's separate contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor 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,~~ Work and is performed in a timely manner, 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.~~

§ 6.2.3.1 If the Architect is required to provide contingent additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the contingent additional services result from negligence or an omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

§ 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.~~10.2.5, as amended.

§ 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.~~3.14, as amended.

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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~~ Owner will allocate the cost among those responsible.

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§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner and Owner's Designated Representative or Program Manager (if any).

...

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Construction Documents and 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. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a Change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The Contractor shall in no instance commence Work on or provide materials for or make changes in the Work for this Project which will require additional payment from the Owner to the Contractor until the Contractor has requested and obtained in writing either a signed written Change Order or signed written approval from the Architect and Owner's Designated Representative or Program Manager (if any) to proceed with the extra Work. The Change Order or written approval shall not be valid unless signed by a principal of the firm of the Architect's office.

§ 7.1.5 Failure of the Contractor to obtain a written Change Order or written approval from the Architect and Owner's Designated Representative or Program Manager (if any) before commencing such Work shall constitute cause for rejection of request for additional compensation for such work by the Contractor.

§ 7.1.6 Each request for approval or additional work which is to require additional payment from the Owner, or in instances whether credit is to be allowed to the Owner for omission of certain work or materials, shall be accompanied by a price quotation, including a complete cost breakdown of materials, labor, overhead and profit.

§ 7.1.7 The total Contractor mark-up for overhead, profit or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the Change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed FIVE PERCENT (5%) of the cost of the Change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the Change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed FIFTEEN PERCENT (15%) of the total cost of the Change in the Work plus one hundred twenty five dollars ($125.00) minimum charge to the Owner for any Change Order requiring an addition to the scope of the Work of the Project, and a fee of ONE PERCENT (1%) for additional bond costs.

§ 7.1.8 Allowance balances that are not used in connection with the scope to which they are allocated in the GMP Amendment may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit or fee mark-up when changes in the Work are funded by one of the Allowances.

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.2 The amount of the adjustment, if any, in the Contract ~~Sum;~~ Sum or Guaranteed Maximum Price; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

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§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

...

§ 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:~~the following method:

§ 7.3.3.1 Changes in the work shall be as established in the contract documents. In the event of a Construction Change Directive that constitutes either an addition to or a deletion from the Scope of the Work for project as established at the time of execution of the contract for construction, the following adjustments shall be made:

§ 7.3.3.1.1 Cost of Work: The actual cost as determined by lump sum pricing, provided in detail, and/or unit cost pricing of such additions or deletions to the Scope of the Work shall be added or subtracted from the contract price.

§ 7.3.3.1.2 Adjustments for General Requirements, Supervision and Overhead and Profit: Upon establishment of the Cost of Work of such additions or deletions, the contract price shall be increased for additions and decreased for deletions according to and not to exceed the following;

.1 ~~Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;~~To Subcontractor for work performed by their own forces - 10% of the actual cost of the addition or deletion from the work.

.2 ~~Unit prices stated in the Contract Documents or subsequently agreed upon;~~To Subcontractor for work performed by other then their own forces - 5% of the actual cost of the addition or deletion from the work.

.3 ~~Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or~~To Subcontractor's Subcontractor/Material supplier for work performed by Subcontractor's Subcontractor/Material supplier's own forces. - 10% of the actual cost of the addition or deletion from the work.

.4 ~~As provided in Section 7.3.7.~~To Subcontractor's Subcontractor/Material supplier for work performed by other than Subcontractor's Subcontractor/Material supplier's own forces. - 5% of the actual cost of the addition or deletion from the work.

§ 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~~ may, by mutual written agreement, 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 and Owner 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.

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§ 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~~ then the adjustment shall be determined by the Architect on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work plus the Construction Manager's Fee. Direct costs shall be limited to the following:

.1 ~~Costs~~ Actual costs of labor, including social security, ~~old age and~~ unemployment insurance, ~~fringe benefits required by agreement or custom,~~ and workers' compensation insurance;

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.2 ~~Costs~~ Actual costs of materials, supplies and equipment, including cost of transportation, ~~whether incorporated or consumed;~~used in performing the Change in the Work;

.3 ~~Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;~~Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools; and

.4 ~~Costs~~ Actual 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.~~and permit fees, related to the Work.

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

§ 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.~~plus the Contractor's allocated percent of profit and overhead as confirmed by the Architect.

§ 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.~~ 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.

~~**§ 7.3.10** 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.~~

~~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.~~ **§ 7.4.1** With prior written notice to the Owner's representative 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 Construction Documents and the Contract Documents, subject to approval by the Owner. Such changes will be effected by written order signed by the Architect in the form of an Architect's Supplemental Instruction (ASI), and shall become binding as a part of the Contract Documents. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

§ 7.4.2 Allowance balances that are not used in connection with the scope to which they are allocated in the GMP Amendment may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit or fee mark-up when changes in the Work are funded by one of the Allowances.

...

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

§ 8.1.2 The date of commencement of the Work is the ~~date established in the Agreement.~~first business day after Contractor's written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement has

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been signed by the Contractor, approved by Owner's Board of Education, signed by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the notice to proceed shall not relieve the Contractor of his responsibility to comply with Article 11.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect, and agreed to by Owner, in accordance with Section 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than thirty (30) calendar days after the date of Substantial Completion.

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§ 8.2.1 Time limits and bench mark dates, including dates for Substantial Completion and Final Completion of the Project stated in the Contract Documents and the critical path schedule for the Project prepared by the Contractor and approved by the Owner, Appendix "A" attached hereto, are of the essence of the Contract. By executing the Agreement the Contractor ~~confirms~~ stipulates 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.~~ Owner, or prior to approval of Certificates of Insurance, and Additional Insured Endorsement and Notice of Cancellation Endorsement required to be submitted to Owner under the Contract. 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.~~Final Completion within the Contract Time. The Contractor must maintain at the Site, available to the Owner and Architect, a copy of the most recently approved Project Schedule. If the Contractor's progress is not maintained in accordance with the most recently approved Project Schedule, the Contractor shall promptly provide a reasonable recovery schedule to correct the delays and bring the progress of the Work back into accordance with the most recently approved Project Schedule, at no cost to the Owner.

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the Date of Final Completion.

§ 8.2.5 The Contractor shall maintain at the Site, available to the Owner, Owner's Designated Representative or Program Manager (if any) and Architect, a copy of the most recently approved Project Schedule. If the Contractor's progress is not maintained in accordance with the most recently approved Project Schedule, the Contractor shall promptly provide a reasonable recovery schedule to correct the delays and bring the progress of the Work back into accordance with the most recently approved Project Schedule, at no cost to the Owner.

...

§ 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.~~ **DATE OF COMMENCEMENT AND TIME OF COMPLETION**
Contractor agrees that it will begin work immediately upon receipt of notice to proceed from the Owner, and that it will diligently proceed with said Work such that the same shall be completed within the time frame stated in the bid documents.

§ 8.3.2 ~~Claims relating to time shall be made in accordance with applicable provisions of Article 15.~~ **BEST EFFORTS**
The Contractor acknowledges that the services to be performed are essential to the effective operation of the Owner and that, therefore, the Contractor will exercise its best efforts to complete the services called for under this Agreement in the minimum time possible and within the time specified in such Work orders as may be issued by the Owner to the Contractor. In the event that the Contractor for good cause shown cannot complete the services for a particular task or phase within the time agreed to, the Contractor shall make a written request to the Owner in accordance with Section 8.3.4 below.

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§ 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.~~**NOTICE OF CONDITIONS CAUSING DELAY**

§ 8.3.3.1 Within five (5) working days after the commencement of any condition which is causing or may cause delay in completion, the Contractor must notify the Owner in writing of the effect, if any, of such condition upon the time progress schedule and must state why and in what respects, if any, the condition is causing or may cause such delay, along with any proposed adjustments to the most recently approved Project Schedule.

§ 8.3.3.2 Failure to strictly comply with this requirement may, in the discretion of the Owner, be deemed sufficient cause to deny any extension of time on account of delay in completion arising out of or resulting from any change, extra work, suspension, or other condition.

§ 8.3.4 EXTENSION OF TIME

§ 8.3.4.1 Any extension or extension of time for the completion of the Work may be granted by the Owner subject to the provisions of this section, but only upon written application therefor by the Contractor to the Owner.

§ 8.3.4.2 An application for an extension of time must set forth in detail the source and nature of each alleged cause of delay in the completion of the Work, the date upon which each such cause of delay began, ended, or will end, and the number of days' delay attributable to each of such causes. It must be submitted prior to completion of the Work.

§ 8.3.4.3 If such an application is made, the Contractor shall be entitled to an extension of time for delay and completion of the Work caused solely: (1) by the acts or omissions of the Owner, its officers, agents, or employees; (2) by the acts or omissions of the Architect, its officers, agents, or employees; (3) by the acts or omissions of a separate contractor employed by the Owner; (4) by changes ordered in the Work; (5) by fire, governmental actions, unusual delay in deliveries, unavoidable and unforeseeable supervening casualties, or other causes beyond the Contractor's control; (6) by delay authorized in writing by the Owner.

§ 8.3.4.4 The Contractor shall, however, be entitled to an extension of time for such causes only for the number of calendar days of delay which the Owner may determine to result solely from such causes, and then only if the Owner may determine to result solely from such causes, and then only if the Contractor shall have strictly complied with all the requirements of this section. The Owner shall make such determination within thirty (30) calendar days after receipt of the Contractor's application for an extension of time; provided, however, said application complies with the requirements of this Section.

§ 8.3.4.5 The Contractor shall not be entitled to receive a separate extension of time for each one of several causes of delay operating concurrently but, if at all, only for the actual period of delay in completion of the Work as determined by the Owner, regardless of the number of causes contributing to produce such delay. If one of several causes of delay operating concurrently results from any act, fault, or omission of the Contractor or of its Subcontractor, if any, and would of itself (regardless of the concurrent causes) have delayed the Work, no extension of time will be allowed for the period of delay resulting from such act, fault, or omission.

§ 8.3.4.6 The granting of an application for an extension of time for causes of delay other than those herein referred to shall be entirely within the discretion of the Owner. Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the Owner or any of its rights under the Contract Documents. Additionally, the Contractor shall not recover any additional compensation for any additional expense caused by such delay or delays.

§ 8.3.5 DELAY CLAIMS

Contractor represents and warrants that the provisions herein contained for extension of time are fair and adequate and that Contractor has had an opportunity to make provision for any and all delays within the contemplation of the parties. Accordingly, it is understood and agreed that Contractor shall not have or assert any claim for damages or prosecute any suit, action, cause of action, arbitration claim, or other proceeding against the Owner for such damages arising from any delay or hindrance in the completion of the Work called for in this Agreement caused by an act or omission on the part of the Owner, their agents, servants, employees or otherwise. Contractor agrees that the only possible compensation for any delay is an extension of time.

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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. In the event that the Project is a Construction Management at Risk Project, then any use of the term "Contract Sum" in the Contract Documents shall be interpreted to mean "Guaranteed Maximum Price".

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~~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.~~

§ 9.2.1 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 or in the case of a Guaranteed Maximum Price, within fifteen (15) calendar days after establishing the Guaranteed Maximum Price, 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, Owner's Designated Representative or Program Manager (if any), or Owner may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702Cmc and G703 shall be used.

§ 9.2.2 In order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

.1 Contractor's cost for Contractor's fee (if applicable), bonds and insurance, mobilization, general conditions, etc. shall be listed as individual line items.

.2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, paving, etc.

.3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, start-up, etc.).

.4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit or supervision.

.5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.

.6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

§ 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.~~Each Application for Payment to Contractors shall be based upon the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents, which schedule of values shall be updated from time to time as Contracts are awarded or as the Owner determines necessary. The schedule of values shall allocate the entire Cost of the Work among the various portions of the Work. The schedule of values shall be 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 Application for Payment of the Subcontractors.

§ 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.~~

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~~**§ 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.~~Applications for Payment to Contractors shall show the percentage completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed or (2) the percentage obtained by calculating (a) the expense which has actually been incurred by each Subcontractor and/or supplier on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment, divided by (b) the share of the Project budget allocated to that portion of the Work in the schedule of values. The Contractor shall also include a spreadsheet showing the budget verses billed-to-date totals for each of the standard CSI classifications.

§ 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.~~Payments to Contractors shall be subject to retention of not less than ten percent (10%) of the first fifty percent (50%) of the subcontract work, and not less than five percent (5%) for the last fifty percent (50%) of the subcontract work. The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments and retention for subcontracts.

§ 9.3.4 Contractor shall submit Applications for Payment in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet to the Architect, Owner's Designated Representative or Program Manager (if any). All blanks in the form must be completed and signatures of Contractor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that he has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application; that the Payment Application includes only Work self performed by Contractor or for which Contractor has been invoiced. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Nebraska. Contractor further understands that falsification of Contractor's Application for Payment may justify termination of Contractor's Contract with Owner.

§ 9.3.6 The Owner may approve payment for materials and equipment stored off the site under the following conditions: The Contractor shall furnish and maintain a suitable storage site and proper storage conditions which must be approved in advance by the Owner. Equipment and materials covered by an Application for Payment must be stored above grade, and must be properly protected at all times against weather, heat, cold, moisture, vandalism or

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theft and other hazards as the material may require. All protection must be provided by the Contractor at its own expense and must be maintained throughout the storage period. Materials and equipment must not be commingled with other similar materials or equipment, but must be stored separately and must be plainly labeled, "PROPERTY OF SCHUYLER COMMUNITY SCHOOLS" with Project name. Materials and equipment stored at the site must be stored so that they may be readily inspected, measured, and counted, at all times, by the Owner's representatives. Application for Payment for materials and equipment stored off the site must be accompanied by a bill of sale, properly identifying the material and transferring ownership of the materials to SCHUYLER COMMUNITY SCHOOLS. The bill of sale must be accompanied by an inventory of stored materials or equipment, together with a description of the storage site by street number and city, or by a legal description of the premises. The Contractor agrees that in accepting payment for the materials or equipment stored off the site, it is in no way relieved of responsibility for the safe storage of the material and its safe transportation to, and installation in, the Work or for furnishing and installing the material in strict accordance with Plans and Specifications. The Contractor further agrees that acceptance by the Owner of a bill of sale for stored materials or equipment does not imply acceptance of the same for the purposes of this Contract. Such acceptance shall not occur until completion of the Work by the Contractor and final acceptance thereof by the Owner. PROVIDED THE CONTRACTOR HAS BEEN PAID ALL AMOUNTS CERTIFIED BY ARCHITECT AND NOT REASONABLY IN DISPUTE, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM AND AGAINST ALL CLAIMS, ACTIONS, LOSSES, COSTS, DAMAGES, EXPENSES, LIABILITIES AND OBLIGATIONS, INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, RESULTING FROM (1) THE ASSERTION OR FILING OF ANY CLAIM FOR AMOUNTS ALLEGED TO BE DUE TO THE CLAIMANT FOR LABOR, SERVICES, MATERIALS, SUPPLIES, MACHINERY, FIXTURES OR EQUIPMENT FURNISHED IN CONNECTION WITH THE CONSTRUCTION OF THE WORK, (2) ANY OTHER LEGAL PROCEEDINGS INITIATED IN CONNECTION WITH THAT CLAIM.

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§ 9.4.1 The Architect will, within seven (7) calendar 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~~ return the Payment Application to the Contractor as provided in Section 9.3.4; certify, sign and issue to the Contractor a Certificate of Payment for such amount as the Architect determines is properly due, or notify the Contractor ~~and Owner~~ in writing of the ~~Architect's~~ Owner'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,~~ that the Architect has observed the progress of the Work; determined that the Work has progressed to the point indicated ~~and~~ in the Architect's professional opinion determined that the quality of the Work is in accordance with the ~~Contract Documents.~~ Construction Documents and the Contract Documents; and critically evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. The foregoing representations are subject to an evaluation of the Work for conformance with the Construction Documents and the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Construction Documents and 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 in writing to the Owner 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 unless 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. Examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

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.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.~~ Documents;

.8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

...

§ 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.~~ Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under these Conditions, then Architect may withhold any further Certificate for Payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

...

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within twenty-one (21) calendar days if Owner disputes the Architect's Certificate for Payment or Contractor's Payment Application, listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or his Surety from any obligations under the Contract Documents or Construction Documents.

§ 9.6.1.1 Notwithstanding the above, the Owner shall retain full rights to perform its own review of each Application for Payment received from the Contractor, and may request additional clarification, information, or supporting documentation from the Contractor to support the amounts listed on any Application for Payment.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than ~~seven~~ ten (10) calendar 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. The Contractor shall, within ten (10) calendar days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide copies of such Subcontractor payments to the Owner. If the Contractor has failed to make payment promptly to the Contractor's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner.

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§ 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 (7) calendar 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.~~Subcontractor. Action on the part of the Owner to require Contractor to pay a Subcontractor shall not impose any liability on Owner.

...

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§ 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~~ Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of 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.~~Contractor.

§ 9.6.8 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor provided the Subcontractors and materialmen are performing their work to the satisfaction of Contractor and in a manner consistent with their contracts.

~~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.~~**§ 9.7.1** If the Owner does not pay the Contractor any payments certified by the Architect, which is undisputed, due and owing, within thirty (30) calendar days after the date of a Certificate for Payment, then the Contractor, upon ten (10) additional calendar days' written notice to the Owner and the Architect stating that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that 1) payment has been made, or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents or the Construction Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate the Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between the Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven (7) calendar days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) calendar days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional calendar days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or

.2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

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§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Architect has determined that 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.~~Documents and Construction Documents so the Owner can occupy or utilize the Work for its intended use; all Project systems included in the Work or designated portion thereof

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have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place; substantial completion of all punch list items to be performed by Subcontractors. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal operations or other intended use or prevent the Owner from performing its preparatory tasks for opening the building, provided, however, as a condition precedent to Substantial Completion, the Owner has received from Contractor (for which Contractor is responsible to provide) all certificates of occupancy and other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for beneficial occupancy of the Project. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within thirty (30) calendar days. Contractor shall complete Owner's Substantial Completion Certificate.

§ 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 and Owner's Designated Representative or Program Manager (if any) a comprehensive list of items to be completed or corrected prior to final ~~payment.~~ payment (i.e. "punch list"). Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents and the Construction Documents.

§ 9.8.3 Upon receipt of the Contractor's punch list, the Owner and Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's and Architect's inspection discloses any item, whether or not included on the Contractor's punch list, which is not sufficiently complete in accordance with the Construction Documents or the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, then the Architect shall so notify the Contractor and Owner in writing, and 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. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will ~~prepare a Certificate of Substantial~~ prepare, sign and issue Owner's Certificate of Final 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.~~portion.

§ 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.
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§ 9.9.1 The Owner may occupy ~~or~~ and 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.~~ stage. 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.~~complete.

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§ 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.~~In the event of Partial Occupancy, the Contractor shall promptly secure endorsement from its insurance carrier(s), consent from its surety(ies), if any, and shall apply to the appropriate public authorities that have jurisdiction over the Work to permit Partial Occupancy.

§ 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.~~In the event of Partial Occupancy before Substantial Completion as provided above, the Contractor shall cooperate with the Owner in making available for the Owner's use and benefit such building services as heating, ventilating, cooling, water, lighting, telephone, elevators, and security for the portion or portions to be occupied, and if the Work required to furnish such services is not entirely completed at the time the Owner desires to occupy the aforesaid portion or portions, the Contractor shall make every reasonable effort to complete such Work or make temporary provisions for such Work as soon as possible so that the aforementioned building services may be put into operation and use. In the event of Partial Occupancy prior to Substantial Completion, provided the Contractor has met all Milestone Dates set forth in the Contract for Construction, mutually acceptable arrangements shall be made between the Owner and the Contractor with respect to the operation and cost of necessary security, maintenance, and utilities, including heating, ventilating, cooling, water, lighting, telephone services, and elevators. The Owner shall assume proportionate and reasonable responsibility for the cost of the above services reduced by any savings to the Contractor for such services realized by reason of Partial Occupancy. Further, mutually acceptable arrangements made between the Owner and the Contractor with respect to such matters shall not be unreasonably withheld, delayed, or conditioned.

§ 9.9.4 In each instance, when the Owner elects to exercise its right of Partial Occupancy, as described herein, the Owner will give the Contractor and Architect advance written notice of its election to take the portion or portions involved, and immediately prior to Partial Occupancy, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used to determine and record the conditions of the Work.

§ 9.9.5 Partial Occupancy, or use of a portion or portions of the Work, or installation of furnishings and equipment shall not: (1) constitute evidence of Substantial Completion or Final Completion; (2) constitute acceptance of any Work or portions of any Work; (3) relieve the Contractor for responsibility for loss or damage because of or arising out of defects in or malfunctioning of any Work, material, or equipment, nor from any other unfulfilled obligations or responsibilities under the Contract Documents; or (4) commence any warranty period under the Contract Documents, provided that the Contractor shall not be liable for ordinary wear and tear resulting from such Partial Occupancy.

§ 9.9.6 Subject to the terms and conditions provided herein, if Contractor claims that delay or additional cost is involved because of Partial Occupancy by Owner, Contractor shall make such claim as provided elsewhere in the Contract Documents.

§ 9.9.7 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Owner shall obtain an endorsement to Owner's Builder's Risk Policy to provide extended coverage for partial occupancy if Owner's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

...

§ 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 prepare, sign and 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~~ Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that 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~~ Construction Documents and that the entire balance, including all retainages 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. Final payment shall be made by the Owner in accordance with Owner's regular schedule for payments.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and Owner (1) using AIA Document G706 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~~ evidence satisfactory to Owner 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~~ thirty (30) calendar 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) using AIA Document G707 consent of surety, if any, to final ~~payment and (5), if required by the~~ payment, and (5) except for amounts currently withheld by Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A; notarized subcontractor's liens release; and (6) 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. Before final payment can be made, Department of Labor Division of Employment Form No. 16, Certificate of Contribution Status, must be received from the State of Nebraska Department of Labor certifying that the Contractor and each of its Subcontractors have paid all contributions and interest due to and including the calendar quarter immediately preceding the date of Substantial Completion. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

§ 9.10.2.1 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, submitted on AIA Document G706, Affidavit of Payment of Debts and Claims (latest edition) or such other form as may be prescribed by the Owner;

§ 9.10.2.2 A release or waiver of liens on behalf of the Contractor and a similar release or waiver on behalf of each Subcontractor and supplier, accompanied by AIA Document G706A, Affidavit of Release of Liens (latest edition) or such other form as may be prescribed by the Owner;

§ 9.10.2.3 A certificate evidencing that the Contractor's liability insurance and Performance Bond remain in effect during the one-year correction period following Substantial Completion as set forth in Section 12.2.2.1 and 12.2.2.2;

§ 9.10.2.4 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;

§ 9.10.2.5 Consent of surety to final payment, submitted on AIA Document G707 (latest edition) or other form prescribed by the Owner;

§ 9.10.2.6 Other data required by the Owner 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 prescribed by the Owner;

§ 9.10.2.7 A certified building location survey and as-built site plan in the form and number required by the Contract Documents;

§ 9.10.2.8 All warranties and bonds required by the Contract Documents;and,

§ 9.10.2.**9** Record drawings and "as built" drawings. At the completion of the Project, the Contractor shall submit one complete set of "as built" drawings, with all changes made during construction, including concealed mechanical, electrical and plumbing items. The Contractor shall submit these as electronic, sepia, or other acceptable medium, in the discretion of the Owner. The "as-built" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) calendar days after Owner's Board of Education has voted to accept the Work and approve Final Payment.

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§ 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~~ and 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.~~not constitute a waiver of any Claims by the Owner.

§ 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~~ asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11 PAYMENT CONTINGENT UPON AVAILABILITY OF APPROPRIATED FUNDS OR FUNDS APPROVED BY BOARD OF EDUCATION

§ 9.11.1.Any other provisions of the Contract Documents to the contrary notwithstanding, it is expressly understood and agreed that the legal obligation of the Owner to pay the Contract Sum or any part thereof shall be contingent upon the availability of funds specifically approved by formal action of the Board of Education of the SCHUYLER COMMUNITY SCHOOLS for the purpose of payment of the Contract Sum or any part thereof.

§ 9.11.2 It is agreed that the obligations of the Contractor herein are expressly contingent upon reasonable proof to the Contractor that the Owner has funds specifically approved by formal action of the Board of Education of the SCHUYLER COMMUNITY SCHOOLS for the purpose of payment of the Contract Sum or any part thereof.

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~~The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.~~ **§ 10.1.1** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC § 651 et seq., and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons and property and their requirements to maintain a work environment free of recognized hazards. This requirement applies continuously twenty-four (24) hours per day during the Construction Phase of the Project. Additionally, the Contractor shall comply with all safety standards and directives of the Owner's risk management consultants, including the consultants under any Owner Controlled Wrap-Up Insurance Program.

§ 10.1.2 The Contractor expressly agrees that as between Owner and Contractor, it is in charge of and in control of the Work and that it shall have sole exclusive responsibility to assure the safety of the Work. Neither the Owner nor the Architect is in charge of the Work or in control of the execution of the Work. The obligation of the Contractor under this Section 10.1.2 shall be construed to include, but not be limited to, injury or damage because the Contractor, its agents, and employees failed to use or misused any scaffold, hoist, crane, stay, ladder, support, or other mechanical contrivance erected or constructed by any person, or any or all other kinds or equipment, whether or not owned or furnished by the Contractor. The Contractor expressly agrees that it is exclusively responsible for compliance with OSHA and local regulations for construction and that it is the employer within the meaning of those regulations. Any provision in the Contract Documents in conflict with this Section shall be null and void. It is the express intent of the parties that this provision be given broad and liberal construction to effectuate the intent of the parties that the Contractor, and not the Architect or Owner, is in charge of the Work.

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§ 10.1.3 The Contractor shall be required in compliance with the Asbestos Hazard Emergency Response Act of 1996 to certify that all products and materials supplied as part of this Project shall be free of asbestos.

§ 10.1.4 The Contractor shall be required to submit to the Owner, with a copy to the Architect and Contractor, written certificates from all known suppliers and Subcontractors that all materials and equipment used in the potable water system are lead free and that formaldehyde levels of all materials do not exceed acceptable levels established by H.U.D.

§ 10.1.5 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any controlled substance, or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription drugs; or act in contravention of warnings on medications while performing the Work or on Owner's premises.

§ 10.1.6 Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, sub-contractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies as a result of a for-cause test, conducted immediately following removal that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.7 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a concealed weapon, and Contractor agrees that Contractor's representatives, employees, agents, and sub-contractors will abide by same.
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.1 employees on the ~~Work~~ Work, school personnel, students, and other persons on Owner's premises and other persons who may be affected ~~thereby;~~thereby including the installation of fencing between the Work site and the occupied portion of a connecting or adjacent educational facility;

...

.3 other property at the site or adjacent thereto, such as other buildings, and their contents, fencing, trees, shrubs, lawns, walks, athletic fields, facilities and tracks, 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. More specifically, the Contractor shall give notice in writing at least forty-eight (48) hours before breaking ground, to all persons, public utility companies, owners of the property having structures or improvements in proximity to the site of the Work, and persons in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise who may be affected by Contractor's operations in order to provide them with time to remove any obstruction for which they are responsible and to take action to properly protect their property.

§ 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 installing fencing, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall

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be promptly repaired by the Contractor. Contractor shall provide reasonable full protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 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.~~The Contractor shall exercise the utmost care so as not to endanger life or property in the prosecution of the Work. If the Contractor is negligent, the Contractor will be responsible for any and all damages, claims and of the defense of all actions against Owner and Architect resulting from the failure to exercise such care. Explosives shall not be employed in the prosecution of the Work.

§ 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.~~ 10.2.1.3. The foregoing obligations of the Contractor are in addition to the ~~Contractor's~~ obligations under Section 3.18.

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§ 10.2.7 The Contractor shall not load or 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.~~

§ 10.2.8 The Contractor shall do all things necessary to protect the Owner's premises and all persons from damage and injury, when all or a portion of the Work is suspended for any reason.

§ 10.2.9 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

§ 10.2.10 The Contractor shall promptly report to the Architect and Owner or their designated representatives in writing all accidents arising out of or in connection with the Work that caused death, personal injury or property damage. This report shall give full details, including statements of witnesses, hospital reports and other information in the possession of the Contractor. In addition, in the event of any serious injury or damage, the Contractor shall immediately notify the Owner and Architect by telephone of such accident.

§ 10.2.11 The duty of the Architect to conduct construction review of the Contractor's performance does not include review of the adequacy of the Contractor's safety measures in, on, or near construction sites.

§ 10.2.12 Utilities or other services indicated to be abandoned shall be maintained in service as required until new facilities are provided, tested and ready for use. The Contractor shall schedule Work so that it does not necessitate long periods of shut-down of existing facilities and these shut-downs shall be coordinated with the Owner.

§ 10.2.13 All improvements on or about the site and adjacent property which are not to be altered, removed or otherwise changed shall be returned to the conditions which existed prior to initiation of the Work.

§ 10.3 ~~HAZARDOUS MATERIALS~~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 twenty-one (21) calendar days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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~~**§ 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.~~

HAZARDOUS MATERIALS

§ 10.4.1 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, polychlorinated biphenyl (PCB), mercury, or lead, 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. If Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are

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found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.4.2 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. The Contractor may be entitled to an equitable adjustment regarding the Guaranteed Maximum Price, Date of Substantial Completion and/or Final Completion.

§ 10.4.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, BOARD OF EDUCATION, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SECTION 3.18.

§ 10.4.4 The Owner shall not be responsible under this Section 10.4 for materials or substances the Contractor brings to the site. 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.

§ 10.4.5 IF THE CONTRACTOR FAILS OR NEGLECTS TO IDENTIFY ANY HAZARDOUS MATERIALS OR SUBSTANCES AT THE PROJECT SITE, FAILS OR NEGLECTS TO GIVE WRITTEN NOTICE OF THE EXISTENCE OF HAZARDOUS MATERIALS OR SUBSTANCES AT THE PROJECT SITE TO THE OWNER AND ARCHITECT, OR FAILS OR NEGLECTS TO PROPERLY RENDER THE HAZARDOUS MATERIALS OR SUBSTANCES HARMLESS, THEN, TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S BOARD OF EDUCATION, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RELATED TO SUCH HAZARDOUS MATERIALS OR SUBSTANCES; 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 (INCLUDING THE WORK ITSELF TO THE EXTENT THE WORK IS NOT COVERED BY BUILDERS RISK INSURANCE PROCEEDS) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, 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 ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. 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 SECTION 3.18. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF NEBRASKA.

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§ 10.5 EMERGENCIES

§ 10.5.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. The Contractor shall promptly notify the Owner and Architect in writing within twenty-four (24) hours of any such emergency event. The Contractor shall promptly notify the Owner and Architect in writing within twenty-four (24) hours of any such emergency event.

§ 10.5.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

§ 10.6 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.6.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor."

§ 10.6.2 Final Payment shall not be made until this written certification has been received.

§ 10.7 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.7.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.7.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.8 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

§ 11.0.1 No Work will be commenced and no equipment or materials can be shipped until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Education. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Education. Said lack of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five (5) business days after execution of the Contract by Owner. Satisfactory evidence shall include a duly-executed ACORD Form 25-S Certificate of Insurance naming Owner as a certificate holder with the following modifications in the "Cancellation" Section: delete (line through) the words "endeavor to"; place the number "30" in the blank; and delete the words "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives".

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of

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Nebraska by the Nebraska Department of Insurance, and shall be underwritten by a company rated not less than A VII in A.M. Best's Key Rating Guide, Property-Casualty and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall be primary insurance with respect to the Owner, its officers, employees, representatives or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. 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, or 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.

§ 11.0.6 [omit]

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 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~~ and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims which may arise out of, or result from, the Contractor's operations under the Contract whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be ~~liable:~~liable, including the following:

.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be ~~performed;~~performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Sections 11.1.3.1 and 11.1.2.4);

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.8 Claims involving contractual liability insurance applicable to the Contractor's obligations under the Contract Documents, including 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.~~

COVERAGES PER OCCURANCE AND CERTIFICATES OF INSURANCE

§ 11.1.2.1 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 shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Contractor's Work until date of final payment and termination of any coverage required to be maintained after final payment to the Contractor.

§ 11.1.2.2 Certificates of insurance acceptable to the Owner and Architect shall be filed by the Contractor with the Owner and Architect prior to commencement of the Contractor's Work. These certificates required by this Article 11 shall contain a provision that coverages afforded under the policies and endorsements will not be canceled or allowed to expire until at least thirty (30) calendar days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an

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additional certificate of insurance evidencing continuation of such coverage shall be submitted with the final Application for Payment as required in Section 9.10.2. 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 to the Owner and Architect in writing within seven (7) calendar days of Contractor's first notice of the same.

§ 11.1.2.3 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.

§ 11.1.2.4 Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

§ 11.1.2.5 The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

§ 11.1.2.6 The Contractor shall require Subcontractors to provide applicable Workers' Compensation, General Liability, and Auto Liability coverages at the Subcontractors' own expense. Such coverages shall include the Owner as an additional insured and shall provide appropriate waivers of subrogation.

§ 11.1.2.7 The Contractor and its Subcontractors shall comply with all policy conditions of the insurance policies obtained pursuant to Section 11.1.1.

§ 11.1.2.8 NEBRASKA WORKERS' COMPENSATION INSURANCE

§ 11.1.2.8.1 A copy of a certificate of insurance or a certificate of authority to self insure issued by the Nebraska Department of Insurance showing statutory workers' compensation insurance coverage for the Contractor's employees providing services on a Project is required for the duration of the Project.

§ 11.1.2.8.2 Duration of the Project includes the time from the beginning of the Work on the Project until the Contractor's work on the Project has been completed and accepted by the Owner.

§ 11.1.2.8.3 Persons providing services on the Project include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.

§ 11.1.2.8.4 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

§ 11.1.2.8.5 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts which meets the statutory requirements of Nebraska law for all employees of the Contractor providing services on the Project for the duration of the Project.

§ 11.1.2.8.6 The Contractor must provide a certificate of coverage to the Owner within seven (7) calendar days after being awarded the Contract.

§ 11.1.2.8.7 If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.

§ 11.1.2.8.8 The Contractor shall obtain from each person providing services on the Project, and provide to the Owner:

.1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project;

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and

.2 No later than seven (7) calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

§ 11.1.2.8.9 The Contractor shall notify the Owner in writing by certified mail or personal delivery, within fourteen (14) calendar days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

§ 11.1.2.8.10 The Contractor shall contractually require each person with whom it contracts to provide services on the Project to:

.1 Provide coverage, based on proper reporting of classification codes and payroll amounts, which meets statutory requirements for all of its employees providing services on the Project for the duration of the Project;

.2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;

.3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.4 Obtain from each other person with whom it contracts, and provide to the Contractor:

.1 A certificate of coverage, prior to the other person beginning work on the Project; and

.2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;

.5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;

.6 Notify the Owner in writing by certified mail or personal delivery, within fourteen (14) calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and

.7 Contractually require each person with whom it contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

§ 11.1.2.8.11 By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project and that the coverage will be based on proper reporting of classification codes and payroll amounts.

§ 11.1.2.8.12 The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within fourteen (14) calendar days after receipt of notice of breach from the Owner.

§ 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.~~

LEVEL OF INSURANCE

§ 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.~~

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§ 11.1.3.1 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

Workers' Compensation:	Nebraska Statutory Limit

Employer's Liability:	Annual Limits Per Insured (minimum)
Bodily Injury by Accident:	$1,000,000
Bodily Injury by Disease - policy limit:	$1,000,000
Bodily Injury by Disease - each employee:	$1,000,000

Each contractor and each subcontractor shall provide a blanket waiver of subrogation.

.1 Contractor and each Subcontractor issued a separate policy.

§ 11.1.3.2 AUTOMOBILE LIABILITY

Combined single limit of $1,000,000 per occurrence.

§ 11.1.3.3 COMMERCIAL GENERAL LIABILITY

	Annual Limits of Liability (minimum)
General Aggregate:	$5,000,000
Products/Completed Operations Aggregate:	$2,000,000
Personal/Advertising Injury Aggregate:	$2,000,000
Each Occurrence Limit:	$1,000,000

.1 Occurrence form

.2 Deductible to Contractor and Subcontractor for property damage claims not to exceed $5,000 per occurrence, provided that the level of deductible may be increased upon evidence of financial responsibility.

.3 Coverage extensions to include:

- The Contractor shall maintain completed operations coverage for three (3) years following issuance of the certificate of substantial completion for the Project.
- Blanket waiver of subrogation
- Blanket additional insured

.4 Excludes: Asbestos, Nuclear Energy, Engineers/Architect's E&O

§ 11.1.3.4 EXCESS LIABILITY

Each Occurrence:	$2,000,000 (minimum)
Annual Aggregate:	$10,000,000 (minimum)

.1 Occurrence form

.2 Coverage extensions to include:

- The Contractor shall maintain completed operations coverage for three (3) years following issuance of the certificate of substantial completion for the Project
- Blanket additional insured

.3 Excludes: Asbestos, Nuclear Energy, Engineers/Architect's E&O

~~The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.~~ **§ 11.2.1** The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.2.2 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date on which Owner begins to occupy or use any completed or partially-completed portions of the Work. If Owner occupies or uses any completed or partially-completed portion of the Work on any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work, pursuant to Sections 9.9.1 and 11.4.4.

§ 11.2.3 Architect shall be responsible for purchasing and maintaining the Architect's liability and worker's compensation insurance as provided in the AIA Document B 104-2007, as revised.

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§ 11.3.1 BUILDER'S RISK INSURANCE

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,~~ State of Nebraska, 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~~ buildings, 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.~~and testing of all electrical and mechanical apparatuses and associated equipment, and "soft costs". Such builder's risk insurance shall also include transit coverages for materials to be incorporated into the Project, as well as temporary off-site storage locations. Sub-limits may apply with respect to transit and off-site coverages.

§ 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,~~ Owner, 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. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles.

§ 11.3.1.4 ~~This~~ Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off ~~the site,~~ the site after written approval of the Owner at the value established in the approval, 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.~~The insurance required by this Section 11.3 is not intended to cover machinery, tools or equipment owned or rented by the Contractor which are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's own expense, provide insurance coverage for owned or rented machinery, tools or equipment which shall be subject to the provisions of Section 11.3.6.

§ 11.3.1.6 Insurance provided by the Owner in favor of the Owner, Contractor and Subcontractors as described in this Section § 11.3 shall not extend to vendors or suppliers of the Contractors or Subcontractors not performing work at the Project Site.

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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;~~ Owner and include boiler and equipment breakdown coverage along with hot and cold testing coverage; 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.

...

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.~~

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§ 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.~~Before an exposure to loss may occur, the Owner may provide the Contraactor 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 thirty (30) calendar days' prior written notice has been given to the Contractor.

§ 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.**~~**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 foregoing waiver afforded the Architect, his/her agents, and employees shall not extend to the liability imposed by Section 3.18.3. The Contractor shall require the Contractor's 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 in this Section 11.3.6. 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. Contractor shall be responsible for payment of the deductible, if any, in the event of an insured loss caused by or arising out of Contractor's Work. Notwithstanding any other provision to the contrary in this Section 11.3.6, this waiver of subrogation shall apply only to the extent of actual recovery of any insurance proceeds under such policies (or recoverable proceeds if Owner or Contractor fails or refuses to recover such proceeds).

§ 11.3.7 ~~WAIVERS OF SUBROGATION~~**ADJUSTMENT OF LOSS**

~~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,~~ A loss insured under the Owner's builder's risk 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

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any applicable mortgagee clause and of Section 11.3.9. The Owner shall be a named insured. 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, ~~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.~~shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 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.~~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. 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.

§ 11.3.9 ~~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.~~ **ADJUSTMENT AND SETTLEMENT OF LOSS BY OWNER**

The Owner as fiduciary shall have power to adjust and settle a loss with insurers. The Contractor shall pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. 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.~~ reach. 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.~~under the insurance proceeds.

§ 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.~~ Partial occupancy or use shall not commence until the insurance company or companies providing this property insurance have consented to such partial occupancy or use in writing by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain such consent of the insurance company or companies and shall take no action without written mutual consent that would cause cancellation, lapse or reduction of this insurance.

§ 11.4 ~~PERFORMANCE BOND AND PAYMENT BOND~~**PERFORMANCE AND PAYMENT BOND**

§ 11.4.1 The ~~Owner shall have the right to require the Contractor to furnish~~ Contractor shall, as required by Neb. Rev. Stat. § 52-118, furnish separate payment bonds, as necessary, and 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.~~with minimum Best Rating "A". Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Expenses to be Reimbursed. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

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§ 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.~~The Contractor shall deliver the required bonds to the Owner not later than five (5) business days after execution of the Contract by the Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.4.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.4.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Nebraska. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) business days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

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§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the ~~Architect,~~ Architect or Owner, 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 or Owner 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.

...

~~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.~~**§ 12.2.1.1** The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents or Construction 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.

§ 12.2.1.2 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not promptly respond to a notice of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

§ 12.2.2 ~~AFTER SUBSTANTIAL COMPLETION~~AFTER FINAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section ~~3.5,~~ 3.5 and as a material term of the contract between the Owner and the Contractor, if, within one year after the date of ~~Substantial~~ Final Completion of the Work or designated portion ~~thereof or after the date for commencement of warranties established under Section 9.9.1, or~~

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thereof, 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 Construction Documents or the Contract Documents, the Contractor shall correct it promptly without additional cost to the Owner 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.~~the Work as provided in Section 12.2.2.1.1.

§ 12.2.2.1.1 Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents or Construction Documents, including any warranty obligations, expressed or implied, or periods of limitation and repose. THE CONTRACTUAL ONE YEAR PERIOD FOR CORRECTION OF THE WORK IS IN ADDITION TO ALL WARRANTY OBLIGATIONS OF THE CONTRACTOR AND SHALL NOT BE APPLIED TO LIMIT ANY APPLICABLE STATUTORY PERIOD OF LIMITATION OR REPOSE.

§ 12.2.2.1.2 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) business days after written notice, then Owner may, upon ten (10) additional business days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The contractual 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 contractual 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, but only as to that corrected Work.

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§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are injured or damaged by any such parts of the Work that do not conform to the requirements of the Construction Documents or the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Construction Documents or the Contract Documents, then an equitable deduction from the Contract Sum or Guaranteed Maximum Price shall be made by agreement between Contractor and Owner.

Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

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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.~~laws of the State of Nebraska, and any litigation shall be conducted in state district court. Mandatory and

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exclusive venue for any disputes shall be in Colfax County, or, if no county is specified, then the county in which the Owner's main administrative office is located.

...

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. ~~Except as provided in Section 13.2.2, neither~~ Neither party to the Contract shall assign the Contract ~~as a whole~~ in whole or in part 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.~~invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability or effect of the remainder of the Contact Documents.

...

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. Notice may also be made by facsimile transmission to the last business number known to the party giving notice. In such case, notice will be deemed received upon electronic confirmation of receipt. The party making such facsimile transmission shall also forward a copy of such notice by regular mail. Each party to the Contract shall provide all other parties with the facsimile telephone number to which all official notices should be sent.

...

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public ~~authorities.~~ authorities having jurisdiction. 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.~~ approvals which shall be included in the Cost of the Work. Provided, however, Owner shall bear all costs of inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect and Owner 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.~~

§ 13.5.1.1 Special Inspection and Special Testing in addition to the test and inspections required of the Contractor: The Owner will employ Special Inspector(s) as required by the "2006 International Building Code". The Contractor shall be responsible for coordinating, notifying, and scheduling all special inspections and special testing in order to maintain the progress of the work. The Contractor shall give the Architect and Owner timely notice of when and where special inspections and special tests are to be made so that the Architect may be present for such procedures. The Owner shall bear the costs of any special inspections and special testing performed under this subsection 13.5.1.1. The Contractor shall schedule all tests, inspections or specific approvals required by law or the Contract Documents so as to avoid any delay in the Work.

§ 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~~ then the Owner shall provide or contract for such additional testing, inspection or ~~approval by an entity acceptable to the Owner, and the Contractor shall give~~

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~~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.~~ approval. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 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~~ including, but not limited to, 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.~~Architect with a copy to the Owner.
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~~Payments~~ Undisputed 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.~~provided by Neb. Rev. Stat. § 81-2404. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's Certificate for Payment for the Architect, if Owner's Board of Education meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Education meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

§ 13.7 ~~TIME LIMITS ON CLAIMS~~TIME LIMITS ON LITIGATION
The Owner and Contractor shall commence all ~~claims and causes of action,~~ litigation, 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 and 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.~~ten (10) years after the date of Final Completion of the Work.

§ 13.8 EQUAL OPPORTUNITY IN EMPLOYMENT
§ 13.8.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.8.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to sex, disability, race, color, religion, veteran status, national or ethnic origin, age, marital status, pregnancy, childbirth or related medical condition, or other protected status.

§ 13.9 CONTRIBUTIONS UNDER NEBRASKA EMPLOYMENT SECURITY LAW
The Contractor and all Subcontractors engaged to perform any part of the Work shall make payment to the Unemployment Compensation Fund of the State of Nebraska all contributions and interest due under the provisions of the Employment Security Law, Neb. Rev. Stat. §§ 48-601, et seq. (Reissue 1988), as amended, on wages paid to individuals employed in the performance of the Contract; and before final payment shall be made of the final three percent (3%) of this Contract, the Contractor shall secure and file with the Owner, and cause any Subcontractor to secure and file with the Owner, written clearance from the Commissioner of the Department of Labor of the State of Nebraska, certifying that all payments then due of contributions or interest which may have arisen under this Contract have been made by the Contractor or any Subcontractor to the Unemployment Compensation Fund.

§ 13.10 STORAGE AND DISPOSAL OF HAZARDOUS WASTE
Fines, penalties and any other action ordered by the U.S. Environmental Protection Agency or Nebraska Department of Environmental Quality arising from the performance of the Work, but excluding preexisting site conditions, are the responsibility of the Contractor and shall not be recoverable from the Owner in any fashion.

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§ 13.11 WARRANTY OF EXAMINATION OF CONSTRUCTION DOCUMENTS

By signing this Agreement the Contractor does hereby agree, certify, warrant and represent on behalf of itself, and agrees to see that each Contractor performing the Work shall also agree, certify, warrant and represent to the Owner that their bids have been based on a full and complete examination of the Contract Documents and Construction Documents, including as determined necessary site examination; and that all statements, facts and representations made in all submittal documents and materials are true, correct, accurate, and complete, and may be relied upon by the Owner in considering the firm's bid. The Contractor understands it is its responsibility to immediately provide updated and correct information if any of the information changes at any time. Any omission, falsification or misrepresentation made by the Contractor or a Subcontractor in such documents and materials or any supplement thereto, will be sufficient grounds for failure to employ the Contractor or terminate any contract with the Owner. The Contractor and any Subcontractor by entering into an Agreement with the Owner consents and agrees to comply at all times with all Owner policies, regulations, directives, and practices.

§ 13.12 VERIFICATION OF IMMIGRATION STATUS

The Contractor agrees to use the federal immigration verification system to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska.

§ 13.13 RECORDS

§ 13.13.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within fourteen (14) calendar days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.13.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.14.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.13.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.14.1.

§ 13.13.4 Contractor shall keep all Construction Documents related to the Project, subject to the provisions of Section 13.14.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.13.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) calendar days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

§ 13.14 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.14.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.14.2 Neither Architect nor Contractor shall disclose any confidential information which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to, the location and deployment of security devices, security access codes, student likenesses, student record information or employee information.

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§ 13.14.3 The parties acknowledge that, as a political subdivision of the State of Nebraska, Owner is subject to, and must comply with, the provisions of the Nebraska Records Management Act.
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§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of ~~30 consecutive~~ ninety (90) consecutive calendar 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:

...

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped; or

.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~~ of disputed sums due on an approved 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.~~Documents.

§ 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 calendar 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~~ exists then, after the applicable time period, the Contractor may, upon twenty (20) calendar 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.~~ and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

§ 14.1.4 If the Work is stopped for a period of ~~60 consecutive~~ ninety (90) consecutive calendar 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~~ twenty (20) additional calendar days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

...

.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.

.5 fails to furnish the Owner, upon request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;

.6 engages in worker misconduct in violation of Section 3.3.2 or engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or

.7 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under 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,~~ subject to any prior rights of the surety, may without prejudice to any

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other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) calendar days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

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§ 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. Any further payment shall be limited to amounts earned to the date of termination.

§ 14.2.4 If the ~~unpaid balance of the Contract Sum exceeds~~ costs of finishing the Work, including compensation for the ~~Architect's~~ Architects' 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~~ exceed the unpaid balance of the Contract Sum, then the Contractor and/or its Surety 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~~ Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within fourteen (14) calendar days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Sections 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 If the Contractor is declared by the Owner to be in default under the Contract, then the Contractor's Performance Bond Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

...

§ 14.3.2 The Contract Sum and Contract Time ~~shall be adjusted~~ may be adjusted, by mutual agreement 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

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§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Education has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

...

§ 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.~~executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum to be exceeded. Such payment shall not include overhead and profit for Work not executed.

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§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR

...

A Claim is a written demand or assertion by ~~one of the parties~~ the Contractor seeking, as a matter of right, payment of money, interpretation of the Contract terms, extension of time, 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.~~ Contract, the Project or the Work. The responsibility to substantiate Claims shall rest with the ~~party making the Claim.~~Contractor.

...

Claims by ~~either the Owner or Contractor~~ the Contractor must be initiated by written notice to the Owner and to the Architect. Claims by Contractor must be initiated within twenty-one (21) calendar days after occurrence of the event giving rise to such Claim or within twenty-one (21) calendar days after the Contractor first knew or should have known of the condition giving rise to the Claim, whichever is earlier. Claims 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~~ titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representative. The Notice shall clearly set out the specific matter of complaint, and the impact or damages which may occur or have occurred as a result thereof, to the extent that the impact or damages can be assessed at the time of the Notice. If the impact or damages cannot be assessed as of the date of the Notice then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly. Any claim or portion of a claim by Contractor that has not been made the specific subject of a Notice within ninety (90) calendar days after the occurrence of the event giving rise to such ~~Claim or within 21 days after the claimant first recognizes~~ claim or within ninety (90) calendar days after the Contractor first knew or should have known of the condition giving rise to the Claim, whichever ~~is later.~~ is earlier, shall be waived. Contractor agrees that this is a reasonable notice requirement under Nebraska law.

...

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section ~~9.7~~ 9.7, as amended, and Article 14, as amended, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed 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 OR AN INCREASE IN THE CONTRACT SUM

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum, written notice as provided herein shall be given ~~before proceeding to execute the Work.~~ to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section ~~10.4.~~10.5. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Education, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

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§ 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.

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§ 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.~~Extensions of time will not be granted for delays caused by inadequate construction force, or the failure of the Contractor to place orders for equipment or materials sufficiently in advance to insure delivery when needed.

§ 15.1.5.3 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 prevented the execution of major items of work on normal working days.

§ 15.1.5.4 The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions in accordance with the rainfall table below. A rain day is defined as a day when rainfall exceeds one-half (.5) inch, or other form of precipitation that equals rainfall of one-half (.5) inch, during a 24-hour period. The number of rain days expected for each month is as follows:

Note: Prior to the execution of the Contract, Owner shall fill in the blanks below:

January	[0] calendar days	July	[2] calendar days
February	[0] calendar days	August	[2] calendar days
March	[1] calendar days	September	[2] calendar days
April	[2] calendar days	October	[1] calendar days
May	[3] calendar days	November	[1] calendar days
June	[3] calendar days	December	[0] calendar days

Data source: High Plains Regional Climate Center, Historical Climate Data Summaries, Lincoln, Nebraska, Airport Station, *at* http://www.hprcc.unl.edu/data/historical/index.php?state=ne&action=select_state&submit=Select+State (last visited Jan. 27, 2012).

§ 15.1.5.5 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract.

§ 15.1.5.6 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.5.7 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

The Contractor ~~and Owner waive Claims against each other~~ waives all claims against the Owner 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~~

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.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.Contract including, but not limited to consequential damages related to or arising out of the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration. The Owner expressly retains and reserves all claims against the Contractor for consequential damages arising out of or relating to this Contract.

§ 15.2 RESOLUTION OF CLAIMS AND DISPUTES

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§ 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 Owner and Owner's Designated Representative or Program Manager (if any) will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Maker for Claims arising from or relating to the Construction Manager's services. 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.

...

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.14.2.6.1.

§ 15.2.6.1 Either party may, within 30 thirty (30) days from the date of an initial decision, demand in writing that the other party file for mediation within 60 sixty (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 they waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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§ 15.3 MEDIATIONALTERNATIVE DISPUTE RESOLUTION

§ 15.3.1 Claims, disputes, or other matters in controversy Any Claim 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. Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, may by mutual agreement of the Owner and Contractor, after written recommendation by the Architect or thirty (30) calendar days after submission of the Claim to the Architect, be subject to mediation.

§ 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.

If the parties agree to resolve their Claims by mediation, such mediation shall be subject to and in accordance with the Nebraska Uniform Mediation Act. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the mediation shall be conducted by a mediation center approved by the Nebraska Office of Dispute Resolution.

§ 15.3.3 The If mediation is agreed to by the parties, the parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located,

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unless another location is mutually agreed ~~upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Education, signed by the parties if approved by the Board of Education, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Nebraska.

§ 15.3.4 A party may elect at anytime to resolve their claim though litigation pursuant to Section 13.1.

§ 15.4 NO ARBITRATION

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Nebraska, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Nebraska. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

COLFAX COUNTY SCHOOL DISTRICT 19-0123, A/K/A SCHUYLER COMMUNITY SCHOOLS	**HAUSMANN CONSTRUCTION, INC.**
Dated this ____ day of _____, 2019	**Dated this ___ day of _____, 2019**
***OWNER** (Signature)*	***CONSTRUCTION MANAGER AT RISK (Signature)***
Richard Brabec, President Board of Education	Matt Schendt, Vice President
(Name /Title)	*(Name/Title)*

~~**§ 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.~~

~~**§ 15.4.1** 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.~~

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~~**§ 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).~~

~~**§ 15.4.4.3** 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.~~

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Rex R. Schultze, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:07:32 ET on 02/08/2019 under Order No. 5551106211 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction , as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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Scott Anderson

278 Wheatley Road

Hooper, NE 68031

402-594-3071

Scott.Anderson@schuylercommunityschools.rog

January 28, 2019

Stephen Grammer

Principal

Schuyler High School

Schuyler, NE

Dear Mr. Grammer:

Please accept this letter as notification that I am leaving my position as Industrial Tech Teacher at the end of the 2018-19 school year.

I have enjoyed my time at the school and appreciate the support from you and Mr. Kasik. If you need anything else from me please let me know

Sincerely,



Scott Anderson

Rory Wendelin
411 A Street
Schuyler, NE 68661

January 31, 2019

Dr. Dan Hoesing and Mr. Stephen Grammar
Superintendent and Principal at Schuyler Community Schools
401 Adam Street
Schuyler, NE 68661

To Whom It May Concern:

I would like to thank you and the School Board at Schuyler Community Schools for the opportunity you have given me this past three years to teach your students. It has been a pleasure to serve in this district and I have grown as a teacher through the experiences here. You have provided me with every opportunity to become a better teacher, and I hope that I have taken those skills and provided quality education to your students and shared information with fellow staff members that will benefit them for years to come.

I am writing to inform you of my resignation as of the completion of the 2018-2019 school year. I have made the tough decision to no longer continue my employment in order to continue to grow elsewhere.

Again, I thank you for the opportunities you have provided me as I will say good-bye in May. I will miss the people I work with and the joy I get from teaching here.

Sincerely,



Rory Wendelin

Schuyler Community Schools Board of Education and Administration at SCHS:

As the song Kenny Rogers sings says, "You've got to know when to walk away. .," so it is with a little sadness, many memories, and a lot of excitement for what is around the next curve, that I will retire at the end of the 2018-2019 school year.

I want to thank the Schuyler Board of Education and administrators past and present for the privilege and pleasure of teaching Schuyler students for the past 43 years. Despite the normal bumps in the road, it has always been a great journey and great to be a Schuyler teacher. Thank you!

Sincerely,

Jan Kracl

Jan Kracl

Evie Sintek

420 W 22nd Street, Schuyler, NE 68661
sintekevie@gmail.com
(402-841-2512)

February 7, 2019

Dr. Dan Hoesing
Superintendent
Schuyler Community Schools
401 Adam Street
Schuyler, NE 68661

Dear Dr. Hoesing:

Due to my recent engagement with my significant other, I will be resigning from Schuyler Community Schools at the end of my 2018-2019 contract. Please accept my resignation from my position as a Fourth-Grade Teacher at Schuyler Elementary School. My last day will be May 21, 2019.

As a first year teacher, it has been a pleasure working and gaining experience at Schuyler Elementary School. My students, co-workers, and administration at Schuyler have made my teaching career extremely enjoyable thus far. Teaching at Schuyler Elementary has been a very rewarding experience and it will always hold a special space in my heart.

I would like to thank you for giving me the opportunity to work in Schuyler Community Schools for the first year of my teaching career. I wish you all the best. If I can be on any assistance to you during the remainder of the term, please let me know.

Sincerely,

Evie Sintek

Briana M. Orellana

420 W. 22nd Street, Schuyler, NE 68661 orellanabriana@gmail.com (308) 529-3624

February 6, 2019

Dr. Dan Hoesing
Superintendent
Schuyler Community Schools
401 Adam Street
Schuyler, NE 68661

Dear Dr. Hoesing:

Due to family circumstances and personal decisions with my significant other, I will be resigning from Schuyler Community Schools at the end of my 2018-2019 contract. Please accept my resignation from my position as a Fourth-Grade Teacher at Schuyler Elementary School. My last day will be May 21, 2019.

As a first year teacher, it has been a pleasure working and gaining experience at Schuyler Elementary School. My students, co-workers, and administration at Schuyler have made my teaching career extremely rewarding thus far. Teaching at Schuyler Elementary has been memorable, joyful, and honorable.

I would like to thank you from the bottom of my heart for giving me the opportunity to work in Schuyler Community Schools for the first year of my career. I wish you all the best. If I can be on any assistance to you during the remainder of the term, please let me know.

Respectfully,

Briana M. Orellana

Briana M. Orellana

cc: Bill Comley, Principal, Schuyler Elementary School
cc: Darin Kovar, Principal, Schuyler Elementary School

Administrator Salaries

Schuyler 2018-19	SCS Superintendent	Curr/Assess Director	SPED Programs Dir.	SCHS Principal	SMS Principal	SES Comley	SES K-2 Prin./K-6 AD	SCHS St. Serv. Dir	SCHS Asst Prin/AD	SMS Asst Prin/AD	Rural Principal ASP Director	Total Admin
Salary	$174,000	$107,000	$104,000	$116,000	$99,000	$105,000	$95,000	$85,000	$93,000	$84,000	$78,000	$1,140,000
Benefits (1,00 deduct)	$19,554	$19,554	$19,554	$14,650	$19,554	$19,554	$19,554	$19,554	$19,554	$19,554	$12,947	$203,583
Total Cost	$193,554	$126,554	$123,554	$130,650	$118,554	$124,554	$114,554	$104,554	$112,554	$103,554	$90,947	$1,343,583
Contract Days	240	220	220	220	220	220	220	200	220	220	205	

Administrator Salary Proposal Teachers: 3.99% Salary Increase

Schuyler 2019-20	SCS Superintendent	Curr/Assess Director	SPED Programs Dir.	SCHS Principal	SMS Principal	SES Comley	SES K-2 Prin./K-6 AD	SCHS St. Serv. Dir	SCHS Asst Prin/AD	SMS Asst Prin/AD	Rural Principal ASP Director	Total Admin
Salary	$179,000	$110,000	$107,000	$119,000	$102,000	$108,000	$98,000	$92,000	$97,000	$88,000	$83,000	$1,183,000
Benefits (1,200 deduct)	$15,398	$20,556	$20,556	$15,398	$20,556	$20,556	$20,556	$20,556	$20,556	$20,556	$13,606	$208,850
Total Cost	$194,398	$130,556	$127,556	$134,398	$122,556	$128,556	$118,556	$112,556	$117,556	$108,556	$96,606	$1,391,850
Total Increase	$844	$4,002	$4,002	$3,748	$4,002	$4,002	$4,002	$8,002	$5,002	$5,002	$5,659	$48,267
% Increase	0.43%	3.07%	3.14%	2.79%	3.27%	3.11%	3.38%	7.11%	4.25%	4.61%	5.86%	3.47%
Contract Days	240	220	220	220	220	220	220	200	220	220	210	
Salary per Day	$745.83	$500.00	$486.36	$540.91	$463.64	$490.91	$445.45	$460.00	$440.91	$400.00	$395.24	$497
Grant Support/Reimbursement		$65,278	$70,156								$40,000	$175,434

Salary Comp. / School	SCS Dr. Hoesing	SCS Dr. Gibbons	SCS Mrs. Vrba	SCHS Mr. Grammer	SMS Mrs. Burton	SES Mr. Comley	SES Mr. Kovar	SCHS Dr. Lefdal	SCHS Mr. Kasik	SMS Mr. Zavadil	Rural School Ms. Bebout
Bennington	$152,500	$91,666	$91,666	$115,353	$97,166	$91,520	$91,520	$91,666	$87,325	$74,250	$69,666
Bennington		$112,291	$112,291			$91,043	$91,043	$112,291			
Bennington						$94,856	$94,856				
Blair	$160,000	$102,475	$127,308	$126,175	$101,352	$92,391	$92,391	$102,475	$97,438	$83,500	$92,391
Blair						$96,820	$96,820		$93,730		$96,820
Crete	$152,000	$112,790	$99,704	$92,226	$94,095	$102,196	$94,178	$102,422	$103,422	$74,755	$94,178
Crete						$94,178			$79,140		
Plattsmouth	$170,775	$114,588	$114,588	$107,000	$105,870	$85,000	$85,000	$114,588	$77,500	$88,217	$84,596
Ralston	$207,000	$126,998	$104,206	$115,875	$98,592	$85,600	$85,600	$126,998	$96,863	$96,531	$85,600
Ralston		$107,948	$90,557			$106,518	$106,518	$107,948	$84,648		$106,518
Ralston		$111,194				$80,600	$80,600	$111,194	$101,514		$80,600
Ralston		$100,134				$80,600	$80,600	$100,134	$89,342		$80,600
Ralston						$95,327	$95,327				$95,327
Ralston						$80,600	$80,600				$80,600
Seward	$149,600	$118,500	$118,500	$111,960	$108,440	$97,045	$97,045	$118,500	$92,712		$97,045
Springfield-Platteview	$151,204	$97,000	$97,000	$119,882	$101,181	$96,734	$96,734	$97,000	$98,000		$96,734
Springfield-Platteview						$81,318	$81,318				$81,318
Wahoo	$150,000	$91,000	$91,000	$103,500	$96,000	$92,000	$92,000	$91,000			$92,000
Waverly	$160,679	$112,000	$112,000	$121,567	$102,116	$84,586	$84,586	$112,000	$89,431	$79,283	$84,586
Waverly						$95,033	$95,033		$80,000		$95,033
Waverly						$90,593	$90,593				$90,593
Wayne	$140,867	$91,625	$91,625	$103,975	$90,000	$90,750	$90,750	$91,625			$90,750
York	$166,226	$108,681	$102,416	$113,500	$98,368	$102,416	$102,416	$108,681			$82,342
Schuyler	**$174,000**	**$107,000**	**$104,000**	**$116,000**	**$99,000**	**$105,000**	**$95,000**	**$85,000**	**$93,000**	**$84,000**	**$78,000**

Mean	160,077	106,593	104,066	111,910	99,380	91,640	91,160	105,901	90,790	82,756	88,865
Median	152,500	108,681	102,416	113,500	98,592	92,000	91,760	107,948	91,072	81,392	90,672
Midpoint	156,289	107,637	103,241	112,705	98,986	91,820	91,460	106,925	90,931	82,074	89,768

2018-19 Salary Comparison

Rank	Superintendent	Salary
1	Ralston	$207,000
2	Schuyler	$174,000
3	Plattsmouth	$170,775
4	York	$166,226
5	Waverly	$160,679
6	Blair	$160,000
7	Bennington	$152,500
8	Crete	$152,000
9	Springfield-Platteview	$151,204
10	Wahoo	$150,000
11	Seward	$149,600
12	Wayne	$140,867

Rank	MS Principal	Salary
1	Seward	$108,440
2	Plattsmouth	$105,870
3	Waverly	$102,116
4	Blair	$101,352
5	Springfield-Platteview	$101,181
6	Schuyler	$99,000
7	Ralston	$98,592
8	York	$98,368
9	Bennington	$97,166
10	Wahoo	$96,000
11	Crete	$94,095
12	Wayne	$90,000

Rank	Special Ed. Directors	Salary
1	Blair	$127,308
2	Seward	$118,500
3	Plattsmouth	$114,588
4	Bennington	$112,291
5	Waverly	$112,000
6	Ralston	$104,206
7	Schuyler	$104,000
8	York	$102,416
9	Crete	$99,704
10	Springfield-Platteview	$97,000
11	Bennington	$91,666
12	Wayne	$91,625
13	Wahoo	$91,000
14	Ralston	$90,557

Rank	HS Principal	Salary
1	Blair	$126,175
2	Waverly	$121,567
3	Springfield-Platteview	$119,882
4	Schuyler	$116,000
5	Ralston	$115,875
6	Bennington	$115,353
7	York	$113,500
8	Seward	$111,960
9	Plattsmouth	$107,000
10	Wayne	$103,975
11	Wahoo	$103,500
12	Crete	$92,226

Rank	MS Asst. Principal/AD	Salary
1	Ralston	$96,531
2	Plattsmouth	$88,217
3	Schuyler	$84,000
4	Blair	$83,500
5	Waverly	$79,283
6	Crete	$74,755
7	Bennington	$74,250

Rank	Directors	Salary
1	Ralston	$126,998
2	Seward	$118,500
3	Plattsmouth	$114,588
4	Crete	$112,790
5	Bennington	$112,291
6	Waverly	$112,000
7	Ralston	$111,194
8	York	$108,681
9	Ralston	$107,948
10	Schuyler - Gibbons	$107,000
11	Blair	$102,475
12	Ralston	$100,134
13	Springfield-Platteview	$97,000
14	Bennington	$91,666
15	Wayne	$91,625
16	Wahoo	$91,000
17	Schuyler - Lefdal	$85,000

Rank	HS Asst. Principal/AD	Salary
1	Crete	$103,422
2	Ralston	$101,514
3	Springfield-Platteview	$98,000
4	Blair	$97,438
5	Ralston	$96,863
6	Blair	$93,730
7	Schuyler	$93,000
8	Seward	$92,712
9	Waverly	$89,431
10	Ralston	$89,342
11	Bennington	$87,325
12	Ralston	$84,648
13	Waverly	$80,000
14	Crete	$79,140
15	Plattsmouth	$77,500

Rank	Elem Principal	Salary
1	Ralston	$106,518
2	Schuyler- Comley	$105,000
3	York	$102,416
4	Crete	$102,196
5	Seward	$97,045
6	Blair	$96,820
7	Springfield-Platteview	$96,734
8	Ralston	$95,327
9	Waverly	$95,033
10	Schuyler - Kovar	$95,000
11	Bennington	$94,856
12	Crete	$94,178
13	Blair	$92,391
14	Wahoo	$92,000
15	Bennington	$91,520
16	Bennington	$91,043
17	Wayne	$90,750
18	Waverly	$90,593
19	Ralston	$85,600
20	Plattsmouth	$85,000
21	Waverly	$84,586
22	Springfield-Platteview	$81,318
23	Ralston	$80,600
24	Ralston	$80,600
25	Schuyler - Bebout	$78,000

Kathy Ohlman Inbox - G-mail 3:29 PM KO

Capitol Concert Performance March 4

To: Dan Hoesing

Dr. Dan Hoesing:

The Schuyler Middle School 8th Grade Band has been selected to participate in the Nebraska Music Educators Association (NMEA) Capitol Concert Series. Eight music groups were selected from across the state and will perform in the Rotunda of the Capitol on Monday, March 4 through Thursday, March 7 to celebrate Music in our Schools Month and emphasize the importance of music as fundamental to a well-rounded education. The ensemble from your district or school will perform on Monday, March 4 from 12:00-12:30.

As the Director of Advocacy for the Nebraska Music Education Association, I would like to take this opportunity to invite you to hear the group and celebrate with us at the Capitol. The Senator from your district has also been contacted, and many Senators from across the state are planning to attend. The Capitol Concert Series is a great opportunity for students to meet their State Senator, take part in advocating for support of music in our schools, perform in our beautiful State Capitol, and possibly tour the building. I hope you will consider being a part of the celebration!

Thank you for supporting music education in your school or district. Without administrators that value the importance of music as a basic human endeavor, our students would not gain many of the benefits or skills embedded and inherent in the process of making music.

Kathleen Ohlman
Director of Advocacy
Nebraska Music Education Association

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Kathleen Ohlman | Music Education
Doane University 1014 Boswell Ave., Crete, NE 68333
main 402-826-6734 cell 402-217-3861

ACT Average Scale Scores

These are the average ACT scores for all students. The possible score range is from 1-36. The sum is the sum of all scores.

Year	English	Math	Reading	Science	Composite
2016-17	15.1	16.6	15.7	16.2	16.0
2017-18	14.5	16.9	16.0	16.8	16.2

Percentage of Students At Each Proficiency Level

There are three proficiency levels on the ACT Statewide Assessment. Students who score at the Developing level are not yet meeting expectations set by the state. They would likely need developmental courses before being able to access credit bearing courses at the post secondary level. On Track students meet the expectations set by the state and are approaching the ACT College Readiness Benchmark. They are likely able to access credit-bearing first-year related content courses at some Nebraska postsecondary institutions without remediation. Students that meet or exceed the ACT College Readiness Benchmark are equipped to enroll (without remediation) and succeed in a credit-bearing first-year course at a two-year or four-year institution, trade school, or technical school. Students have at least a 50% chance of getting a B or better and a 75% chance of getting C or better in a first-year related content course.

Score Ranges for Each Performance Level

Performance Level	Math	ELA	Science
ACT Benchmark (College Career Ready)	22-36	20-36	23-36
On Track	18-21	18-19	19-22
Developing	1-17	1-17	1-18

Percentage of Schuyler Central High School Students at each Performance Level

	Eng./Lang. Arts		Math		Science	
	2016-17	2017-18	2016-17	2017-18	2016-17	2017-18
ACT Benchmark (meets expectations)	23%	11%	12%	12%	7%	10%
On Track (meets expectations)	9%	8%	9%	12%	17%	13%
Developing (does not meet expectations)	68%	81%	79%	77%	76%	77%

Nebraska Council of School Administrators

NCSA Legislative Bill Summaries
106th Legislature, First Session

Prepared by
Dr. Michael Dulaney
NCSA Executive Director
Updated January 27, 2019

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	LB 488	Howard	Education	Adopt school district requirements for mental health education and change school district requirements for drug awareness and prevention	2
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Criminal and Juvenile Codes

LB 54	*Sponsor*	*Committee*	*Subject*
	Lowe	Judiciary	Change provisions relating to carrying a concealed weapon

LB 54 changes the provision of the Nebraska Criminal Code related to carrying a concealed weapon. The bill provides that the law would not apply to possessing, carrying, transporting, shipping, or receiving a firearm for any lawful purpose to or from any place where the firearm may be lawfully possessed or carried by a person IF the firearm is unloaded and stored in a case and the person is not otherwise prohibited by state or federal law from possessing, carrying, transporting, shipping, or receiving a firearm.

The bill defines "case" as (i) a hard-sided or soft-sided box, container, or receptacle intended or designed for the purpose of storing or transporting a firearm or (ii) the firearm manufacturer's original packaging.

LB 149	*Sponsor*	*Committee*	*Subject*
	Quick	General Affairs	Change provisions relating to vapor products

LB 149 amends the Criminal Code to prohibit a person under the age of 21 years from use of vapor products. The offense would be a Class V misdemeanor.

Whoever sells, gives, or furnishes, in any way, any vapor products or flavored liquids, to any individual under 21 years of age, is guilty of a Class III misdemeanor for each offense.

Curriculum, Assessment

LB 399	*Sponsor*	*Committee*	*Subject*
	Slama	Education	Change the name and provisions related to the committee on Americanism

LB 399 is nearly identical to LB 1069 (2018), which was introduced by former senator, Lydia Brasch. LB 1069 was placed on General File in 2018 by a floor motion. The Legislature briefly debated but did not advance the bill any further.

LB 399 changes provisions relating to: (a) duties of a committee on Americanism; (b) testing requirements for school districts; and, (c) administrative responsibilities for NDE.

Under LB 399, each school district committee on Americanism must hold no fewer than three public meetings annually, keep minutes of all meetings, and ensure social studies curriculum adequately stresses American values that give students the opportunity to become competent, responsible, patriotic, and civil citizens.

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The measure also requires the State Board of Education to adopt and promulgate rules and regulations to carry out the provisions made in the bill. The bill removes an existing provision of law that states anyone who violates the Americanism law is guilty of a Class III misdemeanor.

Perhaps one of the more controversial provisions of the bill relates to a new assessment requirement. The bill requires school districts to administer the 100-question civics portion of the naturalization examination administered by the U.S. Citizenship and immigration Services. The test must be administered to students no later than the eighth and eleventh grades. Scores would be reported to parents/guardians and aggregate scores for the district must be reported to NDE.

LB 488	*Sponsor*	*Committee*	*Subject*
	Howard	Education	Adopt school district requirements for mental health education and change school district requirements for drug awareness and prevention

LB 488 provides that, starting with school year 2020-21, each school district must incorporate age-appropriate mental health education into the school program.

Mental health education must include defining mental health, recognizing mental health warning signs, identifying characteristics of mental wellness, and utilizing resources for assistance with mental health issues.

In addition, also starting with school year 2020-21, each school district must incorporate age-appropriate comprehensive drug awareness and prevention education into the school program for students in each grade, which would include:

a) Strategies to prevent illegal use of alcohol, tobacco, and other drugs;

b) Strategies to reduce or eliminate the incidence and prevalence of student alcohol, tobacco, and drug abuse;

c) Strategies to reduce the factors that place students at risk of abusing alcohol, tobacco, and other drugs;

d) The development of school environments and alternative activities that are alcohol, tobacco, and drug-free; and

e) At least sixty minutes of instruction for each student on the dangers of opioid use, the addictive characteristics of opioids, and safer alternatives to treat pain.

LB 640	*Sponsor*	*Committee*	*Subject*
	Howard	Education	Include study relative to the Holocaust and other genocides in provisions relating to multicultural education

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LB 640 amends the multicultural education studies law, which was originally passed in 1992. The current law provides that schools must provide multicultural education studies relative to the culture, history, and contributions of African Americans, Hispanic Americans, Native Americans, and Asian Americans.

LB 640 would expand the required studies to include the Holocaust and other acts of genocide, which may include, but not be limited to, such acts in Armenia, Ukraine, Cambodia, Bosnia, Rwanda, and Sudan.

Early Childhood Education

	Sponsor	*Committee*	*Subject*
LB 66	Hansen, M.	Urban Affairs	Provide for an early childhood element in a comprehensive plan developed by a city

LB 66 (2019) requires cities and villages that develop a new or updated comprehensive plan after the effective date of the bill, but not later than January 1, 2022, to include an early childhood element.

The early childhood element would have three requirements: 1) an assessment of the supply of quality licensed early childhood education programs for children under six, 2) an evaluation of the availability and utilization of licensed child care capacity and quality for children under six, and 3) promotion of early childhood health and education measures that benefit the community.

Note: In 2018 Senator Hansen introduced the same measure (LB 880), which was advanced to General File by the Urban Affairs Committee but advanced no further.

	Sponsor	*Committee*	*Subject*
LB 160	Quick	Urban Affairs	Redefine terms under the Local Option Municipal Economic Development Act to include early childhood infrastructure development and quality early childhood care and programs for certain cities and villages

The Holland Children's Movement website provides an accurate short history of the Local Option Municipal Economic Development Act. In 1991, the Legislature passed the Local Option Municipal Economic Development Act (LB 840), which authorizes incorporated cities and villages to collect and appropriate local tax dollars for economic development purposes. Since the passage of LB 840 (1991), sixty-eight Nebraska communities have made use of this economic incentive. To this day, use of such incentives are often referred to as "840 funds."

LB 160 is very similar to LB 768 (2018), which was advanced by the Urban Affairs Committee to General File but did not pass.

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LB 160 would allow first and second-class cities and villages to carry out early childhood infrastructure development projects under the provisions of the Local Option Municipal Economic Development Act.

Early childhood infrastructure development pertains to early childhood education programs of recognized quality, as determined by the quality rating criteria provided under the Nebraska Step Up to Quality Child Care Act.

Note: Quality rating and improvement system incentives and support under the Step Up to Quality Child Care Act include:

a) Tiered child care subsidy reimbursements as based upon quality scale ratings of step three or higher that reflect the cost of higher quality programs and promote affordability of high-quality child care and early childhood education programs for all families;
b) Incentive bonuses given to providers of child care and early childhood education programs upon completion of specific requirements of step two ratings or higher to improve quality;
c) Professional development, training, and scholarships developed in collaboration with community-based organizations, postsecondary education representatives, and other stakeholders;
d) Support that expands family engagement in and understanding of high-quality early childhood education in ways that are inclusive and respectful of diversity of families and children with special needs; and
e) Other incentives as necessary to carry out the Step Up to Quality Child Care Act.

LB 358	*Sponsor*	*Committee*	*Subject*
	Walz	Education	Change provisions related to early childhood education in the Tax Equity and Educational Opportunities Support Act

LB 358 is identical to LB 521, also introduced by Senator Walz, in 2017. LB 521 was not advanced from the Education Committee.

Early Childhood Membership: LB 358 changes the calculation of qualified early childhood education membership for purposes of the school finance formula. Currently, early childhood membership is calculated based upon 60% of the students who are enrolled in an approved early childhood education grant program and who are eligible to attend kindergarten in the following school year. The bill changes the percentage to 80% of the early childhood membership.

Early Childhood Education Allowance: The bill includes an early childhood education allowance in the school aid formula. The allowance equals the qualified early childhood fall membership times the statewide average general fund operating expenditures per formula student. The amount of the early childhood education allowance is included in formula needs. An allowance in the formula attributes expenditures for a specific purpose, in this case, early childhood education, to school districts incurring the expenditure.

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Early Childhood Transportation Costs: LB 521 also includes transportation costs for early childhood education. The costs are equal to the miles included in the current transportation allowance that were traveled to transport early childhood education students taken times 400% of the mileage rate established by the Department of Administrative Services plus in lieu of transportation expenditures paid exclusively to transport early childhood education students.

Early Childhood Education Aid: Fifty percent of the sum of the early childhood education allowance plus early childhood education transportation costs as calculated under the bill are to be paid to school districts as early childhood aid. The amount of early childhood education aid is included as a local resource in the formula.

Employment Issues

LB 217

Sponsor	*Committee*	*Subject*
Pansing Brooks	Business/Labor	Prohibit retaliation against employees for communicating about wages

LB 217 adds a new section to the Nebraska Wage Payment and Collection Act.

The bill provides that an employer may not discharge or in any other manner retaliate against any employee because the employee inquired about, discussed, or disclosed comparative compensation information for the purpose of determining whether the employer is compensating any employee in a manner that provides equal pay for equal work.

The bill would not apply to instances in which an employee who has authorized access to the wage information of other employees as a part of the employee's job functions discloses the wages of other employees to an individual who does not otherwise have authorized access to the information, unless the disclosure is in response to a charge or complaint or in furtherance of an investigation, proceeding, hearing, or other action, including an investigation conducted by the employer.

LB 254

Sponsor	*Committee*	*Subject*
McCollister	Business/Labor	Adopt the Fair Chance Hiring Act

In 2014 the Legislature passed an omnibus criminal justice bill, LB 907, that did not immediately impact education in any major way. This changed with the inclusion of provisions from another bill relating to public employers and criminal records.

The controversial provision stated that a public employer may not ask an applicant for employment to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the public employer has determined the applicant meets the minimum employment qualifications. *[Ref. § 48-202]*

The legislation provided exceptions for (i) law enforcement agencies, (ii) any position for which a public employer is required by federal or state law to conduct a criminal history record information

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check, or (iii) any position for which federal or state law specifically disqualifies an applicant with a criminal background.

The education lobby worked diligently to get some recognition and protection of public schools during the debate on LB 907. The "compromise" was the adoption of a provision stating that nothing would prevent a public employer that is a school district or ESU from requiring an applicant for employment to disclose an applicant's criminal record or history relating to sexual or physical abuse.

LB 254 would create the Fair Chance Hiring Act, which would be comprised of a revised version of existing law, section 48-202, coupled with two new sections of law.

Under LB 254 the concept initially passed in 2014 remains the same. The bill adds employment agencies and includes private schools in certain aspects, and adds a new requirement for employers covered under the legislation.

The general rule remains intact in that an employer or employment agency may not ask an applicant to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the employer or employment agency has determined the applicant meets the minimum employment qualifications.

The bill inserts new language stating that prior to determining whether an applicant meets the minimum employment qualifications, an employer or employment agency may ask the applicant to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, if:

(a) The applicant is applying for a position for which: (i) A criminal history record information check is required by federal or state law; or (ii) Federal or state law specifically disqualifies an applicant with a criminal background even if such law allows for a waiver that would allow such applicant to be employed; and

(b) The inquiry or request for disclosure is limited to the types of criminal offenses that the employer or employment agency is required to conduct a check for or that disqualify the applicant.

Existing law remains intact in that nothing would prevent a school district, an ESU, or a private school from requiring an applicant to disclose an applicant's criminal record or history relating to sexual or physical abuse.

The bill leaves intact the provision that nothing would prevent an employer or employment agency from preparing or delivering an employment application that conspicuously states that a criminal history record information check is required by federal law, state law, or the employer's or employment agency's policy.

The bill leaves intact the provision that nothing would prevent an employer or employment agency from conducting a criminal history record information check after the employer or employment agency has determined that the applicant meets the minimum employment qualifications.

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Important New Provision

Under LB 254, IF an employer or employment agency inquires about or requests disclosure of an applicant's criminal history record information and the applicant is still eligible for the position under federal or state law, THEN the employer or employment agency must afford the applicant an opportunity to explain the information and the circumstances regarding any convictions or other criminal history, including the applicant's rehabilitation.

The bill includes new definitions for purposes of the bill:

a) "Applicant" means (i) any individual considered for, or who requests to be considered for, employment by an employer, or (ii) any employee considered for, or who requests to be considered for, another employment position with his or her employer;

b) "Employee" means an individual employed by an employer;

c) "Employer" means any person having in his or her employ fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year and includes the State of Nebraska, governmental agencies, and political subdivisions, regardless of the number of employees, any person acting for or in the interest of an employer, directly or indirectly, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act, but such term does not include (i) the United States, (ii) a corporation wholly owned by the government of the United States, (iii) an Indian tribe or (iv) a law enforcement agency;

d) "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employee's opportunities to work for an employer and includes an agent of such a person, but does not include an agency of the United States, except that such term does include the United States Employment Service and the system of state and local employment services receiving federal assistance;

e) "Law enforcement agency" means an agency or department of this state or of any political subdivision of this state which is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of the town marshal, an office of the county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned; and

f) "Person" includes one or more individuals, partnerships, limited liability companies, associations, corporations, business trusts, legal representatives, or any organized group of persons.

LB 306	*Sponsor*	*Committee*	*Subject*
	Crawford	Business/Labor	Change provisions relating to good cause for voluntarily leaving employment under the Employment Security Law

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The Employment Security Law (§ 48-628.13) provides for "good cause" for voluntarily leaving employment for a variety of reasons. LB 306 adds another such good cause:

An individual left his/her employment to care for a family member with a serious health condition.

Family member means:

a) A biological, adopted, or foster child, a stepchild, or a legal ward of the individual or the individual's spouse or a person to whom the individual or the individual's spouse stood in loco parentis when such person was a minor child, regardless of the age or dependency status of such child, stepchild, legal ward, or person;

b) A biological, adoptive, or foster parent, a stepparent, or a legal guardian of the individual or the individual's spouse or a person who stood in loco parentis to the individual or the individual's spouse when the individual or the individual's spouse was a minor child;

c) The individual's spouse or domestic partner; or

d) A grandparent, grandchild, or sibling, whether of a biological, foster, adoptive, or step relationship, of the individual or the individual's spouse.

Under the bill, "serious health condition" is defined using the existing federal law cited in 29 U.S.C. 2611.

LB 361	*Sponsor*	*Committee*	*Subject*
	Hansen, M.	Business/Labor	Prohibit retaliation under the Nebraska Wage Payment and Collection Act and the Wage and Hour Act

Wage and Hour Act

LB 361 amends the Act such that an employer may not retaliate or discriminate against an employee or applicant for employment because the employee or applicant:

(1) Files a complaint under the Wage and Hour Act; or

(2) Testifies, assists, or participates in an investigation, proceeding, or action concerning a violation of the act.

In any action brought to enforce the above provision, the court will have jurisdiction to grant legal or equitable relief as the court deems appropriate to effectuate the purposes of the Wage and Hour Act, including temporary or permanent injunctive relief and general and special damages.

Nebraska Wage Payment and Collection Act

LB 361 provides that an employer may not retaliate or discriminate against an employee or applicant for employment because the employee or applicant:

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(1) Files a complaint under the Nebraska Wage Payment and Collection Act; or

(2) Testifies, assists, or participates in an investigation, proceeding, or action concerning a violation of the act.

LB 383	*Sponsor*	*Committee*	*Subject*
	Quick	Business/Labor	Provide for an annual adjustment to the minimum wage

As set forth in previous legislation, the current minimum wage is $9.00 per hour.

Under LB 383, the current minimum wage would sunset on April 1, 2020.

The bill establishes a new method for establishing a minimum wage. After April 1, 2020 and no later than January 31, 2020, the State Treasurer would adjust the minimum wage by an amount determined by the State Treasurer at the end of the preceding calendar year to reflect the average annual percentage change in the consumer price index for the most recent five-year period for which data is available. The minimum wage would be rounded to the nearest cent divisible by five. The minimum wage would become effective beginning April 1 of that year.

The process would be repeated each year by January 31st and effective April 1st.

An annual increase would not exceed 3.5%. The bill requires the Department of Labor to post on the department's website, by February 1st each year the adjusted minimum wage that will take effect April 1 of that year. The consumer price index to be used is the Consumer Price Index for All Urban Consumers, as prepared by the U.S. Department of Labor, Bureau of Labor Statistics.

LB 487	*Sponsor*	*Committee*	*Subject*
	La Grone	Business/Labor	Require the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary

LB 487 amends the Nebraska Workers' Compensation Act and requires the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary consisting of prescription drugs listed in Schedules II, III, IV, and V of section 28-405. The formulary must apply to prescription drugs that are prescribed and dispensed for outpatient use in connection with any workers' compensation claim with a date of injury on or after January 1, 2020.

A prescription drug that <u>is</u> included in the formulary adopted by the court and recommended in the formulary is presumed to be reasonable and may be prescribed and dispensed without obtaining prior authorization from the workers' compensation insurer, risk management pool, or self-insured employer.

A prescription drug that <u>is not</u> included in the formulary adopted by the court or that is included but not recommended in the formulary is presumed to be reasonable if prior authorization for the

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drug is obtained from the workers' compensation insurer, risk management pool, or self-insured employer.

LB 526

Sponsor	*Committee*	*Subject*
McDonnell	Business/Labor	Change provisions relating to compensation for temporary disability under the Nebraska Workers' Compensation Act

LB 526 amends the Nebraska Workers' Compensation Act (§ 48-121) relating to compensation for injuries resulting in disability.

Under current provisions, the compensation would be in addition to the amount paid for temporary disability, except that the compensation for temporary disability would cease as soon as the extent of the permanent disability is ascertainable.

LB 526 provides that compensation for temporary disability would continue until the later of (a) any permanent disability, as measured by permanent impairment for a scheduled member injury, has been determined or, in the event of a claim payable under a loss of earning capacity, until a loss of earning capacity evaluation has been issued or (b) 30 days after the employee has been given notice as provided below.

The bill provides that compensation for temporary disability may only cease after the employee has been given 30 days' notice. Upon termination of temporary disability benefits, the employer must provide copies of all evidence which were relied upon in making the determination to cease benefit payments. If the employer relies upon evidence from outside of the treating physicians, the employee must be entitled to seek a medical finding by an independent medical examiner to be paid for by the employer. Such independent medical examiner would be chosen by the employee.

LB 537

Sponsor	*Committee*	*Subject*
Lathrop	Education	Change provisions relating to actions with regard to the performance or conduct of a certificated school district employee

Under current law (§ 79-826), a superintendent or designee may take action with regard to a certificated employee's performance or conduct, which is deemed reasonably necessary to assist the certificated employee and further school purposes, including:

1) Counseling;
2) oral reprimand;
3) written reprimand; and
4) suspension without pay for not to exceed 30 working days.

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LB 537 would add to this list of actions the imposition of a performance improvement plan or other form of administrative directive to address alleged performance deficiencies.

LB 627	*Sponsor*	*Committee*	*Subject*
	Pansing Brooks	Judiciary	Prohibit discrimination based upon sexual orientation and gender identity

LB 627 amends as series of statutes within the Nebraska Code to prevent sexual orientation, or gender identity in employment, public accommodation, and housing.

"Gender identity is defined in the bill as the actual or perceived appearance, expression, identity, or behavior of an individual, whether or not that appearance, expression, identity, or behavior is different from that traditionally or stereotypically associated with the individual's assigned sex at birth.

"Sexual orientation" is defined as actual or perceived homosexuality, heterosexuality, or bisexuality.

Income Tax

LB 50	*Sponsor*	*Committee*	*Subject*
	Vargas	Revenue	Change individual income tax brackets and rates

Under LB 50, the income tax brackets for individuals earning under $100,000 would remain the same. Those earning over $100,000 or $200,000 for married, filing jointly would fall under a new bracket of 7.84%.

The bill also imposes a 1% tax rate on that portion of the taxpayer's Nebraska taxable income in excess of $1 million and a tax at the rate of 2% on that portion of the taxpayer's Nebraska taxable income in excess of $2 million.

The new tax rates would be implemented on January 1, 2019.

LB 288	*Sponsor*	*Committee*	*Subject*
	Linehan	Revenue	Change income tax rates

LB 288 is a placeholder bill offered by the Revenue Committee in the event a change in the income tax rates is required.

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Learning Community

LB 161

Sponsor	*Committee*	*Subject*
Erdman	Education	Eliminate learning communities

LB 161 dissolves the Learning Community effective July 1, 2020. The 143-page bill harmonizes Nebraska laws consistent with the intent of the bill.

Under the bill the learning community coordinating council must prepare for the dissolution by transferring all assets to member school districts and performing other tasks as may be necessary for an orderly dissolution. Any remaining records, books, papers, and personal property belonging to the learning community after the dissolution must be delivered to the State Board of Education to be distributed to the school districts that were members of the learning community immediately prior to its dissolution. Any liabilities of the learning community remaining after dissolution must be divided proportionately between former member school districts based on the taxable valuation of the school districts.

LB 398

Sponsor	*Committee*	*Subject*
DeBoer	Education	Change learning community levy and diversity plan requirements

Use of Levy: Under current law, a learning community may levy a maximum levy of 1.5¢ for (i) early childhood education programs for children in poverty, (ii) elementary learning center employees, (iii) contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and (iv) pilot projects. However, no more than 10% of the levy authority may be used for elementary learning center employees.

LB 398 eliminates the stipulation that no more than 10% of the levy authority may be used for elementary learning center employees.

Report Deadline: Under current law, a learning community coordinating council must evaluate programs related to the community achievement plan developed with the assistance of the student achievement coordinator or other department staff designated by the Commissioner of Education and evaluate and research the progress of the learning community. A learning community must report the evaluation and research results electronically to the Education Committee of the Legislature by January 1st of each year.

LB 398 changes the reporting deadline to February 1st of each.

Diversity Plan: Current law requires a learning community, together with its member school districts, to develop a diversity plan to provide educational opportunities in each subcouncil district designed to attract students from diverse backgrounds, which plan may be revised from time to time.

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The goal of the diversity plan shall be to annually increase the socioeconomic diversity of enrollment at each grade level in each school building within the learning community until such enrollment reflects the average socioeconomic diversity of the entire enrollment of the learning community.

LB 398 modifies the goal of the diversity plan to increase the socioeconomic diversity of enrollment at each grade level in each school building within the learning community.

Current law requires a learning community coordinating council to report electronically to the Education Committee of the Legislature by January 1 of each odd-numbered year on the diversity and changes in diversity at each grade level in each school building within the learning community and on the academic achievement for different demographic groups in each school building within the learning community.

LB 398 changes the reporting deadline to February 1st.

Lottery Funds

LB 104	*Sponsor*	*Committee*	*Subject*
	Linehan	Education	Change distribution of the Nebraska Education Improvement Fund

In 2015 the Legislature passed LB 519, introduced by Senator Sullivan, which, in part, required the Education Committee to submit recommendations to the Clerk of the Legislature regarding how the Nebraska Education Improvement Fund should be allocated to best advance the educational priorities of the state for the five-year period beginning with fiscal year 2021-22. The recommendations must be filed by December 31, 2019.

The foregoing provision remains intact under LB 104, however, the bill appears to tag or insert a placeholder for one particular interest.

The bill provides that for fiscal years 2021-22 through 2026-27, 62% of the revenue received by the Nebraska Education Improvement Fund will be allocated to the Nebraska Opportunity Grant Fund to carry out the Nebraska Opportunity Grant Act in conjunction with appropriations from the General Fund. The grant program is used to award grants to individual students for expenses in conjunction with attending a Nebraska postsecondary institution.

Miscellaneous

LB 73	*Sponsor*	*Committee*	*Subject*
	Erdman	Education	Require display of the national motto in schools

LB 73 provides that each school board must prominently display the national motto of the United States, "In God We Trust," written legibly in English, in each classroom or in another prominent

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place in each school building where each student will be able to see and read it each day school is in session. A school board may accept contributions to defray the costs of implementing the provisions of the bill.

The bill further provides that upon the filing of an action seeking to invalidate this section in any state or federal court, the Attorney General must intervene on behalf of any school board and any other party named as a defendant for their role in implementing the legislation.

LB 115

Sponsor	*Committee*	*Subject*
Blood	Education	Change provisions related to enrollment of children of members of the military

LB 115 amends current law (§ 79-215) to state that, in order to carry out the provisions of the Interstate Compact on Educational Opportunity for Military Children (passed in 2011), a school board must permit children of military families to enroll "preliminarily" in a school district if a parent presents evidence of military orders that the military family will be stationed in this state during the current or following school year. A student of a military family must be admitted to the school district without charge upon arrival in Nebraska if the requirements are met.

NDE is required to establish procedures and criteria for enrollment, admission, and related information needed for any student to attend a school district in this state, which must include having an adult with legal or actual charge or control of a student provide through electronic means or other means specified by the department (i) the name of the student, (ii) the name of the adult with legal or actual charge or control of the student, (iii) the address where the student is or will be residing, and (iv) information on how and where the adult may generally be reached during the school day.

Finally, the bill modifies existing law (§ 79-216) to state that, in all cases, when any person is on active duty as a member of the U.S. Army, Navy, Marine Corps, or Air Force in the State of Nebraska and is residing on federally owned property, any child of school age of such active duty member who also resides on such property must be considered a resident of the school district where the property is located and may be admitted under the provisions of the residency law (§ 79-215).

LB 174

Sponsor	*Committee*	*Subject*
Bolz	Appropriations	State intent relating to appropriations for the Office of Violence Prevention

In 2009 legislation was passed to create the Office of Violence Prevention, which would be responsible for developing, fostering, promoting, and assessing violence prevention programs.

LB 174 would appropriate $1.525 million for each fiscal year beginning with FY2019-20 to the Office of Violence Prevention. The office must use the appropriations to increase total grant

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awards, develop an annual statewide strategic plan, increase administrative capacity, and develop a technical assistance partnership with the University of Nebraska.

LB 292

Sponsor	*Committee*	*Subject*
Vargas	Appropriations	Appropriate funds to the State Department of Education

In 2009 the Legislature passed legislation to create the Center for Student Leadership and Expanded Learning Act. The purpose of the Act was to provide state support for establishing and maintaining within NDE the Center for Student Leadership and Expanded Learning.

The center would provide ongoing financial and administrative support for state leadership and administration of Nebraska career education student organizations, create and coordinate opportunities for students to participate in educational activities outside the normal classroom, and partner with state and local organizations to share research and identify best practices that can be disseminated to schools and community organizations.

LB 292 would propose a $500,000 appropriation from the General Fund for FY2019-20 and $500,000 for FY2020-21 to NDE to carry out the Nebraska Information Technology Initiative under the Center for Student Leadership and Expanded Learning Act.

LB 404

Sponsor	*Committee*	*Subject*
Stinner	Appropriations	State intent relating to Medicaid budgeting

LB 404 appears to be a placeholder bill with regard to the obligation of the State to implement Medicaid expansion as per the wish of the voters in the 2018 General Election.

The bill is a simple intent bill for FY2019-20 and thereafter that appropriations for the Medicaid aid obligations of the state will be made in three separate and distinct appropriations programs.

The three programs will be titled as (i) Medicaid Expansion, (ii) Medicaid Long-Term Care (including a separate subprogram for nursing facilities appropriations and expenditures), and (iii) Other Medical Assistance.

LB 575

Sponsor	*Committee*	*Subject*
Brewer	Education	Require school district policies regarding the provision of information to and access by military recruiters

Under 575 each school district must adopt a policy to provide access to routine directory information for each student in a high school grade upon a request made by a military recruiter.

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A parent/guardian may submit a written request to the district that routine directory information for the student may not be released for such purposes without prior written consent of the parent/guardian. Upon receiving the request, a district may not release the routine directory information of the student without the prior written consent of the parent/guardian.

Each district must adopt a policy to provide military recruiters the same access to a student in a high school grade as is provided to postsecondary educational institutions or to prospective employers of such students.

LB 644 *Sponsor* McDonnell *Committee* Business/Labor *Subject* Adopt the Nebraska Workforce Diploma Act

LB 644 creates the Nebraska Workforce Diploma Act and requires the Nebraska Department of Labor (DOL) to promote and administer the program.

Under the bill, an eligible "workforce diploma program provider" would be an accredited or approved, public or private, high school provider. An eligible program provider must also have at least two years of experience providing adult dropout recovery services, including recruitment, learning plan development, and proactive coaching and mentoring culminating in qualification for a high school diploma.

An eligible program participant must be at least 22 years of age and must have not previously earned a high school diploma or high school equivalency diploma.

By August 15, 2019, and annually thereafter, DOL must request applications from eligible program providers to participate in the program. Applications must include evidence of the following:

a) Experience providing adult dropout recovery services;

b) The ability to provide academic skill intake assessment and transcript evaluation;

c) The ability to develop a learning plan that integrates academic requirements and career goals;

d) A course catalog that includes all of the courses necessary to meet graduation requirements;

e) The ability to provide remediation coursework in literacy and numeracy;

f) The ability to provide a research-validated academic resiliency assessment and intervention;

g) The ability to provide employability skills development aligned to employer needs;

h) The ability to provide career pathways coursework;

i) The ability to provide preparation for industry-recognized credentials;

j) The ability to provide career placement services; and

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k) Accreditation or approval by NDE or accreditation by a recognized regional accrediting body or consolidation thereof.

A workforce diploma program may be delivered in a campus-based, blended, or online modality. By September 15, 2019, and annually thereafter, DOL must announce the approved program providers.

DOL must reimburse each approved program provider participating in the program for the completion of the following milestones for each student:

a) $250 for the completion of five credit hours;

b) $250 for the completion of an employability skills certification program equal to at least 10 credit hours;

c) $250 for the attainment of an industry recognized credential requiring up to 50 hours of training;

d) $500 for the attainment of an industry recognized credential requiring 51 through 100 hours of training;

e) $750 for the attainment of an industry recognized credential requiring more than one 100 hours of training; and

f) $1,000 for the attainment of a high school diploma.

LB 644 provides intent language to appropriate $2.5 million for fiscal years 2019-20 and 2020-21 to DOL to carry out the program.

LB 676	*Sponsor*	*Committee*	*Subject*
	Groene	Education	Change provisions relating to school districts and the reorganization of school districts

LB 676 proposes to "clean up" statutes that were not included in LB 377 enacted in 2018 since the statutes did not specifically use the words "Class I", "Class II", or Class VI" regarding school districts or schools. In addition, this bill "cleans up" statutes on reorganization of school districts to remove outdated language and to put together in one act the "petition method" and "plan method" for reorganization of school districts that are not part of a learning community.

Open Meetings / Public Records

LB 19	*Sponsor*	*Committee*	*Subject*
	Briese	Business/Labor	Allow withholding from public of reports of injury under the Nebraska Workers' Compensation Act as prescribed and provide duties for the Nebraska Workers' Compensation Court

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LB 19 amends the Public Records Law (§ 84-712.05) to require the withholding of reports of injuries arising in the course of employment, except that the reports:

a) must be made available for inspection or copying by the Nebraska Workers' Compensation Court upon request:

   i. By the employee who is the subject of the report or by an attorney or authorized agent of such employee;

   ii. By the employer, workers' compensation insurer, risk management pool, or third-party administrator that is a party to the report or an attorney or authorized agent of such party;

   iii. By a third party for the purpose of identifying the number and nature of any injuries to any employees of an employer identified in the request, so long as the court redacts any information revealing the identity of any employee prior to releasing the reports; or

   iv. By a nonprofit organization for the purpose of sending condolences to, providing memorials for, and offering grief counseling to family members of an employee whose death was caused by a workplace incident; and

b) Must be disclosed by the court if the reports are requested for use in connection with a state or federal investigation or examination or for use by the state or federal government to compile statistical information.

LB 148	*Sponsor*	*Committee*	*Subject*
	Groene	Government	Change requirements for public hearings on proposed budget statements and notices of meetings of public bodies

Nebraska Budget Act: LB 148 amends the Budget Act in several sections. The bill amends the definition of "governing body" to include joint entities created under the Interlocal Cooperation Act that receives tax funds generated under section 2-3226.05 (river-flow enhancement bonds).

The bill also amends budget hearing notice provisions. Under current law, each governing body must conduct a public hearing on its proposed budget statement each year or biennial period. The bill specifies that such hearing must be held separately from any regularly scheduled meeting of the governing body and may not be limited by time.

LB 148 further specifies that at the hearing, the governing body must make a detailed presentation of the proposed budget statement and must make at least three copies of the proposed budget statement available to the public. Any member of the public desiring to speak on the proposed budget statement must be allowed to address the governing body and must be given a reasonable amount of time to do so.

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Open Meetings Act: Under current provisions of the Act, each public body must give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. LB 148 eliminates any discretion by the governing body in determining the method by which it publicizes notice.

Under the bill, for a political subdivision governing body or such body's advisory committee, notice must be published in a newspaper of general circulation within the public body's jurisdiction and, if available, in a digital advertisement on such newspaper's web site. In addition to the required methods of notice, notice may also be provided by any other appropriate method designated by the public body or advisory committee.

In the case of any other public body, notice must be given by a method designated by the public body.

Each public body must record the methods and dates of notice in its minutes.

LB 150	*Sponsor*	*Committee*	*Subject*
	Brewer	Government	Change provisions relating to access to public records and provide for fees

As it relates to the Public Records Law, LB 150 differentiates residents from non-residents. The bill defines resident as person domiciled in this state and includes news media without regard to domicile.

For nonresidents of Nebraska, the bill provides that actual added cost used as the basis for the calculation of a fee for records may include a charge for the existing salary or pay obligation to the public officers or employees, including a charge for the services of an attorney to review the requested public records.

Property Tax

LB 103	*Sponsor*	*Committee*	*Subject*
	Linehan	Revenue	Change provisions relating to property tax requests

LB 103 is modeled after Virginia legislation and attempts to clarify actual dollar increases regarding property taxes. In essence, a school district or other political subdivision cannot collect more dollars in property taxes without holding a separate public hearing. For example, if the valuation of property increased within a school district, the district would be required to lower its levy to collect only an equal amount of property tax dollars received the previous year. If the school wished to maintain the levy and keep additional dollars, the school board would need to follow the proposed language and hold a public hearing to explain/discuss the rationale. The school board would continue to have the final decision on raising, lowering or maintaining the levy.

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LB 103 amends section 77-1601.02 relating to property tax requests. The bill provides that when the annual assessment of property would result in an increase in the total property taxes levied by a school district, learning community, ESU, or other political subdivision, as determined using the previous year's rate of levy, the political subdivision must reduce its rate of levy for the current tax year so as to cause the rate of levy to produce no more than the amount of property taxes raised in the previous year and must set its property tax request at the same amount as in the previous year unless the following provision is complied with.

The governing body of a political subdivision may increase the rate of levy and its property tax request above the reduced amounts as noted above if the increase is deemed to be necessary by the governing body after conducting a public hearing on the issue. The public hearing may not be held at the same time as the annual budget hearing. Notice of the public hearing must be given at least 30 days before the date of the hearing by the publication of a notice in at least one newspaper of general circulation in such political subdivision and in a prominent public location at which notices are regularly posted in the building where the governing body of the political subdivision regularly conducts its business. Any such notice must be at least the size of one-eighth page of a standard size or tabloid size newspaper, and the headline in the advertisement must be in a type no smaller than 18 point. The notice must be in the following form and contain the following information, in addition to such other information as the governing body may elect to include:

NOTICE OF PROPOSED PROPERTY TAX INCREASE
The (name of political subdivision) proposes to increase property tax levies.

1. Assessment Increase: The total assessed value of property exceeds last year's total assessed value by ..... percent.
2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $.... per $100 of assessed value. This rate will be known as the "lowered tax rate."
3. Effective Rate Increase: The (name of political subdivision) proposes to adopt a tax rate of $.... per $100 of assessed value. The difference between the lowered tax rate and the proposed rate would be $.... per $100, or .... percent. This difference will be known as the "effective tax rate increase." Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.
4. Proposed Total Budget Increase: Based on the proposed property tax rate and changes in other revenue, the total budget of (name of political subdivision) will exceed last year's by .... percent.

   A public hearing on the increase will be held on (date and time) at (meeting place).

All hearings must be open to the public. The governing body of the political subdivision must permit persons desiring to be heard an opportunity to present oral testimony within reasonable time limits as determined by the governing body.

If the governing body deems it necessary to increase the rate of levy and the property tax request above the reduced amounts, as noted above, after conducting the public hearing, the governing body must pass a resolution or ordinance to that effect and, as part of the resolution or ordinance, must set the property tax request at no more than the amount specified in the public notice.

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LB 158	*Sponsor*	*Committee*	*Subject*
	Brewer	Revenue	Change provisions relating to the assessed value of real property

LB 158 is perhaps a second version of a similar concept offered under previous legislation (LB 576, 2017), which was also introduced by Senator Brewer. Both the 2017 and 2019 bills have the intent to slow down increases in assessed value of real property.

Under LB 158, the assessed value of real property as of January 1, 2020 must be the same as the property's assessed value on January 1, 2019, plus the cost of any improvements made to the real property and minus the assessed value of any improvements to the real property that have been destroyed or removed.

The assessed value of real property as of January 1, 2021 must be the same as the property's assessed value on January 1, 2020, plus the cost of any improvements made to the real property since and minus the assessed value of any improvements to the real property that have been destroyed or removed.

The assessed value of real property as of January 1, 2022 must be the same as the property's assessed value on January 1, 2021 plus the cost of any improvements made to the real property since and minus the assessed value of any improvements to the real property that have been destroyed or removed.

The assessed value of real property as of January 1, 2023 must be the same as the property's assessed value on January 1, 2022 plus the cost of any improvements made to the real property and minus the assessed value of any improvements to the real property that have been destroyed or removed.

LB 183	*Sponsor*	*Committee*	*Subject*
	Briese	Revenue	Change the valuation of agricultural land and horticultural land for purposes of certain school district taxes

Under current provisions of Chapter 77, Nebraska Revised Statutes, agricultural land is valued at 75% of its actual value and special valuation land is valued at 75% of its special valuation.

LB 183 provides an exception to the rule such that for school district taxes levied to pay the principal and interest on bonds, such land would be valued at 1% of its actual value.

Under current law, the acceptable ranges for agricultural land is 69% to 75% of actual value and 69% to 75% of special valuation for special valuation land.

LB 183 provides an exception to the rule in that for school district taxes levied to pay the principal and interest on bonds, the acceptable range is 75 hundredths of 1% to 1% of actual value.

The bill would become operative on January 1, 2020.

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LB 303

Sponsor	*Committee*	*Subject*
Lindstrom	Revenue	Change the amount of relief under the Property Tax Credit Act

LB 303 proposes to increase the appropriation to the Property Tax Credit fund from $224 million to $275 million for tax year 2019. The fund is used to distribute property tax credits to real property owners.

LB 314

Sponsor	*Committee*	*Subject*
Briese	Revenue	Adopt the Remote Seller Sales Tax Collection Act and change revenue and taxation provisions

LB 314 represents the work of the Nebraskans United group comprised of ag and farm groups and education associations. The origin of the bill is LB 1084 (2018), which did not advance from the Revenue Committee.

The bill expands or increases various revenue sources to generate $782.6 million to use toward reducing property taxes and funding public education.

Elimination of the following sales tax exemptions:

- Candy, soft drinks, and bottled water
- Tangible personal property repair (motor vehicles)
- Pet-related services
- Real property remodeling, painting and repair and interior design for residential housing
- Personal care services including hair care, massage, tanning, nail, spa, and tattoo services
- Storage and moving services
- Parking fees
- Clothing cleaning and repair
- Travel agency services
- Membership and admissions to zoos and aquariums
- Dating and escort services
- Taxi, limousine, and other transportation services
- Lawn care, landscaping, and gardening
- Tele-floral
- Tour operators
- Historic automobile museums
- Swimming pool cleaning and maintenance
- Music, dance, golf, and other recreational services

Other provisions;

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- Raise sales tax by ½ cent
- Add 7.84 percent surcharge on income above $250k for individuals, $500k for MFJ
- Repeal special capital gains and extraordinary dividends exclusion
- End tangible personal property tax exemption
- Sunset New Markets Job Growth Investment Act Incentive Program
- Tax on internet sales
- Reinstate alternative minimum tax on high-income earners
- Increase cigarette sales tax by $1.50 per pack
- Increase alcohol tax per gallon for: beer $1.07, wine $2.56, farm wine $2.56, spirits $8.53
- Eliminate itemized deductions (exempting medical)
- Increase real estate documentary stamp tax by 50 cents per $1,000 valuation[i]
- End sales tax exemption on ride-sharing services such as Uber and Lyft
- Repeal property tax exemption for fraternal benefits societies
- End sales tax exemption for Airbnb type services
- Include e-cigarettes in the cigarette tax

LB 420	*Sponsor*	*Committee*	*Subject*
	Bolz	Revenue	Adopt the Property Tax Circuit Breaker Act

LB 420 is similar to LB 910, also introduced by Senator Bolz, in 2018. LB 910 was not advanced by the Revenue Committee.

LB 420 creates the Property Tax Circuit Breaker Act, the purpose of which is to provide a refundable income tax credit.

A qualifying residential or agricultural taxpayer may apply to the Department of Revenue for a refundable income tax credit based on the amount of property taxes paid and the income level of the applicant taxpayer.

The department may certify up to $107 million in tax credits for qualifying agricultural taxpayers each taxable year. If the total amount of tax credits requested by all applicants exceeds the total amount available the department is to certify tax credits on a proportionate basis so that the limitation is not exceeded.

For qualifying residential taxpayers, the department may certify up to $82.7 million of tax credits for each taxable year. If the total amount of tax credits requested by all applicants exceeds the total amount available the department is to certify tax credits on a proportionate basis so that the limitation is not exceeded. Qualifying residential taxpayers include both homeowners and renters.

The credit is to be available for tax years beginning January 1, 2020.

LB 482	*Sponsor*	*Committee*	*Subject*
	Erdman	Revenue	Provide for an adjustment to the assessed value of destroyed real property

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LB 482 is very similar to a previous measure, LB 899, introduced by Senator Erdman in 2018. LB 899 did not advance from committee.

LB 899 provides that the county board of equalization must adjust the value of real property that is destroyed by fire or other natural disaster between January 1 and October 1 upon receiving a report of such destroyed property from the county assessor.

The adjusted value is the sum of the following three factors:

- The assessed value of the property before it became destroyed multiplied by a percentage representing the portion of the year during which the property was intact and not yet destroyed;
- The assessed value of the property as of the date of its destruction multiplied by a percentage representing the portion of the year during which the property as destroyed and no replacement property as yet been completed;
- The assessed value of any replacement property as of the date of construction of such replacement property multiplied by a percentage representing the portion of the year during which construction of such property was complete.

The bill also provides a timetable for notice, decision, and appeals. The action of the county board may be appealed to the Tax Equalization and Review Commission.

The bill has an operative date of January 1, 2020.

LB 483	*Sponsor*	*Committee*	*Subject*
	Erdman	Revenue	Change the valuation of agricultural land and horticultural land

LB 483 is very similar to LB 1100, also introduced by Senator Erdman, which did not advance from the Revenue Committee.

LB 483 changes the way agricultural land is valued for property tax purposes. The bill changes agricultural land valuations from the current market-based system to a productivity-based system. The reason for making the change to a productivity-based system, according to the introducer, is that the current market-based system is not fair.

The bill bases agricultural land valuations for sprinkler irrigated cropland, gravity irrigated cropland, and dryland cropland upon soil productivity ratings established by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture (USDA) and commodity price data provided by the Department of Agricultural Economics at the University of Nebraska-Lincoln.

LB 483 establishes the Agricultural Land Valuation Board, consisting of eight board members. Six of the eight board members are chosen by the Governor from each of the following categories:

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- Someone involved in livestock production,
- someone involved in agricultural crop production,
- someone from a farm advocacy organization,
- someone with a county assessor certificate,
- someone from the Department of Agricultural Economics at the University of Nebraska-Lincoln, and
- someone from the Nebraska Ethanol Board.

Nebraska's Tax Commissioner would serve as the seventh member of the board. Nebraska's Director of Agriculture would serve as the eighth member of the board and also serves as the board's chair. The Board is charged with creating a manual detailing the methods to be used for agricultural land valuations across the state and for setting appropriate discount rates to be used for calculating agricultural land valuations.

LB 512

Sponsor	*Committee*	*Subject*
Linehan	Revenue	Change revenue and taxation provisions

LB 512 appears to have a mix of technical and substantive changes to revenue-related statutes. Of particular note is new language concerning reassessment of damaged or destroyed property.

LB 512 provides that if a property is destroyed or damaged by a "major calamity" between the assessment date and July 15, the owner of the property may petition the county assessor, on a form prescribed by the Tax Commissioner, for a reassessment of the property's value for that year.

The county assessor may file a petition on behalf of the property owner. The county assessor must file a report of destroyed or damaged property, together with the reassessed value of any such property, with the county board of equalization on or before July 20. The county board of equalization must approve or deny the report on or before July 25. Upon approval of the report of destroyed or damaged property, the county assessor must immediately forward the report to the Property Tax Administrator.

The county clerk is required to mail to the property owner written notice of the county board of equalization's decision within seven days of the decision. Any person whose petition for relief has been denied by the county board of equalization may appeal the decision of the county board of equalization by filing an appeal with the Tax Equalization and Review Commission within 30 days of the decision.

The bill defines "major calamity" as an event causing significant property damage, including, but not limited to, a fire, an earthquake, a flood, a tornado, or any event which affects an area such that the Governor declares that area to be in a state of emergency. Major calamity does not include an event causing significant property damage intentionally caused by the owner of the property.

"Significant property damage" is defined as damage exceeding $10,000 or 10% of the property's value in the prior tax year, as determined by a professional appraisal, whichever is less.

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LB 530	*Sponsor*	*Committee*	*Subject*
	Groene	Revenue	Change the valuation of agricultural land and horticultural land for property tax purposes

Under current law, ag land and special value land is valued for purposes of taxation at 75% of its actual value or special value respectively. LB 530 reduces this tax value to 65% for both ag land and special value land.

For purposes of state aid value means ag land and special value land is valued at 72% of actual value or special value respectively. LB 530 changes the value for purposes of state aid value to 62%.

The bill would become operative on January 1, 2020.

LR 3CA	*Sponsor*	*Committee*	*Subject*
	Erdman	Revenue	Constitutional amendment to provide income tax credits for property taxes paid

Similar to a previous legislative attempt, LR 3CA would amend the Nebraska Constitution to provide a refundable credit against the income tax imposed by the State of Nebraska in an amount equal to 35% of the property taxes that were:

(a) Levied on real property located in this state; and
(b) Paid by the taxpayer during the taxable year.

The tax credits would be available for taxable years beginning on January 1, 2021. If adopted by the Legislature, the measure would appear on the 2020 General Election ballot.

LR 5CA	*Sponsor*	*Committee*	*Subject*
	Brewer	Revenue	Constitutional amendment to limit the percentage of funding for schools that comes from property taxes

Article VII, Section 1 of the Nebraska Constitution requires that the Legislature provide for the free instruction in the common schools of this state of all persons between the ages of five and 21 years.

LR 5CA proposes to amend this section of the Constitution with language stating that no more than 35% of the funding for the free instruction in the common schools may derive from property taxes. The idea behind the constitutional amendment is that the state would need to dramatically increase funding for education.

If adopted by the Legislature, the measure would appear on the 2020 General Election ballot for approval by the voters.

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LR 8CA	*Sponsor*	*Committee*	*Subject*
	Linehan	Revenue	Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions

LR 8CA represents part of the Governor's agenda to address the property tax issue in Nebraska.

The legislative resolution would amend Article VIII, Section 14 of the Nebraska Constitution and provides that the total amount of property tax revenue raised by a political subdivision in any fiscal year may not be more than 3% greater than the amount raised in the prior fiscal year, except as provided below.

> The total amount of property tax revenue raised by a political subdivision in a fiscal year may exceed the limitation by an amount approved by a majority of legal voters voting on the issue at an election upon the recommendation of a majority of the governing body of the political subdivision. The recommendation must include the amount by which the property tax revenue would exceed the limitation for the fiscal year. All costs of the election would be paid by the political subdivision seeking to exceed the limitation.
>
> The limitation would not apply to the amount of property tax revenue needed to pay the principal and interest on bonded indebtedness that has been approved according to law.

The amendment defines "property tax revenue" as revenue raised from a tax that is assessed annually upon the value of real and personal property.

Retirement

LB 31	*Sponsor*	*Committee*	*Subject*
	Kolterman	Retirement	Provide for a work plan relating to a transfer of management of the retirement system operated under the Class V School Employees Retirement Act to the Nebraska Public Employees Retirement Systems and to require a report and provide duties

LB 31 amends the Class V School Employees Retirement Act. The bill requires the Public Employees Retirement Board (PERB) to develop a work plan, recommendations, cost estimates, and cost comparisons regarding the transfer of management and actuarial services of the class V (OPS) school employees retirement system to the PERB.

The work plan must include a detailed analysis and recommendations regarding:

a) management, administration, actuarial service, information technology, computer infrastructure, accounting, member data and record transfer;
b) necessary statutory changes to achieve the transfer of management and actuarial services;
c) staff training and assessment of staffing needs;

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d) educational and communication plans to fully inform all system stakeholders and affected governmental entities regarding management changes;
e) sufficient timeframes for an orderly transition and implementation of management and actuary changes;
f) cost estimates associated with the tasks necessary to carry out the management transition; and
g) a comparison of the current annual cost to administer any Class V school employees retirement system established under the Class V School Employees Retirement Act with an estimate of the annual cost for the Public Employees Retirement Board to administer the system after a management transfer occurs.

The PERB must electronically report the work plan, including any recommendations, cost estimates, and cost comparisons, to the Clerk of the Legislature no later than June 30, 2020.

The bill specifically states that management does not include:

a) A merger or consolidation of any Class V school employees retirement system with the School Employees Retirement System or any other retirement system administered by the PERB; or

b) An assumption of any of the liability for any Class V school employees retirement system by the State of Nebraska, the PERB, or the NPERS.

The bill permits the PERB to quarterly bill and receive payment within 45 calendar days from receipt of the bill from OPS for all work performed by the PERB for services and related expenses in completion of the work plan.

LB 565	*Sponsor*	*Committee*	*Subject*
	Bolz	Retirement	State legislative intent relating to a designated beneficiary determination under certain retirement systems

LB 565 represents an attempt to address unfortunate instances when a member of one of the state-offered retirement programs dies and had neglected to designate a beneficiary.

The bill amends the School Employees, County, Class V (OPS), and State plans to provide intent if a member of the retirement system is married at the time of his or her death and there is no designated beneficiary on file with the board, then the spouse married to the member on the date of the member's death is determined to be the beneficiary. If the member is not married on the date of his or her death and there is no surviving designated beneficiary on file with the board, then the benefit would be paid to the member's estate.

LB 683	*Sponsor*	*Committee*	*Subject*
	Kolterman	Retirement	Provide for a work plan under the Class V School Employees Retirement Act relating to a one-time lump sum payment to certain retired members

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LB 683 would direct the Public Employees Retirement Board (PERB) to develop a work plan, recommendations, and cost estimates for a one-time option for certain members who have terminated employment to receive a lump sum payment of a specified percentage of the present value of such member's deferred retirement allowance in lieu of all rights to receive retirement or other benefits from any Class V school employees retirement system established under the Class V (OPS) School Employees Retirement Act.

The bill is meant to be another idea to address the ongoing financial circumstances facing the Class V Retirement Plan.

LB 706

Sponsor	*Committee*	*Subject*
Lindstrom	Retirement	Authorize a one-year freeze of cost-of-living adjustments under the Class V School Employees Retirement Act

To help address the ongoing financial concerns in the Class V (OPS) Retirement Plan, LB 706 would provide authority for the plan's board of trustees to approve an action to prohibit a cost-of-living adjustment (COLA) to existing retirees for one year (the period between January 1, 2020, and December 31, 2020).

Sales Tax

LB 18

Sponsor	*Committee*	*Subject*
Briese	Revenue	Adopt the Remote Seller Sales Tax Collection Act

LB 18 is essentially the same legislation offered by former Senator Watermeier in 2017 (LB 44). LB 44 was advanced by the Revenue Committee in 2017 and it appeared on Final Reading in 2018 but did not pass.

LB 18 would create the Remote Seller Sales Tax Collection Act. The bill would require remote sellers (online retailer without a physical presence in our state) to collect and remit sales tax if their gross revenue in Nebraska exceeds $100,000 or their sales in Nebraska consist of 200 or more separate transactions.

In 2017 the Nebraska Department of Revenue commented that such legislation would yield anywhere from $30 million to $40 million in new revenue for the state.

LB 182

Sponsor	*Committee*	*Subject*
Bolz	Revenue	Adopt the School District Local Option Income Surtax Act

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LB 182 is essentially the same bill offered by Senator Bolz in 2018 (LB 911). LB 911 was referred to the Revenue Committee but did not advance.

LB 182 creates the School District Local Option Income Surtax Act. The bill allows school boards to impose a local option income tax surtax rate of up to 20% which cannot exceed five years in duration. The surtax is equal to an individual's state income tax liability less nonrefundable credits multiplied by the rate chosen by the school board.

The surtax may be imposed if approved by a majority of voters in a school district at an election. The tax revenue may be used to reduce property taxes or for building construction, remodeling and site acquisition. Tax proceeds that are to be used to reduce property taxes are placed in the general fund of the school district and proceeds to be used for buildings and sites are deposited in a special building fund. The imposition of a surtax does not increase the budget authority for a school district.

NDE is permitted to adopt rules to carry out the legislation. If a vote to impose a surtax is acceptable, the school district must notify the Tax Commissioner by August 1 of the rate to be imposed for the following tax year. The proceeds of the tax are allocated to school districts by the Tax Commissioner.

Note: The Legislative Fiscal Office commented on LB 911 (2018) that the fiscal impact of the bill depends upon whether school districts opt to impose a surtax, the rate of surtax imposed and the use of the proceeds. It is not possible to determine what decisions will be made at the local level pursuant to the bill. If districts opt to impose a surtax for building and site needs, there will be increased expenditures for these purposes which may offset expenditures that would have been made from other sources of revenue. The degree to which a 20% local option income tax surtax will offset school property taxes varies by district depending upon the income tax liability of residents and amount of property taxes levied for school purposes. Imposition of the maximum 20% income tax surtax statewide would lower school district property taxes by 15.6% (in 2018). If a 20% surtax is imposed, the largest impact for a school district would be a 35.3% reduction in property taxes levied for schools and the smallest impact would be a 1.9% reduction in taxes levied.

LB 290	*Sponsor*	*Committee*	*Subject*
	Linehan	Revenue	Change the sales and use tax rate

LB 290 is a placeholder bill offered by the Revenue Committee in the event a change in the state sales tax rate is necessary.

LB 291	*Sponsor*	*Committee*	*Subject*
	Linehan	Revenue	Change sales and use tax provisions

LB 291 would apply Nebraska sales tax collection to remote sellers that operate outside the State of Nebraska. The emergency clause is attached and the legislation would become operative on April 1, 2019.

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LB 507

Sponsor	*Committee*	*Subject*
Briese	Revenue	Impose sales tax on certain services and eliminate sales tax exemptions

LB 507 removes sales tax exemptions on a long list of items and services, including:

- soft drinks, candy, or bottled water;
- Motor vehicle cleaning, maintenance, and repair services;
- cleaning and repair of clothing;
- cleaning, maintenance, and repair of other tangible personal property;
- maintenance, painting, and repair of real property;
- entertainment admissions;
- personal care services;
- lawn care, gardening, and landscaping services;
- pet-related services; storage and moving services;
- taxi, limousine, and other transportation services;
- legal services; and
- accounting services (among others).

The bill also imposes sales tax on prepared food and food and food ingredients served by public or private schools, school districts, student organizations, or parent teacher associations under an agreement with the proper school authorities, in an elementary or secondary school or at any institution of higher education, public or private, during the regular school day or at an approved function of any such school or institution.

The bill further imposes sales tax on fees and admissions charged by a public or private elementary or secondary school and fees and admissions charged by a school district, student organization, or parent-teacher association, pursuant to an agreement with the proper school authorities, in a public or private elementary or secondary school during the regular school day or at an approved function of any such school.

The bill contains on operative date of January 1, 2020.

LB 508

Sponsor	*Committee*	*Subject*
Briese	Revenue	Impose sales and use taxes on certain services, eliminate sales tax exemptions, and use the increased revenue for property tax credits.

LB 508 is essentially the same language contained in LB 507, also introduced by Senator Briese. The principle difference between the two bills is that LB 508 specially credits the new revenue generated from expanded sales tax to the Property Tax Credit Cash Fund for property tax relief.

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- soft drinks, candy, or bottled water;
- Motor vehicle cleaning, maintenance, and repair services;
- cleaning and repair of clothing;
- cleaning, maintenance, and repair of other tangible personal property;
- maintenance, painting, and repair of real property;
- entertainment admissions;
- personal care services;
- lawn care, gardening, and landscaping services;
- pet-related services; storage and moving services;
- taxi, limousine, and other transportation services;
- legal services; and
- accounting services (among others).

The bill also imposes sales tax on prepared food and food and food ingredients served by public or private schools, school districts, student organizations, or parent teacher associations under an agreement with the proper school authorities, in an elementary or secondary school or at any institution of higher education, public or private, during the regular school day or at an approved function of any such school or institution.

The bill further imposes sales tax on fees and admissions charged by a public or private elementary or secondary school and fees and admissions charged by a school district, student organization, or parent-teacher association, pursuant to an agreement with the proper school authorities, in a public or private elementary or secondary school during the regular school day or at an approved function of any such school.

The bill contains on operative date of January 1, 2020.

School Boards

	Sponsor	*Committee*	*Subject*
LB 101	Wayne	Government	Change provisions of the Nebraska Political Accountability and Disclosure Act relating to a potential conflict of interest by an elected office holder of cities/villages or a school district

The same piece of legislation was introduced by Senator Roy Baker in 2018 (LB 1037), which did not pass.

LB 101 would amend the Nebraska Political Accountability and Disclosure Act to permit elected officeholders of certain cities or villages, or a school district, to participate in voting on matters involving a business association conflict of interest when the business association exists because the city, village or school district is a member of an association of cities, villages or school districts.

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Under current law the officeholder is not permitted to vote, and must report the conflict of interest based on the business association. Under this bill, the officeholder would still be required to report the conflict of interest, but would be allowed to vote.

LB 415	*Sponsor*	*Committee*	*Subject*
	Friesen	Government	Repeal recall provisions for political subdivisions

LB 415 amends the Nebraska Election Act and outright repeals relevant laws to eliminate recall provisions for political subdivisions.

School Budget and Finance

LB 191	*Sponsor*	*Committee*	*Subject*
	La Grone	Government	Change provisions relating to budgets and public hearing notice for certain governmental entities

Under the current procedures to authorize a change in the property tax request from the previous year, a governing body of a political subdivision must pass by a majority vote a resolution or ordinance establishing the tax request at a different amount.

The resolution or ordinance may only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least five days prior to the hearing. LB 191 changes this notice requirement to four calendar days. The bill clarifies that the four calendar days will include the day of publication but not the day of hearing.

LB 336	*Sponsor*	*Committee*	*Subject*
	Hansen, M.	Government	Change the vote required to exceed certain budget limitations

The current base limitation is 1.5% for 2018-19. Unless the Legislature intervenes with new legislation to state otherwise, the base limitation will increase to 2.5% for 2019-20 and beyond.

Under the current provisions of the Nebraska Budget Act, a government unit may exceed the base limit for a fiscal year by up to an additional 1% upon the affirmative vote of at least 75% of the governing body.

LB 336 provides that a simple majority vote of the governing body may vote to exceed the base limitation by up to 1%.

LB 350	*Sponsor*	*Committee*	*Subject*
	Morfeld	Education	Provide a budget exception for expanded learning opportunity programs

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LB 350 provides a spending lid exception for expanded learning opportunity programs or for school-based or school-linked activities and programs that utilize school-community partnerships to expand opportunities for students to participate in educational activities outside the normal classroom.

> Section 79-2503 defines "expanded learning opportunity program" as a school-community partnership that provides participating elementary-age and secondary-age students and their families with programming and other support activities and services after school and on weekends, holidays, and other hours when school is not in session through a mix of programs and services that (a) complement but do not duplicate elementary and secondary school day learning and (b) create opportunities to strengthen school-community partnerships that provide students and their families with the support they need to be successful in school.

The spending lid exception would be, for districts with more than 1,000 students, expenditures up to $100,000, and for districts with 1,000 or fewer students, expenditures up to $50,000.

LB 351	*Sponsor*	*Committee*	*Subject*
	Morfeld	Education	Provide for school district levy and bonding authority for cybersecurity and violence prevention

Current law (§ 79-10,110.02) permits a school board to determine that an additional property tax levy is necessary for a specific abatement project to address actual or potential environmental hazard, accessibility barrier, life safety code violation, life safety hazard, or mold which exists within one or more existing school buildings or the school grounds of existing school buildings controlled by the school district.

LB 351 adds to this law the abatement of cybersecurity vulnerabilities and violence prevention in one or more existing school buildings or on the school grounds of existing school buildings controlled by the school district.

The bill defines "cybersecurity vulnerability" as any potential data compromise resulting from the loss, theft, disposal, abandonment, accidental publication, or accidental release of personally identifiable information or material in any media or format that is not publicly available, including:

a) Data created by or provided to an elementary school, middle school, high school, or school district in the course of a student's attendance or application for attendance at an elementary school, middle school, or high school; and

b) Data created by or provided to an elementary school, middle school, high school, or school district in the course of an employee's employment or application for employment with the school district;

"Violence prevention" is defined as necessary equipment and modifications to existing school buildings or the school grounds of existing school buildings designed or used to deter any act of

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violence from occurring or to protect students, school personnel, and the public from an act of violence should it occur in a school building or on the school grounds of a school building.

LB 430	*Sponsor*	*Committee*	*Subject*
	Groene	Education	Change dates related to certifications and distributions of state aid to schools

LB 430 is shell bill introduced by the chair of the Education Committee in the event that the state budget process requires a later certification date. The bill would delay certification of state aid, applicable allowable reserve percentages, and budget authority to no later than June 10th.

LB 431	*Sponsor*	*Committee*	*Subject*
	Groene	Education	Change school finance base limitation and local effort rate provisions

LB 431 is shell bill introduced by the chair of the Education Committee in the event that changes are pursued with regard to the base limitation for school districts, which is currently 1.5% and the local effort rate. The bill also proposes a later date, June 10, for certification of state aid, applicable allowable reserve percentages, and budget authority in the event the state budget process requires a later certification date.

LB 432	*Sponsor*	*Committee*	*Subject*
	Groene	Education	Include tax-increment financing valuation in adjusted valuations for purposes of state aid to schools and change school district levy authority

LB 432 provides an exception to the levy limitations for amounts levied by a school district up to the amount that would have been generated by a levy at the rate levied on taxable property for such fiscal year applied to the tax-increment financing (TIF) valuation, if the amounts levied are approved by at least 75% of the school board and the school district is receiving equalization aid under TEEOSA.

LB 497	*Sponsor*	*Committee*	*Subject*
	Friesen	Revenue	Adopt the School District Property Tax Authority Act and change revenue and taxation provisions

LB 497 creates the School District Property Tax Authority Act.

Under the bill, and beginning in 2020-21, the total amount of property taxes levied by a school district for a fiscal year may not exceed the school district's property tax authority as determined by the Act.

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The school board of each school district must calculate the school district's property tax authority each fiscal year as follows:

For fiscal year 2020-21, the following steps must be taken:

1) *Step one:* The school district's state and local resources must be calculated. The amount must be equal to the school district's property tax request for fiscal year 2019-20 plus the state aid distributed to the school district in fiscal year 2019-20 with the sum increased by the base growth percentage applicable to the school district;

2) *Step two:* The state aid to be distributed to the school district must be subtracted from the school district's state and local resources calculated under step one; and

3) *Step three:* The amount determined under step two would then be either:

    a) Decreased by the amount by which other resources for fiscal year 2020-21 are expected to exceed other resources for fiscal year 2019-20; or

    b) Increased by the amount by which other resources for fiscal year 2019-20 are expected to exceed other resources for fiscal year 2020-21; and

For fiscal year 2021-22 and thereafter, the following steps must be taken:

1) *Step one:* The school district's state and local resources must be calculated. The amount must be equal to the school district's state and local resources from the prior fiscal year increased by the base growth percentage applicable to the school district;

2) *Step two:* The state aid to be distributed to the school district for the current fiscal year would be subtracted from the school district's state and local resources calculated under step one; and

3) *Step three:* The amount determined under step two would then be either:

    a) Decreased by the amount by which other resources for the current fiscal year are expected to exceed other resources for the prior fiscal year; or

    b) Increased by the amount by which other resources for the prior fiscal year are expected to exceed other resources for the current fiscal year.

The school board must report the amount determined as provided in the Act to NDE upon forms prescribed by the department. The department must review the amount reported to determine if the amount was calculated correctly.

If the department determines that the amount was calculated correctly, it must approve and certify the amount to the school board. If the department determines that the amount was not calculated correctly, it must calculate the correct amount and certify that amount to the school board.

The amount certified by the department will be the school district's property tax authority, which would be used for setting the school district's maximum levy rate. The school board may set its property tax request at an amount equal to or less than the school district's property tax authority.

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This amount does not apply to that portion of a school district's property tax request that is needed to pay the principal and interest on approved bonds.

The Act provides the following definitions:

"Approved bonds" is defined as bonds that are issued by a school district after the question of issuing such bonds has been approved by the voters of such school district.

"Base growth percentage" is defined s whichever of the following percentages is the highest: (a) Two and one-half percent; (b) The percentage increase in the Consumer Price Index for All Urban Consumers, as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending on June 30 of the year in which the property tax authority is calculated; or (c) The annual percentage increase in the student enrollment of the school district.

"Other resources" is defined as revenue of a school district from all sources other than real and personal property taxes and state aid.

LB 506	*Sponsor*	*Committee*	*Subject*
	Briese	Revenue	Adopt the Property Tax Request Limitation Act

LB 506 creates the Property Tax Request Limitation Act.

The bill provides that, with the exceptions noted below, a school district's property tax request for any year may not exceed the school district's property tax request authority. The school board of each school district would calculate the school district's property tax request authority each year as follows:

(a) The school district's property tax request from the prior year shall be increased by whichever of the following percentages is the highest:

   i. The base growth percentage;

   ii. The annual percentage increase in the student enrollment of the school district multiplied by four-tenths;

   iii. The percentage obtained by first dividing the annual increase in the total number of limited English proficiency students in the school district by the student enrollment of the school district and then multiplying the quotient by twenty-five hundredths; or

   iv. The percentage obtained by first dividing the annual increase in the total number of poverty students in the school district by the student enrollment of the school district and then multiplying the quotient by twenty-five hundredths; and

(b) The amount determined above would then be:

   i. Decreased by an amount equal to the amount by which total non property-tax revenue for the current year exceeds the total non-property tax revenue for the prior year. In

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determining the total non-property-tax revenue for the current year, any category of non-property-tax revenue for which there is insufficient data as of August 1 to make an accurate determination shall be deemed to be equal to the prior year's amount; or

ii. Increased by an amount equal to the amount by which total non property-tax revenue for the prior year exceeds the total non-property tax revenue for the current year. In determining the total non-property tax revenue for the current year, any category of non-property-tax revenue for which there is insufficient data as of August 1 to make an accurate determination shall be deemed to be equal to the prior year's amount.

The school board must report the amount determined to NDE upon forms prescribed by the department. If the department determines that the amount was calculated correctly, the department must approve and certify the amount to the school board. The certified amount would be the school district's property tax request authority.

Exceptions

The Act would not apply to that portion of a school district's property tax request that is needed to pay the principal and interest on approved bonds.

A school district's property tax request may exceed its property tax request authority by an amount approved by a sixty percent majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the school board of such school district or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least 5% of the legal voters of the school district. The recommendation of the school board or the petition of the legal voters must include the amount by which the school board would increase its property tax request for the year over and above the property tax request authority of such school district. The county clerk or election commissioner must call for a special election on the issue within 30 days after the receipt of the school board recommendation or legal voter petition.

A school district's property tax request may exceed its property tax request authority by a percentage approved by an affirmative vote of at least 75% of the school board. The percentage may not exceed:

a. 7% for school districts with an average daily membership of up to 471 students;

b. 6% for school districts with an average daily membership of more than 471 students but no more than 3,044 students;

c. 5% for school districts with an average daily membership of more than 3,044 students but no more than 10,000 students; or

d. 4% for school districts with an average daily membership of more than 10,000 students.

A school district's property tax request may exceed its property tax request authority pursuant to any property tax authority approved by the voters at a levy override election prior to January 1, 2020.

This act becomes operative on January 1, 2020.

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LB 513	*Sponsor*	*Committee*	*Subject*
	Briese	Education	Change requirements for the issuance of certain school district bonds

LB 513 provides that if the property tax valuation of the school district in the prior calendar year consists of 75% or more of ag land, then the question of issuing school district bonds must receive an affirmative vote in favor of issuing the bonds by at least 60% of those voting on the question. In all other school districts, the question must receive an affirmative vote in favor of issuing the bonds by at least 50% of those voting on the question.

LB 581	*Sponsor*	*Committee*	*Subject*
	Albrecht	Government	Require the use of generally accepted accounting principles in preparing budgets under the Nebraska Budget Act

Under the Nebraska Budget Act (§ 13-504), each governing body of a political subdivision must annually or biennially, as the case may be, prepare a proposed budget statement on forms prescribed and furnished by the auditor.

LB 581 stipulates that the proposed budget statement must be made in accordance with generally accepted accounting principles using the accrual basis, except that such requirement shall not apply to any political subdivision that has been granted a waiver of audit requirements granted by the State Auditor.

LB 588	*Sponsor*	*Committee*	*Subject*
	Stinner	Education	Change the local effort rate pursuant to the Tax Equity and Educational Opportunities Support Act

The current local effort is set at the maximum levy minus 2.97¢. LB 588 provides that, beginning for school fiscal year 2019-20, the local effort rate would be set at the maximum levy minus 3¢. The emergency clause is attached.

LB 647	*Sponsor*	*Committee*	*Subject*
	Wayne	Education	Include virtual school students in the state aid to schools formula

LB 647 is very similar to LB 634, also introduced by Senator Wayne, in 2017. LB 634 carried over to the 2018 Session but did not advance from committee.

LB 647 defines virtual school to mean any school or educational program that:

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a) Is operated by a school district;

b) Offers courses for credit;

c) Uses predominately Internet-based methods to deliver instruction;

d) Involves instruction that occurs asynchronously with the teacher and student in separate locations;

e) Requires the student to make academic progress toward the next grade level or high school graduation;

f) Requires the student to demonstrate subject matter competence for each course or subject in which the student is enrolled as part of the virtual school; and

g) Requires the student, when age-appropriate, to complete state assessments; and

The bill provides that virtual schools and virtual school programs must be offered by a school district for credit, use primarily internet-based methods to deliver instruction, involve asynchronous instruction, require students to demonstrate subject matter competency and to progress toward the next grade level or high school graduation, and require completion of state assessment tests.

"Virtual school student" is defined as a student who is a resident of Nebraska enrolled in and attending a virtual school on at least a part time basis.

The bill provides for virtual students to be included in average daily membership and fall membership which are used to determine formula students for purposes of computing state aid to schools through the Tax Equity and Educational Opportunities Support Act (TEEOSA).

LB 674

Sponsor	*Committee*	*Subject*
Linehan	Education	Change the base limitation for school districts

Beginning for school fiscal year 2020-21, LB 674 provides that the base limitation for each school district is the inflation rate certified by the Tax Commissioner for the school fiscal year plus the student growth rate certified by NDE for the school district.

By November 1st each year, beginning in 2019, the Tax Commissioner must certify to NDE and to the State Auditor the inflation rate for the immediately following school fiscal year, which would be equal to the percent change from the most recent CPI for All Urban Consumers published by the federal Bureau of Labor Statistics as of August 31 of the year immediately preceding the year in which the certification is being made to the most recent CPI as of August 31 of the year in which the certification is being made.

By December 1st each year, beginning in 2019, NDE must certify to each school district and to the State Auditor the student growth rate and the base limitation for the school district for the immediately following school fiscal year. The student growth rate for each school district for the immediately following school fiscal year would be equal to the percent change from the fall

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membership reported in October of the year immediately preceding the year in which the certification is being made to the fall membership reported in October of the year in which the certification is being made, except that the student growth rate for any school district may not be less than zero percent.

LB 679

Sponsor	*Committee*	*Subject*
DeBoer	Education	Create the School Financing Review Commission

LB 679 creates the School Financing Review Commission and would consist of 20 members, including:

a) Three members of the Legislature, appointed by the Executive Board;
b) the Property Tax Administrator or designee, as a nonvoting, ex officio member;
c) the council director of the ESUCC;
d) the Commissioner of Education or designee;
e) a representative of the Governor selected by the Governor;
f) one member representing postsecondary education with expertise in the area of school finance;
g) two members who reside in a Class III school district, one school administrator and one school board member;
h) two members who reside in a Class IV school district, one school administrator and one school board member;
i) two members who reside in a Class V school district, one school administrator and one school board member; and
j) six members from the state at large, two from each congressional district, who reside in school districts of varied sizes and with varying percentages of limited English proficiency students and poverty students.

At least one of the members appointed must have experience in the teaching profession in public schools, at least one must have experience in business, and at least one must have experience in agriculture-related business.

The Commission would conduct an in-depth review of the financing of the public elementary and secondary schools. The commission must:

a) Examine methods of financing public elementary and secondary schools, including methods used in other states, which would provide equitable educational opportunities across the state and offer alternatives to heavy reliance on property tax;

b) Examine the option of using income as a component in the financing of public elementary and secondary schools;

c) Examine the option of using sales tax as a component in the financing of public elementary and secondary schools, including an examination of the experience of any other states with such option;

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d) Examine financing issues as they relate to the quality and performance of public elementary and secondary schools;

e) Examine options for funding expanded public prekindergarten services;

f) Examine options for funding college-readiness and career readiness programs, including, but not limited to, programs of excellence, dual-enrollment courses, and career academies;

g) Examine the costs and resources necessary to meet the diverse and growing needs of students across the state, including, but not limited to, the needs of poverty students and limited English proficiency students;

h) Examine methods used by other states to fund public elementary and secondary school infrastructure needs;

i) Examine other issues related to public elementary and secondary school finance as necessary and as determined by the chairperson;

j) Prepare a report on the progress of the work of the commission and submit it electronically to the Legislature on or before December 31, 2019; and

k) Prepare a preliminary report and present it to the Legislative Council in November 2020. A final report with recommendations on maintaining adequate and equitable funding for public schools in light of information gathered through the review must be presented to the Governor, the State Board of Education, and electronically to the Legislature by December 1, 2020.

By December 1, 2020, to assure that every Nebraskan is educated for success, the Commission must:

a) Review the mission of providing Nebraskans the opportunity to acquire the necessary skills and knowledge to be productive individuals;

b) Review, make recommendations on, and report on the progress of the goals established by the Legislature and NDE. The committee may solicit comments, concerns, and case studies from all sizes of schools in Nebraska and develop best practices for implementing and achieving such goals; and

c) Review the implementation of TEEOSA and the implementation of any recommendations contained in reports.

By July 1st of each even-numbered year beginning in 2020 and ending in 2028, the Commission must report to the Governor, State Board of Education, and Legislature on the adequacy of school funding sources. NDE and the staff of the Revenue Committee, the Education Committee, and the Appropriations Committee of the Legislature, with the consent of the chairpersons of such committees, may assist as needed and requested by the chairperson of the commission in accordance with guidelines developed by the commission.

The Commission may:

a. Hire staff, including, but not limited to, consultants; and

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b. Obtain assistance from NDE and the Department of Revenue in acquiring data needed to carry out its duties.

The bill intends for an appropriation of $100,000 from the General Fund to the Commission to carry out its duties. The commission would be housed within the State Department of Education. The commission shall cease to exist on December 31, 2028, unless extended by the Legislature.

The emergency clause is attached.

Special Education

LB 346	*Sponsor*	*Committee*	*Subject*
	Wishart	Education	Change special education reimbursements

LB 346 is similar to LB 876 (2018) and relates to the amount of aid appropriated for special education programs and support services. The bill requires that General Funds must be appropriated to fund at least 80% of the excess allowable costs for all special education programs and support services plus the amount set aside for the reimbursement of residential settings.

The bill provides a phase-in process so that by 2022-23 the reimbursement rate would be at 80% of the excess allowable costs for all special education programs and support services.

State Budget

LB 294	*Sponsor*	*Committee*	*Subject*
	Speaker Scheer	Appropriations	Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2021

LB 294 represents the mainline appropriations bill for the 2019-21 biennium budget. Within this bill are line-items for TEEOSA, special education, ESU funding, etc.

Student Discipline

LB 147	*Sponsor*	*Committee*	*Subject*
	Groene	Education	Provide for the use of physical force or physical restraint or removal from a class in response to student behavior.

LB 147 amends the Nebraska Student Discipline Act to provide for the use of physical force or physical restraint or removal from a class in response to student behavior. The bill is very similar but not identical to LB 595 (2017), also introduced by Senator Groene, which was advanced to General File by a 5-2 vote of the Education Committee but advanced no further.

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Use of Restraint/Contact: Under the legislation, "physical restraint" is defined as holding the hands, wrists, or torso of a student to control the movements of the student and may not include the use of any mechanical device or binding a student to any object.

If a student becomes physically violent toward himself/herself, a teacher, an administrator, or another student, a teacher or administrator may use the necessary physical contact or physical restraint to control the student until the student no longer presents a danger to himself/herself, the teacher, the administrator, or the other student.

If a student exhibits destructive behavior toward school property, a teacher or administrator may use the necessary physical contact or physical restraint to control the student until the student ceases the destructive behavior or the student is removed from the classroom.

The bill provides that any such action by a teacher or administrator would not be considered corporal punishment.

In addition, a teacher or administrator defending himself/herself, another teacher or administrator, or a student, or protecting school property would not be subject to legal action or administrative discipline if the teacher or administrator was acting in a reasonable manner.

Removal from Classroom: Under LB 149, a teacher would be granted the authority to have a student removed from the classroom by an administrator, administrator's designee, or school resource officer if the teacher:

a) Has documented that the student has repeatedly interfered with the teacher's ability to communicate effectively with the students in the class or with the ability of students in the class to learn;

b) Determines the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the students in the class to learn; or

c) Determines the student has committed other disruptive acts that merit discipline under the Student Discipline Act.

If a teacher has a student removed from a classroom as prescribed in the bill, the principal of the school may place the student into another appropriate classroom or into in-school suspension or suspend the student as provided in the Student Discipline Act.

The principal may not return the student to a class taught by the teacher without the teacher's consent unless such return is required under the Special Education Act or the federal Individuals with Disabilities Education Act (IDEA).

If the teacher does not consent to the student's return to the teacher's classroom, within two school days following the student's removal a conference must be held with the teacher and the parent/guardian in the presence of the principal or the principal's designee for the purpose of determining the causes of the problem and developing a plan to implement possible student behavior improvement mechanisms. Following the conference, the principal may readmit the

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student to the teacher's class. A principal or other administrator may not coerce a teacher to consent to the return of a student to a class from which the student was removed.

A teacher may not be subject to legal action or administrative discipline for having a student removed from a class if the teacher was acting in a reasonable manner.

LB 165

Sponsor	*Committee*	*Subject*
Hunt	Education	Adopt the Too Young to Suspend Act

LB 165 creates the Too Young to Suspend Act with the purpose to prohibit early childhood education and kindergarten students from being suspended or expelled from school except in limited circumstances. The intent of the bill is to prevent suspensions or expulsions of difficult young students who may disrupt school activities or willfully defy school authorities, but who are not a danger to other students.

The bill requires each school board to adopt a policy prohibiting the suspension or expulsion of any early childhood education or kindergarten student unless the school principal determines that the student has committed one of the following acts:

a) The student willfully caused, attempted to cause, or threatened serious bodily injury to another student or person while in a school building, on school grounds, in a school-owned vehicle, or at a school sponsored activity or athletic event and the action was not an act of self-defense; or

b) The student possessed or furnished to another person a firearm, knife, explosive, or other dangerous weapon, substance, or object while in a school building, on school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event.

The bill permits the superintendent of a district to:

a) Use a mandatory reassignment to transfer an early childhood education or kindergarten student to another school within the school district, if the transfer would result in a more appropriate placement due to any disability or special need of the student; or

b) Suspend an early childhood education or kindergarten student during the pendency of an investigation into whether a student can be lawfully suspended or expelled.

Guidelines: By March 1, 2020, the Commissioner of Education must issue guidelines for the implementation of the Too Young to Suspend Act, including recommendations on the length of a suspension for acts described in the bill.

Reporting: By July 15, 2021, and each July 15th thereafter, each school district must submit a report to NDE detailing any suspension or expulsion of an early childhood education or kindergarten student.

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LB 495	*Sponsor*	*Committee*	*Subject*
	Wayne	Education	Provide for collection of data on student disciplinary actions

LB 495 is very similar to LB 1056, introduced by Senator Matt Hansen. LB 1056 did not advance.

LB 495 requires the State Board of Education to work with schools to collect data on school disciplinary measures and law enforcement interactions in order to better examine the circumstances that lead to young people entering the criminal justice system.

Data would include:

- The number of students sent to in-school suspensions, out-of-school suspensions, and expelled and the number of school days missed as a result;
- The number of students subject to mandatory school transfers due to disciplinary reasons;
- The number of students referred to law enforcement;
- The number of students ticketed, arrested, or detained at school or a school-sponsored activity;
- The use of restraints by staff or officers and room confinement or seclusion; and
- Whether a law enforcement officer is assigned to the school Schools would report this data to the state board so that it can be analyzed by various demographic indicators such as race/ethnicity, gender, grade level and whether the student has a learning or behavioral disability.

LB 515	*Sponsor*	*Committee*	*Subject*
	Vargas	Education	Change provisions relating to the Student Discipline Act

LB 515 represents a second attempt by Senator Vargas to provide comprehensive modifications to the Nebraska Student Discipline Act. His first attempt was LB 999 (2018), which was not advanced by the Education Committee.

Credits Earned

At the conclusion of an expulsion, a school district shall reinstate the student and accept nonduplicative, grade-appropriate credits earned by the student during the term of his or her expulsion from any Nebraska accredited institution or institution accredited by one of the six regional accrediting bodies in the United States.

Grounds for Disciplinary Action

One of the existing grounds for disciplinary action is causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. LB 515 provides that personal

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injury must be considered caused by accident when the damage or consequences of the act that caused the injury were unintentional, unforeseen, or unexpected.

Under the existing ground of engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, the bill specifies that it must be the unlawful knowing possession.

Section 79-268 sets out procedures to be followed if a principal decides to discipline a student by long-term suspension, expulsion, or mandatory reassignment. LB 515 requires that the decision as to the recommended discipline must be made within two school days after learning of the alleged student misconduct and initiating proceedings. The written notice provision to notify the right to a hearing, LB 515 provides that if the student is suspended pending the outcome of the hearing, the student may complete classwork and homework, including, but not limited to, examinations, missed during the period of suspension under district guidelines that may not require the student to attend the school district's alternative programs for expelled students.

Hearing Officer Selection

Under the bill, if a hearing is requested within five school days after receipt of the notice as provided in section 79-268, the superintendent shall recommend appointment of a hearing examiner within two school days after receipt of the hearing request.

The student or the student's parent or guardian may request designation of a hearing officer other than that selected by the superintendent, if notice to the superintendent of this request is given within two school days after receipt of the superintendent's recommended appointment.

Upon receiving the request, the superintendent must provide a list of at least five qualified hearing officers who are not employees of the school district, or otherwise currently under contract with the school district, and whose impartiality may not otherwise be reasonably questioned.

The student or the student's parent or guardian must, within five school days, select a hearing officer from the list and notify the superintendent in writing of the selection and the superintendent must appoint the selected hearing officer upon receipt of the notice.

Individuals whose impartiality may be reasonably questioned would include, but not be limited to, individuals who:

a) Have a personal bias or prejudice concerning a party;

b) Have personal knowledge of evidentiary facts concerning the proceeding;

c) Have served as legal counsel to the school district; or

d) Have a spouse who is an employee of, or is under contract with, the school district.

A qualified hearing officer must be an individual who has knowledge of the Student Discipline Act, training in its statutory requirements, and experience conducting student hearings.

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If a hearing is requested by the student or the student's parent or guardian within five school days following receipt of the written notice, and the student has been suspended pending the outcome of such hearing, the student must be given the opportunity to complete any classwork, including, but not limited to, examinations missed during the period of suspension.

The school district must make available those witnesses who have knowledge of or were involved in the alleged misconduct and subsequent discipline of the student if the witnesses are requested by the student or the student's parent, guardian, or representative and such witnesses are employees or under contract with the school district.

LB 515 stipulates that the superintendent must notify the student or the student's parent or guardian of the superintendent's determination within five school days after receipt of the hearing examiner's report.

Student Health and Welfare

LB 60	*Sponsor*	*Committee*	*Subject*
	Cavanaugh	Health	Change terminology relating to shaken baby syndrome

In 2002, the Legislature passed LB 326 to require NDE, with cooperation from the Department of Health and Human Services (DHHS), to develop a packet of materials entitled: "Learning Begins at Birth". The packet was to be distributed by DHHS to parents of children born in Nebraska beginning on January 1, 2003.

In 2006 the law was modified under LB 994 to require that the packets contain information on the prevention of sudden infant death syndrome and shaken baby syndrome, services available to children and parents, and any other information deemed relevant by DHHS or NDE.

LB 60 (2019) modifies the law and modernizes the terminology to information on decreasing the risk of "sudden unexplained infant death syndrome" and "abusive head trauma in infants and children."

LB 120	*Sponsor*	*Committee*	*Subject*
	Crawford	Education	Require teacher and school staff to receive training on behavioral and mental health

LB 120 changes some terminology relevant to the duties of the state school security director. The director, among many other duties, must oversee suicide awareness and prevention training in public schools. The bill strikes the term "suicide awareness" and inserts "behavioral and mental health."

The bill also changes current training requirements related to suicide awareness. Since 2015 all public school nurses, teachers, counselors, school psychologists, administrators, school social

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workers, and any other appropriate personnel must receive at least one hour of suicide awareness and prevention training each year. [§ 79-2,146]

The bill changes the training requirement terminology from suicide awareness and prevention to behavioral and mental health training and specifies that the training is conducted each year during contract hours.

LB 120 specifies that such training must include suicide awareness and prevention training. The training may also include topics such as identification of early warning signs and symptoms of behavioral and mental health issues in students, appropriate and effective responses for educators, trauma-informed care, and procedures for making students and parents or guardians aware of services and supports.

The bill includes an emergency clause.

LB 167	*Sponsor*	*Committee*	*Subject*
	Hunt	Judiciary	Prohibit conversion therapy

LB 167 amends the Uniform Credentialing Act and provides that a person holding a credential under the Uniform Credentialing Act may not provide conversion therapy to any individual under 18 years of age.

Conversion therapy is defined as practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender.

The bill stipulates that conversion therapy does not include:

a) Counseling that provides support to an individual undergoing gender transition;

b) Counseling that provides acceptance, support, and understanding of an individual or facilitates an individual's coping, social support, and identity exploration and development, including sexual-orientation neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

The bill states that no state funds nor any funds belonging to a political subdivision of this state may be expended for the purpose of:

a) Conducting conversion therapy;
b) Referring a person for conversion therapy;
c) Health benefits coverage for conversion therapy; or
d) Providing a grant to or contracting with any entity that conducts conversion therapy or refers individuals for conversion therapy.

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LB 251	*Sponsor*	*Committee*	*Subject*
	Walz	Education	Adopt the Child Hunger Workforce Readiness Act

A similar bill was introduced by Senator Walz in 2018 (LB 771). The bill was referred to the Education Committee but did not advance.

LB 251 creates the Child Hunger and Workforce Readiness Act. The bill requires public schools which are participating in the National School Lunch Program and School Lunch Breakfast Program to provide free meals to all students who are eligible for reduced-price lunches and reduced-price breakfasts. NDE would be required to reimburse school districts the amount that would be charged for each meal provided to a student who qualifies for a reduced-price lunch or reduced-price breakfast. The bill provides intent language to appropriate general funds to NDE for this purpose but no amount is specified.

LB 281	*Sponsor*	*Committee*	*Subject*
	McCollister	Education	Provide for posting by public schools of a toll-free number set up to report child abuse or neglect

A similar bill was offered by Senator McCollister in 2018, LB 912, which was advanced to General File by a unanimous vote of the Education Committee but advanced no further.

LB 281 would permit but not require each public school in Nebraska to post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and Spanish, using terminology appropriate for posting in schools, that contains the statewide toll-free number established by the Department of Health and Human Services (§ 28-711) to receive reports of child abuse or neglect.

A school may choose to post online, in lieu of displaying the poster, a link to the poster on its web site.

NDE may contract with an appropriate entity to create the poster. The department would ensure that schools have free and easy access to a digital image of such poster. NCSA has volunteered to be the entity that would house the digital image of the poster and also produce the poster for distribution as a member service.

LB 343	*Sponsor*	*Committee*	*Subject*
	Halloran	Judiciary	Adopt the School Safety Rapid Response Option Act and authorize schools to allow employees to carry concealed handguns

LB 343 creates the School Safety Rapid Response Option Act and applies to public and private schools, public and private colleges, and the University.

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The bill provides that the governing authority of a school may develop a program authorizing school employees who hold a concealed handgun permit to carry concealed handguns in or upon the school's building, grounds, vehicle, or school-sponsored activity or athletic event.

A program may:

a) Require school employees to undergo additional training;

b) Be limited to specific classes or types of employees;

c) Limit the authority to carry a concealed handgun to specific places, events, or circumstances; or

d) Impose any other additional requirements or conditions as determined by the governing body.

LB 390	*Sponsor*	*Committee*	*Subject*
	Pansing Brooks	Judiciary	Provide duties regarding school resource officers and security guards

LB 390 creates the Commission on Law Enforcement and Criminal Justice. By December 1, 2019, the commission must develop and distribute a model memorandum of understanding that includes the policies noted below.

The memorandum of understanding would govern the use of school resource officers or security guards and must include policies that:

(1) Require each school resource officer or security guard to attend a minimum of 40 hours of training focused on school-based law enforcement, including coursework focused on (a) school law, (b) student rights, (c) understanding special needs students and students with disabilities, (d) conflict de-escalation techniques, (e) ethics for school resource officers, (f) teenage brain development, (g) adolescent behavior, (h) diversity and cultural awareness, (i) trauma-informed responses, and (j) preventing violence in school settings;

(2) Require a minimum of one administrator and one teacher to attend a minimum of 20 hours of training focused on school-based law enforcement, including coursework focused on (a) school law, (b) student rights, (c) understanding special needs students and students with disabilities, (d) conflict de-escalation techniques, (e) ethics for school resource officers and security guards, (f) teenage brain development, (g) adolescent behavior, (h) diversity and cultural awareness, (i) trauma-informed responses, and (j) preventing violence in school settings;

(3) Ensure records are kept on each student referral for prosecution from a school resource officer or security guard and that the records allow for analysis of related data and delineate:

(a) The reason for the referral;

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(b) If the occurrence prompting such referral occurred at school, on school grounds, or at a school-sponsored event; and

(c) Demographic characteristics of such student and any other students involved in the occurrence prompting such referral, including race, ethnicity, national origin, gender, grade level, and whether the student has an identified disability.

(4) Specify when parents or guardians are to be notified or present, in a language that the parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(5) Specify under what circumstances school resource officers and security guards are to advise students of their constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Specify the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Accommodate a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the school district or the law enforcement agency or security agency.

The bill provides that any law enforcement agency that provides school resource officers or security agency that provides security guards to schools as of January 1, 2020, must, by January 1, 2021, adopt a written memorandum of understanding with the school district.

The memorandum of understanding must include provisions in conformance with the minimum standards established in the model policy developed by the commission and may include any other procedures and provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

The bill defines "school resource officer" as any peace officer or security guard with apparent authority to act as a peace officer who is assigned, as his/her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary schools.

"Security agency" is defined as a contractor that employs security guards used by a school district.

"Security guard" is defined as a person employed to protect buildings and people and may include off-duty peace officers.

LB 568	*Sponsor*	*Committee*	*Subject*
	Morfeld	Education	Provide for mental health first aid training for school districts and change provisions relating to the use of lottery funds

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LB 568 would require NDE to establish a mental health first aid training program for teachers and other personnel employed by a school district or an ESU participating in a grant provided through lottery funds.

The mental health first aid training is to be delivered by trainers who are properly certified by a national organization for behavioral health to provide training. The program must also provide an opportunity for teachers and other designated personnel to complete the training necessary to become certified by a national organization for behavioral health to provide mental health first aid training to other teachers and designate personnel.

Mental health first aid training must include:

a) The skills, resources, and knowledge necessary to assist students in crisis to connect with appropriate local mental health care services;

b) Mental health resources, including the location of local community mental health centers; and

c) Action plans and protocols for referral to such resources.

A recipient of mental health first aid training must also receive instruction preparing him/her to:

a) Safely de-escalate crisis situations;

b) Recognize the signs and symptoms of mental illness, including such psychiatric conditions as schizophrenia, bipolar disorder, major clinical depression, and anxiety disorders; and

c) Timely refer a student to mental health services in the early stages of the development of a mental disorder to avoid subsequent behavioral health care and to enhance the effectiveness of mental health services.

The bill changes relevant lottery law to provide a funding source for grants to be issued by State Board of Education. The State Board is then authorized to establish a competitive innovation grant programs in areas including: (a) mental health first aid, (b) early literacy, (c) quality instructional materials, (d) personalized learning through digital education, or (e) other innovation areas identified by the board.

LB 589	*Sponsor*	*Committee*	*Subject*
	Chambers	Judiciary	Prohibit peace officers from serving as school resource officers

With a few exceptions noted below, LB 589 provides that no peace officer may serve or work as a school resource officer, whether or not the officer is on duty as an employee of a law enforcement agency at the time of the service or work.

The bill would not apply to a peace officer who is:

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a) Responding to a specific request for assistance from a student, school employee, or member of the public regarding a safety threat or a criminal act; or

b) Providing security for an extracurricular event or activity.

LB 619

Sponsor	*Committee*	*Subject*
Kolowski	Banking	Require coverage under insurance policies for mental health services delivered in schools

LB 619 attempts to address an issue experienced in some school districts in which some insurance companies are unwilling to pay for services provided by practitioners (not school employees) if the service was provided within the school.

The bill states that individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (2) hospital, medical, or surgical expense-incurred policy, except for a policy that provides coverage for a specified disease or other limited benefit coverage, or (3) self-funded employee benefit plan to the extent not preempted by federal law that provides coverage for behavioral health treatment must provide coverage for behavioral health services delivered in a school or other educational setting.

LB 725

Sponsor	*Committee*	*Subject*
Walz	Education	Provide for reimbursements to school districts and educational service units for mental health expenditures

LB 725 requires NDE to reimburse each qualifying school district and ESU for allowable mental health expenditures in the immediately following school fiscal year a pro rata amount based on the reimbursement percentage as determined by the department.

The reimbursement percentage would be equal the ratio of the money in the School Mental Health Resources Fund, created under the bill, available for reimbursements divided by the total allowable mental health expenditures for the preceding school fiscal year, except that if the ratio is greater than 80%, the reimbursement percentage would equal 80%.

The bill provides intent language such that the Legislature that $12 million be transferred from the General Fund to the School Mental Health Resources Fund annually for reimbursements beginning with the 2020-21 fiscal year.

To qualify for reimbursement, a school district or ESU must:

a) Designate an employee of the school district or ESU as a community-based mental health resource liaison and provide the appropriate training and resources for the employee to assist students, families, teachers, and schools in locating the resources necessary to address the mental health needs of individual students in the district or ESU; and

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b) Submit allowable mental health expenditures in a manner prescribed by the department.

The bill provides that allowable mental health expenditures must be:

a) Directly related to meeting the mental health needs of an individual student or group of students;

b) Directly related to a focused strategy approved by the department to reduce the mental health needs of students by improving the overall educational environment; or

c) Directly related to the training or work of the community-based mental health resource liaison.

The State Board of Education is required to adopt and promulgate rules and regulations to carry out provisions of the bill, including criteria to further define allowable mental health expenditures.

In addition to funds from the Legislature, the bill permits donations, gifts, bequests, or other contributions to the fund from public or private entities or made available by any department or agency of the U.S. if so directed.

LB 727	*Sponsor*	*Committee*	*Subject*
	Walz	Education	Provide duties for school districts, the State Department of Education, and the Department of Health and Human Services with respect to mental health services

LB 727 provides that by August 1st of each year, NDE in consultation with the DHHS must provide each school district with a registry of state and local mental health resources available to work with students and families by geographic area. The registry must be updated at least annually and include resources for both school-based services and services accessed by families and individuals outside of schools.

Each school district is required to designate one or more mental health points of contact for each school building or other division as determined by the school district. A mental health point of contact may be an administrator, a school nurse, a school psychologist, or another designated school employee. Each mental health point of contact must be trained in mental health issue identification and have knowledge of community service providers and other resources available for students and families.

Each mental health point of contact must facilitate access to mental health services during the school day at the school the student attends whenever possible.

Each school district must report the designated mental health points of contact to NDE prior to the beginning of each school year.

LB 728	*Sponsor*	*Committee*	*Subject*
	Walz	Education	Provide duties relating to school meals

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LB 728 amends the school breakfast program (§ 79-10,138) and expands the duties of NDE and school districts.

The bill requires the department to promote practices to prevent and reduce student debt for school breakfasts and lunches. By January 1, 2020, the department must create and disseminate a uniform meal charge policy that school districts may implement. The meal policy must include the following provisions:

a) Each student must be served a reimbursable meal upon request at each meal during each school day, regardless of whether the student can immediately pay for the meal or has accrued debt for school meals;

b) Each school district must communicate directly with a parent/guardian of a student to address outstanding debt for school meals, rather than communicate with or through a student, and may not engage in practices directed at the student that may stigmatize the student, including requiring the student to work off a debt;

c) A school district may not discard any school meal after it is served to a student on the basis that the student is unable to pay for the meal or has debt for school meals;

d) Each school district must endeavor to ensure that student meals are not being charged to students eligible for free or reduced priced school meals by attempting to directly certify student eligibility or by encouraging parents and guardians to apply for eligibility through the application process; and

e) Each school district must evaluate their unpaid meal charge collection policies and consider whether collection is appropriate based on the income and circumstances of the family with the unpaid debt for school meals.

The department may include or create additional school meal charge policies consistent with the requirements of the bill.

Student Speech / Expression

LB 206	*Sponsor*	*Committee*	*Subject*
	Morfeld	Judiciary	Protect free speech rights of student journalists and student media advisers

A similar bill, LB 886, was introduced by Senator Morfeld in 2018. The bill did not advance from committee.

Section 1 of LB 206 relates to free speech rights of students in postsecondary institutions.

Section 2 applies to public high schools. The bill provides that all school-sponsored media are deemed to be public forums. With the exceptions noted below, a student journalist has a right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the

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media is supported financially by the public high school, supported by the use of the facilities of such school, or produced in conjunction with a class in which the student journalist is enrolled.

With the exceptions noted below, student journalist is responsible for determining the news, opinion, feature, sports, and advertising content the student produces for school sponsored media. Nothing would prevent a student media adviser from teaching professional standards of English and journalism to student journalists.

Exceptions: The bill would not authorize or protect expression by a student journalist that:

a) Is libelous or slanderous;

b) Constitutes an unwarranted invasion of privacy;

c) Violates federal or state law; or

d) So incites students as to create a clear and present danger of (i) the commission of an unlawful act or (ii) a violation of the policies of a public high school that could cause the material and substantial disruption of the orderly operation of such school.

Protections: A student journalist may not be disciplined for acting in accordance with provisions of the bill. A student media adviser may not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for:

a) Acting to protect a student journalist engaged in conduct; or

b) Refusing to infringe upon conduct that is protected by the bill or the First Amendment to the U.S. Constitution.

The bill provides that no publication or other expression of matter by a student journalist in the exercise of rights would be deemed to be an expression of a public high school's policy. No public high school, member of a school board, or employee of the school or board would be held responsible in any civil or criminal action for any publication or other expression of matter by a student journalist in the exercise of rights as provided in the bill.

Training and Advice: LB 206 provides that public high schools and student media advisers must make efforts to utilize the resources and programs of state public and private universities and colleges and of state professional journalism organizations to obtain training and advice on mass media law and ethics for student media advisers and student journalists.

Definitions: "School-sponsored media" means any material that is (i) prepared, substantially written, published, or broadcast by a student journalist at a public high school, (ii) distributed or generally made available to members of the student body, and (iii) prepared under the direction of a student media adviser. School-sponsored media does not include any media intended for distribution or transmission solely for the class in which the media is produced.

"Student journalist" means a public high school student who gathers, compiles, writes, edits, photographs, records, or prepares information of a journalistic nature for dissemination in school sponsored media.

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"Student media adviser" means an individual employed, appointed, or designated by a public high school to supervise or provide instruction relating to school-sponsored media.

Student Transportation

	Sponsor	*Committee*	*Subject*
LB 40	Hilkemann	Transportation	Change provisions related to provisional operator's permits, LPD and LPE learner's permits, and interactive wireless communication devices

Under current law, the holder of an LPD-learner's permit, school permit, or LPE-learner's permit may not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. The Enforcement is accomplished only as a secondary action when the holder of the permit has been cited or charged with a violation of some other law.

LB 40 changes such an offense from a secondary to a primary offense.

	Sponsor	*Committee*	*Subject*
LB 269	Friesen	Transportation	Change provisions relating to school permits

Under current law (§ 60-4,124), a person holding a school permit may operate a motor vehicle, moped, or motorcycle or an autocycle to and from where he/she attends school and between schools of enrollment over the most direct and accessible route by the nearest highway from his/her place of residence to transport the person or any family member who resides with the person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he/she attends.

LB 269 modifies this provision to state that permit holder may travel to and from where he/she attends school, or property used by the school he or she attends for purposes of school events or functions, over the most direct and accessible route by the nearest highway from his/her place of residence to transport the person or any family member who resides with the person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he/she attends or on property used by the school he/she attends.

	Sponsor	*Committee*	*Subject*
LB 634	Hilkemann	Transportation	Require three-point safety belt systems for school vehicles as prescribed

With exceptions noted below, LB 634 provides that any vehicle, regardless of the manufacturer's rated seating capacity, used by or on behalf of a school district or ESU for the transportation of students must be equipped with three-point safety belt systems sufficient to allow each passenger, including the operator, to use a separate three point safety belt system.

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The bill provides the following exceptions:

a) The vehicle was purchased prior to the effective date of the bill by the school district or ESU using the vehicle for the transportation of students;

b) the vehicle is used by or on behalf of a school district or an ESU for the transportation of students under a contract entered into prior to the effective date of the bill and the contract is not modified by the effective date of the bill; or

c) Prior to the purchase of or contract for the use of the vehicle, a determination is agreed upon by a majority vote in an open public session of the school board or the board of the ESU that there is not capacity in the school district or ESU budget for the budget year to accommodate the additional cost to purchase or contract for the use of a vehicle or vehicles meeting the requirements noted above.

The bill adds language such that nothing should be construed to change any existing liability or to create any new liability for a school district or ESU with respect to any personal injury to a passenger in a vehicle used by or on behalf of a school district or ESU for the transportation of students.

Teachers, Certification

LB 241	*Sponsor*	*Committee*	*Subject*
	Bolz	Education	Provide for teacher mentoring program grants using income from solar and wind agreements on school lands

The Teacher Mentor program in Nebraska was created in 1998 by LB 1228. The education lobby at the time believed the program would be a good initiative for the state to undertake. LB 1228 (1998) set forth intent that the program would be funded through lottery funds in the now defunct Education Innovation Fund. The program would occasionally receive some minor political support over the years but ultimately it failed to win a permanent funding pledge.

LB 241 represents a revitalization of the concept with a new proposed funding stream. The bill provides that, starting with the 2020-21 school year, a school district may apply to NDE for a teacher mentoring program grant for a period of up to three years to implement a teacher mentoring program. The bill provides that 75% of the grant funds received by the school district must be used to pay stipends to mentor teachers.

The new proposed funding stream for the teacher mentoring program would be income from solar and wind agreements on school lands. Under the bill provides that, beginning July 1, 2020, the amount of income from solar and wind agreements on school lands must be used to fund teacher mentoring program grants.

Under LB 241 the State Board of Education is required to develop guidelines for teacher mentoring programs in school districts in order to provide ongoing support for beginning teachers entering

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the teaching profession. The guidelines for school district teacher mentoring programs must include:

a) A requirement that a mentor teacher must not (i) participate in a formal evaluation or remediation process involving a beginning teacher he/she is mentoring, (ii) advise an evaluating administrator regarding the performance of a beginning teacher he/she is mentoring, or (iii) participate in termination, nonrenewal, or cancellation proceedings of a beginning teacher he/she is mentoring, which is the responsibility of school administrators;

b) The development of effective teacher mentoring programs with evidenced-based teacher mentoring standards that help frame the purpose for teacher mentoring;

c) Training for mentor teachers regarding effective strategies and support for beginning teachers;

d) An allocation of dedicated time during the school day for beginning teachers and their mentor teachers to meet on a monthly basis;

e) The development of criteria for selecting excellent, experienced, and qualified teachers to be participants in a school district teacher mentoring program; and

f) The development of an assessment to determine whether the school district teacher mentoring program has improved the retention of beginning teachers.

LB 668

Sponsor	*Committee*	*Subject*
Vargas	Education	Adopt the Alternative Certification for Quality Teachers Act

LB 668 creates the Alternative Certification for Quality Teachers Act. Citing a 2016 survey conducted by NDE, the bill notes the survey showed the state continues to have hundreds of unfilled teaching positions across the state.

The bill provides that, in addition to certificates issued under existing law, a certificate to teach in the public schools may be granted by the State Board of Education to any person in good standing who possesses a valid teaching certificate from another state and who annually completes the requirements to maintain certification.

Issuance of a certificate to teach in the public schools must be subject to a criminal history record information check and any rules and regulations adopted and promulgated by the board to carry out provisions of the bill.

The bill further provides that, in addition to certificates issued under existing law, a "temporary certificate" to teach in the public schools may be granted by the State Board of Education to any person who has:

a) Presented to the board a valid bachelor's degree, or higher, from an accredited degree-awarding college or university;

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b) Passed the basic skills examination and appropriate subject area examination as designated by the board; and

c) Enrolled in an alternative teacher certification program approved by the board.

A temporary certificate to teach would be valid for a period not to exceed two years, during which the holder of such temporary certificate must obtain a valid certificate to teach in the public schools through an alternative teacher certification program approved by the board.

Issuance of a temporary certificate to teach would be subject to a criminal history record information check and any rules and regulations adopted and promulgated by the board.

Temporary School Fund

LB 416	*Sponsor*	*Committee*	*Subject*
	Friesen	Education	Change distribution of funds from the temporary school fund and from fines and licenses

Under current law, the Commissioner of Education must annually make the apportionment of the temporary school fund to each school district by a prescribed formula. LB 416 provides that the remainder of funds should be apportioned to school districts proportionally based on the average daily membership for each school district for the most recently available complete data year. The bill acts as a sort of foundation aid system.

LB 491	*Sponsor*	*Committee*	*Subject*
	Wayne	Judiciary	Authorize punitive damages as prescribed

LB 491 points out that Article VII, section 5, of the Nebraska Constitution provides in part that "all fines, penalties, and license money arising under the general laws of the state . . . shall belong and be paid over to the counties respectively where the same may be levied or imposed."

The Constitution further provides that "All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same accrue ... ."

Senator Wayne believes that punitive damages are "in the nature" of fines, penalties, and license money. Punitive damages are awarded both to deter the defendant and others from conduct similar to the conduct that gave rise to the lawsuit, and to punish the defendant. Punitive damages are appropriate in many situations where compensatory damages would be inadequate because the defendant acted in a truly egregious fashion.

Senator Wayne also points out that additional funds available for the public schools could be used to provide property tax relief.

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The bill provides that a court may award punitive damages when the defendant has displayed actual intent to cause harm or causes an injury through action taken in reckless disregard for the lives and safety of others. Punitive damages may be awarded to punish the defendant and provide retribution, to act as a deterrent to the defendant and others inclined to behave in a similar manner, and to demonstrate the court's disapproval of such conduct.

An award of punitive damages must be specifically prayed for in the complaint. Upon an award of punitive damages, the court must notify the county. The county attorney may become a party solely to protect the interests of the common schools in the damages.

LB 491 requires that any award of punitive damages must be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Nebraska Constitution.

The bill defines "compensatory damages" as damages intended to make good the loss of an injured party and no more. The term includes general and special damages and does not include nominal, exemplary, or punitive damages.

"Nominal damages" is defined as damages that are not designed to compensate a plaintiff and are less than $1,000.

"Punitive damages" is defined as damages awarded against a party in a civil action based on aggravating circumstances and to penalize a defendant and to provide additional deterrence and discourage similar conduct in the future. Punitive damages do not include compensatory damages or nominal damages.

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NCSA Federal Update

FORESIGHT LAW+POLICY

NCSA is proud to provide our members with this monthly federal update from Foresight Law + Policy

By Reg Leichty, Foresight Law+Policy *February 2019*

Introduction

As the 116th Congress gets underway, the congressional education committees are now in place and beginning work on a number of important education policy issues, including discussing the future of the Higher Education Act. The February edition of the NCSA/Foresight Law + Policy update describes this initial committee-level work and also provides insights about other federal education policy developments relevant to Nebraska's public education leaders.

We hope you will use this information as a basis for conversations with peers about the role of federal education policy and funding in Nebraska and suggest ideas that NCSA can recommend to Nebraska's congressional delegation.

House Education Committee Roster Released

In late January, House leaders announced the Education and Labor Committee's membership. The committee, led by Chairman Bobby Scott (D-VA) and Ranking Member Virginia Foxx (R-NC), expanded by 10 members for the 116th Congress and includes many new faces, but no Nebraskans.

The following Democrats will serve on the committee:

> New committee members: Rep. Josh Harder (CA), Rep. Jahana Hayes (CT), Rep. Pramila Jayapal (WA), Rep. Susie Lee (NV), Rep. Andy Levin (MI), Rep. Lucy McBath (GA), Rep Joe Morelle (NY), Rep. Ilhan Omar (MN), Rep. Kim Schrier (WA), Rep. Donna Shalala (FL), Rep. Haley Stevens (MI), Rep. David Trone (MD), Rep. Lauren Underwood (IL), and Rep. Susan Wild (PA). These new committee members will join the following veteran committee members: Rep. Bobby Scott (VA), Rep. Susan Davis (CA), Rep. Raúl Grijalva (AZ), Rep. Joe Courtney (CT), Rep. Marcia Fudge (OH), Rep. Mark Takano (CA), Rep. Alma Adams (NC), Rep. DeSaulnier (CA), Rep. Donald Norcross (NJ), Rep. Raja Krishnamoorthi (IL), Rep. Susan

Bonamici (OR), Rep. Gregorio Kilili Sablan (N.M.I), Rep, Frederica Wilson (FL), Rep. Adriano Espaillat (NY).

The following Republicans will serve on the committee:

New committee members: Rep. Jim Banks (IN), Rep. Mark Walker (NC), Rep. James Comer (KY), Rep. Ben Cline (VA), Rep. Russ Fulcher (ID), Rep. Van Taylor (TX), Rep. Steve Watkins (KS), Rep. Ron Wright (TX), Rep. Dan Meuser (PA), Rep. William Timmons (SC), Rep. Dusty Johnson (SD). These new committee members will join the following committee veterans: Rep. Virginia Foxx (NC), Rep. Phil Roe (TN), Rep. Glenn Thompson (PA), Rep. Tim Walberg (MI), Rep. Brett Guthrie (KY), Rep. Bradley Byrne (AL), Rep. Glenn Grothman (WI); Rep. Elise Stefanik (NY), Rep. Rick Allen (GA), Rep. Francis Rooney (FL), and Rep. Lloyd Smucker (PA).

The House Education and Labor Committee also announced the members who will lead its subcommittees. The Subcommittee on Early Childhood, Elementary, and Secondary Education will be led by Del. Gregorio Kilili Sablan (Northern Marianna Islands) and Rep. Rick Allen (R-GA). The Subcommittee on Higher Education and Workforce Investment will be led by Rep. Susan Davis (D-CA) and Rep. Lloyd Smucker (R-PA). There is a new subcommittee focused on Civil Rights and Human Services that will be led by Rep.Susan Bonamici (D-OR) and Rep. James Comer (R-KY).

Senate and House Ed Committees to Focus on Updating the Higher Education Act

Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander (R-TN) announced plans on February 4 to restart discussions about updating the Higher Education Act (HEA). Senator Alexander said the HELP Committee will hold HEA focused hearings this winter, ideally leading to a committee vote on bipartisan HEA reauthorization legislation in the spring. He noted that it will be difficult to move an HEA reauthorization bill through the Senate this year but expressed hope that early Senate action could lead to negotiations with the House over the summer and fall. The HEA is important to K12 leaders, given the law's focus on issues such as educator preparation and induction, college access programs, and better alignment with secondary education. On the other side of the Capitol, House Education and the Workforce Committee Chairman Scott (D-VA) also plans to focus on the HEA, but he has suggested that it may take all of 2019 to move a bill through his committee and the full House, which would set negotiations with the Senate back by at least six-months.

NCSA plans to closely monitor the committee's work on the HEA and will provide updates on their progress, so that district leaders in Nebraska can help the state's congressional delegation understand how to best approach this important legislation.

House Democrats Introduce School Infrastructure Legislation

House Education and Labor Committee Chairman Bobby Scott (VA) and 153 cosponsors introduced legislation in late January to create a new "$70 billion grant program and $30 billion tax credit bond program" to improve school facilities, with a focus on schools designated as a health or safety risk to students and staff. The measure, the Rebuild America's Schools Act (H.R.865) is similar to legislation championed by Chairman Scott during the 115th Congress, but with the

Democrats now in charge of the House education committee's agenda, we expect the legislation to be a significant focus of the panel's early 2019 work. In addition to proposing new funding for school infrastructure, including investments in broadband and digital learning initiatives, the bill calls for the development of a comprehensive national database on the condition of public schools.

Nebraska Wins Preschool Development Grant

The U.S. Department of Health and Human Services and U.S. Department of Education announced that 45 states and territories, including Nebraska, were awarded funding through the Every Student Succeeds Act's Preschool Development Grant Birth through Five grant competition. Nebraska received $4.1 million. Congress designed the $250 million competitive federal grant to improve states' existing early childhood landscape by building upon existing federal, state, and local early care and learning investments. The first year of the grants will fund state-level needs assessments and strategic planning to optimize existing early childhood education resources. The grant focuses on three major activities: maximizing parental choice; improving transitions within early care and learning programs and with elementary schools; and improving overall quality of ECE programs. Awards are for use during 2019 and awardees are eligible to apply for renewals grants prior to the end of 2019.

New ESSA Guidance Published

The Department of Education published proposed Every Student Succeeds Act guidance, which is designed to clarify the law's "supplement, not supplant" requirements and highlight the new flexibility districts have to demonstrate compliance. The proposal is available on the Department of Education's website, and the public comment period will be open for 30 days. Comments can be submitted by emailing oese.feedback@ed.gov no later than February 25, 2019.

Government Accountability Office Releases New Report Examining K-12 Program Performance

The Government Accountability Office (GAO) released a report late last month titled "K-12 Education: Challenges to Assessing Program Performance and Recent Efforts to Address Them". The report, requested by Senator Ron Johnson (R-WI), focused on four performance evaluation areas: (1) oversight and monitoring; (2) data quality; (3) capacity; and (4) methodological limitations. In requesting the report, Senator Johnson noted that education grant awards have generally increased in number and size over the past decade and raised questions about how the Department of Education assesses the performance of the wide array of education programs. No specific near-term Congressional action is expected as a result of the report.

Secretary DeVos Addresses U.S. Conference of Mayors

Secretary of Education Betsy DeVos addressed the winter meeting of the U.S. Conference of Mayors making remarks touching on a number of areas, including the relationship between education and the nation's workforce. DeVos said there is a "…disconnect between education and the economy…[and]… as mayors, you have an important opportunity to build relationships

between employers and educators." She also discussed the new Perkins Career and Technical Education Act, saying the law "…gives states, districts, and community colleges more freedom to decide how to use taxpayer dollars to prepare students for success. And as mayors, this year you have a critical role in helping your state shape its Perkins plan. For the first time, the law urges you and other local leaders to regularly evaluate student needs and how programs are meeting those needs." Interested school administrators can read Sec. DeVos' complete remarks here.

Office of Elementary and Secondary Education Releases Youth Violence Prevention Presentation

The Department of Education and the Department of Health and Human Services produced a new presentation titled: *Addressing the Risk of Violent Behavior in Youth: Know the Signs of Youth Violence and How to Identify and Reduce Risk in Schools.* The presentation is designed to "help teachers and school personnel identify behaviors and other signs that could result in youth violence." Interested school administrators can access the presentation on the Office of Elementary and Secondary Education's webpage.

U.S. Department of Education Plans new Initiative Focused on Decreasing use of Seclusion and Restraint

The Department of Education announced the launch of an initiative intended to address the inappropriate use of restraint and seclusion. The project will be led by the Office for Civil Rights in partnership with the Office of Special Education and Rehabilitative Services. Activities will include compliance reviews, data quality improvements, and additional technical assistance for schools. Speaking about the project, Secretary DeVos said, "This initiative will not only allow us to support children with disabilities but will also provide technical assistance to help meet the professional learning needs of those within the system serving students," Secretary DeVos added. "The only way to ensure the success of all children with disabilities is to meet the needs of each child with a disability. This initiative furthers that important mission."

Notable New Education Legislation

Recent Publications

- NASBE announced the redesign of its popular online resource, the Healthy Schools Database. The new version, the NASBE State Policy Database on School Health, aligns all existing state statutory and regulatory language on student health to the components of the Center for Disease Control and Prevention's framework for school health promotion, known as the Whole School, Whole Community, Whole Child (WSCC) model.

- The Government Accountability Office released a report titled "K-12 Education: Challenges to Assessing Program Performance and Recent Efforts to Address Them".

- Chiefs for Change released a new report titled "Let's Get to Work: Learning from Success in Career and Technical Education".

- The National Center for Education Statistics at the Institute of Education Sciences released a report titled “Cyberbullying and Cell Phone Policy in U.S. Primary and Secondary Schools”.

- The American Academy of Pediatrics released a policy statement titled “The Link Between School Attendance and Good Health”.

- Third Way released a report titled “Ripple Effect: The Cost of the College Dropout Rate”.

- The American Institute for Research released the results of a new survey titled “2018 National Survey of Postsecondary Competency Based Education”.

- The Black Male Institute at UCLA’s Graduate School of Education and Information Studies released an analysis titled “Young, Black, and Houseless: An analysis of LA County Black Homeless Student Population”.

- Child Trends released a report titled “Using Policy to Create Healthy Schools: Resources to Support Policymakers and Advocates”.

- The Collaborative for Academic, Social and Emotional Learning (CASEL) launched “A Guide to Schoolwide Social and Emotional Learning”.

- The Data Quality Campaign released a new report titled “Growth Data: It Matters, and It’s Complicated”. The brief explores the different ways states have committed to measuring student growth and what that means for education stakeholders and their understanding of student success.

- The National Center for Education Statistics released the nation’s high school graduation rate figures for the 2016-2017 school year.

- iNACOL released a report titled “Moving Toward Mastery: Growing, Developing and Sustaining Educators for Competency-Based Education”.

- The National Alliance for Public Charter Schools released its annual ranking of charter school laws “Measuring Up to the Model: A Ranking of State Public Charter School Laws”.

- RAND Corporation released a report titled “Are Educators Setting Goals for Social-Emotional Learning? Evidence from Nationally Representative Surveys”.

- RAND Corp. released a publication titled “Artificial Intelligence Applications to Support Teachers and Teaching: A Review of Promising Applications, Challenges, and Risks”.

- The First Five Years Fund released a “Quality Early Learning and Child Care Toolkit for Congress”.

- The Education Commission of the States released a policy analysis titled “The Status of School Discipline in State Policy”.

- The Aspen Institute National Commission on Social, Emotional, and Academic Development released a report titled “From a Nation at Risk to a Nation at Hope”.

- The National Education Policy Center released a report titled “Examining the New Phenomenon of Teachers as Brand Ambassadors”.

- The Jack Kent Cooke Foundation released a report titled “Persistence: The Success of Students Who Transfer from Community Colleges to Selective Four-Year Institutions”.

- The Georgetown Law Center on Poverty and Inequality and the Vera Institute of Justice released a report titled “Investing in Futures: Economic and Fiscal Benefits of Postsecondary Education in Prison”.

- The National Institute for Early Education Research published a report titled “Barriers to Expansion of NC Pre-K: Problems and Potential Solutions”.

- The Consortium for School Networking (CoSN) published a report titled “Driving K-12 Innovation: 2019 Hurdles”, which explores the top five hurdles affecting technology in K-12 learning environments.

- Babson Survey Research Group released the results of a new study titled “Freeing the Textbook: Educational Resources in U.S. Higher Education, 2018”.

- The Government Accountability Office released a report titled “Food Insecurity: Better Information Could Help Eligible College Students Access Federal Food Assistance Benefits”.

- The Council of Chief State School Officers released a new report titled “Vision and Guidance for a Diverse and Learner-Ready Teacher Workforce”.

- The Center for American progress released a brief titled “11 Ways New Governors Can Lead on Education Through Executive Actions”.

- Learning Heroes released a publication titled “Parents 2018: Going Beyond Good Grades”.

- The Education Trust released a publication titled “Can Undocumented Students Access Free College Programs?”.



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With over two decades of legal, policy, and lobbying experience, Reg advises education leaders, national associations, and other stakeholders about the federal laws, regulations, and programs that directly impact and support efforts to expand and improve educational opportunities. Among other laws, he counsels clients about the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, the Family Educational Rights and Privacy Act, and the Universal Service provisions of the Telecommunications Act of 1996. His current work focuses on federal requirements and programs related to education technology, early learning, accountability and assessment, data use, and educator professional development and preparation.

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