SUPPLEMENTARY GENERAL CONDITIONS
to the GENERAL CONDITIONS of the CONTRACT for CONSTRUCTION
A201-2017

ARTICLE 1 GENERAL PROVISIONS

§1.1 Basic Definitions

Delete §1.1.1 in its entirety and in lieu of substitute the following: §1.1.1 The Contract Documents The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposals, or portions of Addenda relating to bidding or proposal requirements. The Contract Documents identified in this Section shall prevail in case of an inconsistency with subsequent versions made through manipulable electronic operations involving computers. In the absence of individual signatures by Owner and Contractor, the Contract Documents identified in the signed contract prevail. The Contractor is df Architect and Owner shall be responsible to deliver to the Contractor any Contract Documents prepared by them. If the Contractor believes that a Contract Document has not been delivered to it, then the Contractor shall give written notice thereof to the Owner before proceeding with the Work. The failure to obtain or review any such document shall not relieve or excuse the Contractor from compliance with its terms or the terms of any other Contract Document. By execution of the Contract, Contractor represents that it has obtained, read and understands all of the Contract Documents and that it can and will comply with all the provisions therein."

Delete §1.1.2 in its entirety and in lieu of substitute the following: §1.1.2 The Contract The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. After execution of the original Contract Documents, the Contract may thereafter be amended or modified only by a written Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub- subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

No Change to § 1.1.3 The Work

No Change to § 1.1.4 The Project

No Change to § 1.1.5 The Drawings

No Change to § 1.1.6 The Specifications

No Change to § 1.1.7 Instruments of Service

No Change to § 1.1.8 Initial Decision Maker

Add §1.1.9 to read: §1.1.9 The terms “bids” or “bidding” shall include any kind of competitive purchasing under the Texas Government Code Chapter 2269.

§ 1.2 Correlation and Intent of the Contract Documents

No Change to §1.2.1

No Change to §1.2.1.1

Add §1.2.1.2 to read: §1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have included in the cost of the Work the greater quantity or better quality, or the most stringent requirements, unless Contractor shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of Contractor’s Proposal. Such conflicts in the Contract Documents do not give the Contractor a “right to choose” which of the conflicting items or terms within the documents the Contractor wishes to use or follow. The Architect, in case of such conflict, may interpret or construe the document 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 interests 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.

No Change to §1.2.2

Delete §1.2.3 in its entirety and in lieu of substitute the following: §1.2.3 Technical terms not specifically defined in the Contract Documents shall have the meanings given in AIA Document “Glossary of Construction Industry Terms”, July 1982 edition. Technical terms not defined as above and used to describe items of the Work and which so applied have a well-known technical or trade meaning, shall be held to have such recognized meaning.

Add §1.2.4 to read: §1.2.4 The Contractor agrees that the later refinement or description of any Work set forth in, or reasonably inferable from, the Contract Documents, whether by written

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

specifications, directions or clarifications, shall not entitle the Contractor to any increase in the Contract Sum unless:(1) such later description involves a Change in Scope; and (2) the Owner has authorized the Contractor to proceed with such Work in advance and in writing in a signed Change Order or Construction Change Directive.

Add §1.2.5 to read: §1.2.5 The Contractor shall be solely responsible for assigning or dividing the Work among Subcontractors as necessary to accomplish the proper and timely completion of all Work.

Add §1.2.6 to read: §1.2.6 Where, in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are given, 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 competition. Materials or equipment shall not be substituted unless such substitution has been specifically accepted for use on the Project by the Architect. It is assumed and will be required that all workmanship be "First Class" and in compliance with current approved standards and codes for that particular phase of the work. No careless or slovenly work of any form will be accepted.

Add §1.2.7 to read: §1.2.7 When the Work is governed by reference to standards, building codes, insurance requirements, manufacturer's instructions, or other documents, unless otherwise specified, the current edition as of the Agreement date shall apply.

Add §1.2.8 to read: §1.2.8 Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements in the Contract Documents.

No Change to § 1.3 Capitalization

No Change to § 1.4 Interpretation

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

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

No Change to §1.5.2

©2024 Rawley McCoy & Associates, PLLC

§ 1.6 Notice

No Change to §1.6.1

No Change to §1.6.2

No Change to § 1.7 Digital Data Use and Transmission

No Change to § 1.8 Building Information Models Use and Reliance

ARTICLE 2 OWNER

§ 2.1 General

Delete §2.1.1 in its entirety and in lieu of substitute the following: §2.1.1 The Owner is Matagorda County and is referred to throughout the Contract Documents as if singular in number. The Owner may designate in writing one or more persons to represent the Owner; however, such representatives shall have the authority to bind Owner only to the extent expressly authorized by the Owner and shall have no implied authority. Except as otherwise stated specifically in the Contract Documents the Architect does not have the authority to bind the Owner. The term “Owner” means the Owner or the Owner’s authorized representative.

Delete §2.1.2 in its entirety and in lieu of substitute the following: §2.1.2 The Contractor acknowledges that no lien rights exist with respect to public property in the State of Texas and shall state such in all contracts, purchase orders or other forms of agreement with subcontractors or material suppliers on this project and furthermore inform them that a statutorily required Labor and Material Payment Bond is provided on the Project and that any claims for non-payment for Labor and Material must be made to the issuer of the bond. The Contractor must provide all subcontractors or material suppliers with contact information relative to the issuer of the Labor and Material Payment Bond for this Project upon issuance of a contract, purchase order or other form of agreement procuring labor and/or materials from any person or entity providing such for the Project.

Add §2.1.3 to read: §2.1.3 The Owner may engage a third-party consultant to represent the Owner. The Owner will notify the Contractor of the identity of any such consultant.

§2.2 Evidence of the Owner’s Financial Arrangements

Delete §2.2.1 in its entirety and in lieu of substitute the following: §2.2.1 Pursuant to the requirements of Texas Business and Commerce Code, the Owner represents that funds are available and have been authorized for the full contract amount of the Work.

Delete §2.2.2 in its entirety

©2024 Rawley McCoy & Associates, PLLC

Delete §2.2.3 in its entirety

Delete §2.2.4 in its entirety

§2.3 Information and Services Required of the Owner

No Change to §2.3.1

No Change to §2.3.2

No Change to §2.3.3

No Change to §2.3.4

Delete §2.3.5 in its entirety and in lieu of substitute the following: §2.3.5 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner within a reasonable time following actual receipt of a written request.

Delete §2.3.6 in its entirety and in lieu of substitute the following: §2.3.6 The Owner shall provide the contractor with one complete set of bid/construction documents in electronic PDF format as well as any subsequent addenda or other documents to be used by Contractor for distribution during the bid process and for construction of the Project. The documents shall be provided by the Architect on behalf of the Owner.

Add §2.3.7 to read: §2.3.7 Owner's personnel may, but are not required to be present at the construction site during progress of the Work to assist the Architect in the performance of his duties, and to verify the Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, and the equipment used in the performance of the Work for purpose of verification of Contractor's Applications for Payment.

Delete §2.4 in its entirety and in lieu of substitute the following: §2.4 Owner's Right to Stop the Work If the Contractor fails to correct nonconforming or defective Work as required by Section 12.2, or fails to complete the Work in time as required by Article 3 of the Agreement or is in default of any of its material obligations hereunder, the Owner, by a written order signed by an agent specifically so empowered by the Owner, may order 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 any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

Delete §2.5 in its entirety and in lieu of substitute the following: §2.5 Owner's Right to Carry Out the Work If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a five-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct

©2024 Rawley McCoy & Associates, PLLC

such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 General

Delete §3.1.1 in its entirety and in lieu of substitute the following: §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.

Delete §3.1.2 in its entirety and in lieu of substitute the following: §3.1.2 The Contractor shall perform the Work in a good and workmanlike manner except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship.

Delete §3.1.3 in its entirety and in lieu of substitute the following: §3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by activities of Owner or Owner's Consultants, if applicable, conducted in accordance with the Contract Documents, by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

Add §3.1.4 to read: §3.1.4 The Contractor shall not be a general agent of the Owner and shall not have authority to act on behalf of the Owner, except as otherwise provided herein. Neither the Contractor nor the Architect shall direct any change in the Work, regardless of its impact on the cost or time for completion, without the prior written approval of the Owner."

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

No Change to §3.2.1

Add §3.2.2.1 to read: §3.2.2.1 The Contractor must employ a surveyor registered in the State of Texas to set and maintain a benchmark for all building and site work, and to perform all work relating to site grading including but not limited to; setting building layout and corner locations, pier and footing locations, utility locations and flowlines where applicable, finish grade and finish floor elevations, specifically at all points where new meets existing construction.

©2024 Rawley McCoy & Associates, PLLC

.1 The exactness of grades, elevations, dimensions, or locations given on any Drawings issued by the Architect, or the Work installed by other contractors, is not guaranteed by the Architect or the Owner.

.2 The Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations. In all cases of interconnection of its Work with existing or other Work, it shall verify at the site all dimensions and elevations relating to such existing or other Work. Any errors due to the Contractor's failure to so verify all grades, elevations, dimensions, or locations shall be promptly rectified by the Contractor without any additional cost to the Owner.

No Change to §3.2.2

No Change to §3.2.3

No Change to §3.2.4

Add §3.2.5 to read: §3.2.5 Notwithstanding the delivery of a survey or other documents by the Owner, Contractor shall use reasonable efforts to perform all Work in such a manner so as to avoid damaging any known utility lines, cables, pipes, or pipelines on the property. Contractor shall be responsible for, and shall repair at Contractor's own expense, any damage done to known lines, cables, pipes, and pipelines, and upon completion of the Work shall return all laydown areas and parking lots to their pre-construction condition.

Add §3.2.6 to read: §3.2.6 The Contractor shall keep a log of all RFI's to be submitted on a standard form to be used for the duration of the project, which shall be consecutively numbered, beginning with the number 1.

Add §3.2.7 to read: §3.2.7 The Owner shall be entitled to deduct the Contract Sum amounts paid to the Architect for Additional Services to evaluate and respond to the Contractor's request for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions other Owner provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation.

§ 3.3 Supervision and Construction Procedures

No Change to §3.3.1

Add §3.3.1.1 to read: §3.3.1.1 The Contractor shall assign a superintendent who shall make decisions in behalf of the Contractor and its Subcontractors. The superintendent shall be on the Project, in this capacity, at all times while Work on the Project is in progress.

No Change to §3.3.2

No Change to §3.3.3

©2024 Rawley McCoy & Associates, PLLC

Add §3.3.4 to read: §3.3.4 The Contractor shall be responsible for the overall coordination, scheduling and supervision of the Work. The Contractor shall establish on-site lines of authority and communication necessary to coordinate the Construction Schedule and sequencing of the Work, establish delivery schedules and priorities, establish procedures and processing of field decisions, submittals, Change Orders and Applications for Payment.

Add §3.3.4.1 to read: §3.3.4 .1 The Contractor shall hold regular progress meetings at the times, places and frequencies mutually agreed upon by Owner and Contractor. The Contractor shall require Subcontractors and Sub-subcontractors to attend progress meetings as appropriate for the current stage of the Work. The Contractor shall keep minutes of each meeting and shall circulate the minutes to the Owner, the Architect, all Subcontractors, and such other persons as may be appropriate, within a reasonable time after the meeting is concluded.

Add §3.3.5 to read: §3.3.5 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent Contractor. Nothing contained herein or inferable here from 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 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 as described herein.

Add §3.3.6 to read: §3.3.6 The Contractor shall review contractor 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, or 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 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.

Add §3.3.7 to read: §3.3.7 Contractor acknowledges that the Work may be performed in connection with a facility which is currently occupied and in use. It is imperative that Contractor's operations and the performances of the Work not interfere with, interrupt, disturb, or disrupt Owner's normal operations or facilities. Contractor agrees to and shall comply with all rules, regulations and requirements of the Owner on which the Work is to be performed and shall take all steps necessary to protect and guard the safety of the employees, patients, visitors or other invitees of Owner. Contractor shall exercise the utmost skill and judgment to ensure that continuing construction activity will not interfere with the use, occupancy and quiet enjoyment of facilities in use on the site. Contractor recognizes that the ongoing activities in

©2024 Rawley McCoy & Associates, PLLC

proximity with its construction activities shall result in the need for prompt and effective coordination of its services with those involved in the ongoing utilization of the premises. Such coordination and adequate site access shall be the responsibility of Contractor. Contractor understands and accepts the difficulties and costs associated with working in an existing facility and the potential delays and disruptions in its Work and has included such items in the Contract Time and the Contract Sum. The Contractor shall perform all the Work in such a manner as to cause minimum interference with the operations of the Owner and other contractors and Subcontractors on the site, and shall take, and cause the Contractor's and its Subcontractor's employees, agents, licensees and permittees to take all necessary precautions to protect the Work and the site and all persons and property thereon from damage or injury. s

Add §3.3.8 to read: §3.3.8 Contractor shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, chapter C, Sections 756.021, *et seq.* The final dollar amount for such procedures must be clearly stated in a separate line item in the final contract sum as enumerated in the Schedule of Values which are part of the Applications of Payment.

Add §3.3.9 to read: §3.3.9 In the event Contractor falls behind schedule at any time, for any reason, the Owner shall be entitled to direct acceleration or resequencing of the Work to get back on schedule. Contractor shall be entitled to compensation from the Construction Contingency, or if such contingency funds are exhausted, pursuant to Change Order, for such acceleration only (a) to the extent necessitated by excusable and compensable delays, and (b) to the extent of premium pay and additional equipment cost actually incurred by Contractor. In the event Contractor determines that the Scheduled Completion Date cannot be met by resequencing the Work, then Contractor shall immediately provide to the Owner, and in any event within seven (7) days after the date of receipt of any request by Owner for resequencing or acceleration, a plan to complete the Work in the shortest possible time. No approval by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor pursuant to this paragraph 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 Scheduled Completion Date.

§ 3.4 Labor and Materials

No Change to §3.4.1

Delete §3.4.2 in its entirety and in lieu of substitute the following: §3.4.2 Substitutions will not be accepted unless approved through the procedures set forth in the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum, regardless of acceptance or rejection, amounts paid to the Architect to evaluate the Contractors proposed substitutions. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to make agreed upon changes in the Drawings and Specifications made necessary by the Owner's

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

acceptance of such substitutions. Refer to the Owner-Architect Agreement B103, Section 3.5.2.3 and 3.5.3.3.

Delete §3.4.3 in its entirety and in lieu of substitute the following: §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 shall be responsible for the actions of Contractor's forces, Subcontractor's forces and all tiers of Sub-subcontractor's forces. The Contractor will prohibit the possession or use of alcohol, controlled stances, tobacco, and any prohibited weapons on the Project Site and shall require adequate dress of the Contractor's forces consistent with the nature of the Work being performed, including wearing shirts at all times. Sexual harassment of employees of the Contractor or employees, patients, visitors or other invitees of the Owner by employees of the Contractor is strictly forbidden. Any employee of the Contractor who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by the Contractor, including removal from the job site.

Add §3.4.4 to read: §3.4.4 Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates which states: (a) For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by: (1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or (2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis- Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

Add §3.4.4.1 to read: §3.4.4.1 In accordance therewith, the Owner will establish a scale of prevailing wages which shall be incorporated in the Project specifications, and not less than this established scale must be paid on the Project.

Add §3.4.4.2 to read: §3.4.4.2 A Contractor or Subcontractor who violates the provisions of Sections 3.4.4.1 or 3.4.4.2 shall pay to Owner the sum of Sixty Dollars and No/100 ($60.00) for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rate stipulated in the scale of prevailing wages applicable to this Project, as required by Texas Government Code Section 2258.023(b).

Add §3.4.5 to read: §3.4.5 Contractor will require all workers on the Project to wear name badges at all times they are on any construction site or Owner's property. The name badge must include: Project Name, employee name, a photo of the employee, employee number, name of employer and name of Contractor.

©2024 Rawley McCoy & Associates, PLLC

§ 3.5 Warranty

No Change to §3.5.1

Delete §3.5.2 in its entirety and in lieu of substitute the following: §3.5.2 The Contractor agrees to assign to the Owner at the Time of Substantial Completion of the entire Work**,** or portion of the Work**,** any and all manufacture's warranties relating to materials and labor used in the Work and further agrees to complete the Work in such manner so as to preserve any and all such manufacturer's warranties. As a condition precedent to final payment, the Contractor shall submit to Owner a complete set of warranties from contractors, manufacturers, or suppliers as appropriate, and executed by Contractor as required, with a warranty commencement date as required by the Contract Documents. All warranties shall be issued in the name of the Owner.

Add §3.5.3 to read: §3.5.3 Contractor's express Warranty herein shall be in addition to, and not in lieu of, any other remedies Owner may have under this Agreement, at law, or in equity for defective Work.

Add §3.5.4 to read: §3.5.4 The warranties provided in Section §3.5 shall be in addition to and not in limitation of any other Warranty or remedy required by law or by the Contract Documents, and such warranty shall be interpreted to require Contractor to replace defective materials and equipment and re-execute defective Work which is disclosed to the Contractor by the Owner within a period of one (1) year after Substantial Completion of the entire Work or if latent defect, as per the Texas Civil Practice and Remedies Code, Section 16.009. which allows Owner (Claimant) to present a written claim during the time period of 10 years from Substantial Completion plus a two (2) year extension from the date claim is presented as applicable to suit as enumerated.

Add §3.5.5 to read: §3.5.5 The Contractor shall issue in writing to the Owner as a condition precedent to final payment a "General Warranty" reflecting the terms and conditions of Sections 3.5.3 and 3.5.4 for all Work under the Contract Documents. This General Warranty shall be assignable. Submittal or all warranties and guarantees are required as a prerequisite to the final payment.

Add §3.5.6 to read: §3.5.6 Except when a longer warranty time is specifically called for in the Specification Sections or is otherwise provided by law, the General Warranty shall be for twelve (12) months and shall be in form and content otherwise satisfactory to the Owner. Contractor acknowledges that the Project may involve phased construction work, both new construction and renovation work for the Owner. Each phase of the work may have its own, separate, and independent date of Substantial Completion or Final Completion. Contractor shall maintain a complete and accurate schedule of the dates of Substantial Completion, dates upon which the one-year warranty on each phase of the work which is substantially complete will expire, and dates of Final Completion. Contractor agrees to provide notice of the warranty expiration date to Owner and Architect at least one month prior to the expiration of the one-year warranty period on each phase of the work which has been substantially completed. Prior to termination of the

©2024 Rawley McCoy & Associates, PLLC

one-year warranty period, Contractor shall accompany the Owner and Architect on re-inspection of the building, in the phases of completion if applicable, and be responsible for correcting any reasonable additional deficiencies not caused by the Owner or by the use of the building which are observed or reported during the re-inspection. For extended warranties required by various sections, i.e. roofing, compressors, mechanical equipment, Owner will notify the Contractor of deficiencies and Contractor shall start remedying these defects within five (5) days of initial notification from Owner. Contractor shall prosecute the Work without interruption until accepted by the Owner and the Architect, even though such prosecution should extend beyond the limit of the warranty period. If Contractor fails to provide notice of the expiration of the one-year warranty period at least one month prior to the expiration date, Contractor's Warranty obligations in this Section shall continue until such inspection is conducted and any deficiencies found in the inspection corrected.

Add §3.5.7 to read: §3.5.7 The General Warranty of work as per §3.5.5 and §3.5.6 shall be covered by a Maintenance Bond as per §11.1.2.7 for the time period of the guarantee.

Add §3.5.8 to read: §3.5.8 Warranties shall become effective on a date established by the Owner and Architect in accordance with the Contract Documents. This date shall be the date of Substantial Completion of the entire Work, or portions of the work unless otherwise provided in any Certificate of Partial Substantial Completion approved by the parties, except for Work to be completed or corrected after the date of Substantial Completion and prior to final payment. Warranties for Work to be completed or corrected after the date of Substantial Completion and prior to final payment shall become effective on the latter of the date the Work is completed or corrected and accepted by the Owner and Architect or the date of final payment.

§3.6 Taxes

Delete §3.6 in its entirety and in lieu of substitute the following: §3.6 Taxes The Owner qualifies for exemption from State and Local Sales Tax pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act. Taxes normally levied on the purchase, rent or lease of all materials, supplies, and equipment used or consumed in the performance of this contract may be exempted by issuing to suppliers an exemption certificate in lieu of the tax. The exemption certificate complies with State Comptroller of Public Accounts Ruling No. 95-0.07. Any such exemption certificate issued in lieu of the tax shall be subject to the provisions of the State Comptroller of Public Accounts Ruling No. 95-0.09 as amended to be effective October 2, 1968. The Contractor shall pay any and all other taxes for the Work provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Contractor will not include in the Contract Price or any Modification any amount for sales, use, or similar taxes for which (1) a Texas County is exempt, and (2) the Owner has provided the Contractor with a tax exemption certificate or other documentation necessary to establish the Owner's exemption from such taxes.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

©2024 Rawley McCoy & Associates, PLLC

Delete §3.7.1 in its entirety and in lieu of substitute the following: §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 Owner shall pay fees for public or private water, gas, electrical, and other utility services at the site. The Contractor shall secure and arrange for all necessary utility connections at Owner's cost and expense if properly reimbursable per Articles 5 and 6 of AIA Document A101 – 2017 Standard Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum.

Delete §3.7.2 in its entirety and in lieu of substitute the following: §3.7.2 In performing its obligations hereunder, the Contractor shall comply fully with all applicable laws, ordinances, rules, regulations, lawful orders and decrees of all applicable authorities, and when requested shall furnish evidence satisfactory to the Owner of such compliance.

Delete §3.7.3 in its entirety and in lieu of substitute the following: §3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, insurance requirements, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. **TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE MATAGORDA COUNTY, THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND CONSULTANTS (WHETHER PAST, PRESENT OR FUTURE) AND THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND CONSULTANTS (WHETHER PAST, PRESENT OR FUTURE), COLLECTIVELY THE "INDEMNITIES") FROM AND AGAINST ALL CLAIMS, FINES, PENALTIES, OR LIABILITIES FROM, ARISING OUT OF SUCH WORK, OR BASED UPON THE ACTUAL OR ASSERTED VIOLATION OF ANY LAWS, ORDINANCES, RULES, REGULATIONS, ORDERS OR DECREES APPLICABLE TO SUCH WORK.**

§3.7.4 Concealed or Unknown Conditions

Delete §3.7.4 in its entirety and in lieu of substitute the following: §3.7.4 Concealed or Unknown Conditions Contractor acknowledges that there may exist at the Project site certain soil and geological conditions and/or Unknown surface physical conditions which are not disclosed in the Contract Documents, and which have been known to or may be reasonably anticipated to occur in the area or be related to any past use of the Project site, including, without limitation, the presence of rock and its hardness, geologic formations, differing soils, and surface structures, equipment or other impediments, either natural or man-made (collectively, "Subsurface Conditions").

©2024 Rawley McCoy & Associates, PLLC

Add §3.7.4.1 to read: §3.7.4.1 Owner makes no representations or warranties regarding Subsurface Conditions at the Project site, or of the accuracy or continuity of conditions which may be noted in any reports furnished or made available to Contractor. Contractor covenants and agrees that any such reports are furnished or made available by Owner to Contractor for information purposes only, and Contractor acknowledges that Owner is not responsible for the content thereof.

Add §3.7.4.2 to read: §3.7.4.2 Contractor shall be responsible for inspecting the site and determining the existence or likelihood of any Subsurface Conditions which may affect the Contract Time or the Contract Sum, or both. Except as provided to Subsurface Conditions, if conditions are encountered at the site which are concealed physical conditions which could not be known to the Contractor and which differ substantially from those indicated in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 10 days after first observance of the conditions.

Add §3.7.4.3 to read: §3.7.4.3 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 Owner and the Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, or both, the adjustment shall be subject to mediation pursuant to Article 15.

No Change to §3.7.5

Add §3.7.6 to read: §3.7.6 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 Activities Permit" for the Project. Contractor's obligations under this Section do not require it to perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. However, any drainage alterations made by Contractor during the construction process which require the issuance of a permit shall be at Contractor's sole cost.

Add §3.7.7 to read: §3.7.7 The Contractor shall certify in writing that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by Local/State standards, laws, codes, insurance requirements, 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 Instruments of Service related to Contract Closeout.

§ 3.8 Allowances

©2024 Rawley McCoy & Associates, PLLC

No Change to §3.8.1

No Change to §3.8.2

Delete §3.8.3 in its entirety and in lieu of substitute the following: §3.8.3 Materials and equipment under an allowance shall be selected by the Owner within such time as is reasonably specified by the Contractor as necessary to avoid delay in the Work.

Add §3.8.4 in its entirety and in lieu of substitute the following: §3.8.4 When performing Work under allowances, where reasonably possible, Contractor shall solicit and receive no fewer than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value for the Owner.

§ 3.9 Superintendent

Delete §3.9.1 to read: §3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor shall not replace the Superintendent prior to Final Completion of the Work unless (1) the Project Manager or Superintendent shall cease to be employed by the Contractor or its subsidiaries or affiliated companies, or (2) the Owner agrees to such replacement. The Superintendent may not be employed on any other project prior to Final Completion of the Work. From Substantial Completion to Final Completion, the Superintendent shall be on-site as necessary to ensure that Final Completion occurs within sixty (60) days of Substantial Completion.

No Change to §3.9.2

No Change to §3.9.3

Add §3.9.4 to read: §3.9.4 Owner shall be notified not less than twenty-four (24) hours before any time that superintendent will not be present at the site for any reason except 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, the Contractor is subject to being back charged in the amount of TWO HUNDRED FIFTY AND NO/100 DOLLARS ($250.00) for each day.

§ 3.10 Contractor's Construction and Submittal Schedules

No Change to §3.10.1

No Change to §3.10.2

©2024 Rawley McCoy & Associates, PLLC

No Change to §3.10.3

Add §3.10.4 to read: §3.10.4 The construction schedule shall be in a detailed precedence – style critical path method ("CPM") format satisfactory to the Architect that shall also (1) provide a graphic representation of all activities and events that will occur during performance of the Work; (2) identify each phase of construction and occupancy; and (3) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). Upon review and acceptance by the Architect of the Milestone Dates, the construction schedule shall be deemed part of the Contract Documents. If not accepted, the construction schedule shall be promptly revised by the Contractor in accordance with the recommendations of the Architect and resubmitted for acceptance. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner and Architect of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and /or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date, or the Contract Sum unless any such adjustment is agreed to by the Owner and Architect and authorized pursuant to Change Order.

Add §3.10.5 to read: §3.10.5 In the event the Owner determines that the performance of the Work has not progressed or reached the level of completion required by the Contract and represented in previous Schedules of the Work presented by the Contractor, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitations, (1) working additional shifts of overtime, (2) supplying additional manpower, equipment and facilities, and (3) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule, and;

.1 The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to the Subparagraph §3.10.5.

.2 The Owner may exercise the rights furnished the Owner under or pursuant to this Subparagraph §3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the Contract Documents.

§ 3.11 Documents and Samples at the Site

No Change to: § 3.11 Documents and Samples at the Site

©2024 Rawley McCoy & Associates, PLLC

Add §3.11.1 to read: §3.11.1 In addition to documents and samples at the site, Contractor shall at all times maintain other job records, including, but not limited to, invoices, payment records, payroll records, daily reports, logs, diaries, and job meeting minutes, applicable to the Project. Contractor shall make such reports and records available to inspection by the Owner, Architect, or their respective agents, with five (5) working days of request by Owner, Architect, or their respective agents and should make them electronically available at the site if not physically available.

§ 3.12 Shop Drawings, Product Data and Samples

No Change to §3.12.1

No Change to §3.12.2

No Change to §3.12.3

No Change to §3.12.4

No Change to §3.12.5

No Change to §3.12.6

No Change to §3.12.7

No Change to §3.12.8

No Change to §3.12.9

No Change to §3.12.10

No Change to §3.12.10.1

No Change to §3.12.10.2

Add §3.12.11 to read: §3.12.11 The Architect's review of Contractor's submittals will be limited to one examination of an initial submittal and one (1) examinations of a resubmittal. 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 deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional resubmittals as per Section §4.2.3 of AIA B103-2017 Owner -Architect Agreement.

§3.13 Use of Site

Delete §3.13 in its entirety and in lieu of substitute the following: §3.13 Use of Site The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, insurance requirements, rules and regulations, and lawful orders of public

©2024 Rawley McCoy & Associates, PLLC

authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall so conduct its operations as not to unreasonably interfere with traffic on site or on public thoroughfares adjacent or near to the Project site.

Add §3.13.1 to read: §3.13.1 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. As between Owner and Contractor, protection of construction materials and equipment stored by Contractor at the Project Site from weather, theft, damage, and all other adversity is solely the Contractor's responsibility.

Add §3.13.2 to read: §3.13.2 The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project Site related to the Project for the purpose of advertising to the public the nature of the Project and the entities performing the Work on the Project (i.e., Project signs) without the prior written consent to the Owner.

Add §3.13.3 to read: §3.13.3 The Contractor and its Subcontractors and Sub-subcontractors shall use the Project Site only for purposes necessary to the performance of the Work and shall limit and restrict such use, as may be directed by the Owner, so as not to unreasonably interfere with the Owner's use and occupancy of the Project Site and any surrounding areas. The Contractor acknowledges, that as between Owner and Contractor, the Owner shall have no responsibility for safety at the Project Site, and that the Owner shall not be responsible or liable for Contractor's compliance with applicable Laws and regulations (including OSHA rules) relating to the safety of employees, persons or property of Contractor and its Subcontractors, at any tier, at the Project Site or adjacent properties, and the Contractor will require that this responsibility be discharged by the Contractor, Subcontractors and Sub-subcontractors performing the Work.

§ 3.14 Cutting and Patching

No Change to §3.14.1

No Change to §3.14.2

§ 3.15 Cleaning Up

Delete §3.15.1 in its entirety and in lieu of substitute the following: §3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract and shall, not less than weekly or at any time accumulation of waste or rubbish becomes a safety issue, clean up by removing rubbish, including old and surplus materials. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials, and shall clean, sweep, mop, brush and polish, as appropriate, the interior of the improvements or renovated areas, including but not limited to,

©2024 Rawley McCoy & Associates, PLLC

any floors, carpeting, ducts, fixtures, and ventilation units operated during construction. Contractor shall clean exterior gutters, drainage, walkways, driveways and roofs of debris.

No Change to §3.15.2

Add §3.15.3 to read: §3.15.3 The Contractor shall be responsible for damaged or broken glass, and at completion of the Work, shall replace such damaged or broken glass.

§ 3.16 Access to Work

Delete §3.16 in its entirety and in lieu of substitute the following: §3.16 Access to Work
Upon request of the Architect or Owner, the Contractor shall accompany the Architect or Owner on inspections of the Work in preparation or progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

No Delete to §3.17 Royalties, Patents and Copyrights

§3.18 Indemnification
Delete to §3.18.1 in its entirety and in lieu of substitute the following: §3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WAIVES AND RELEASES ALL CLAIMS AGAINST AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS MATAGORDA COUNTY, EMPLOYEES, AGENTS AND CONSULTANTS (WHETHER PAST, PRESENT OR FUTURE) AND THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS AND CONSULTANTS (WHETHER PAST, PRESENT OR FUTURE), COLLECTIVELY THE "INDEMNITIES") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, PROCEEDINGS (WHETHER ADMINISTRATIVE, CIVIL, CRIMINAL, INVESTIGATIVE OR LEGISLATIVE) , JUDGMENTS, COSTS AND EXPENSES, INCLUDING ATTORNEY'S FEES AND EXPERT WITNESS FEES DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY, OR RESULTING FROM (IN WHOLE OR IN PART) THE PERFORMANCE OF THE WORK, THE CONTRACT DOCUMENTS, OR ANY ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY THE "LIABILITIES"). THE ARCHITECT AND THE ARCHITECT'S CONSULTANTS SHALL BE INDEMNIFIED ONLY TO THE EXTENT ALLOWED BY LAW. THIS IS NOT INTENDED TO COVER THE ARCHITECT'S AND THE ARCHITECT'S CONSULTANTS' PROFESSIONAL LIABILITIES. THE OBLIGATIONS OF CONTRACTOR UNDER THIS INDEMNIFICATION SHALL APPLY TO LIABILITIES EVEN IF SUCH LIABILITIES ARE CAUSED IN PART BY THE NEGLIGENCE OF ANY INDEMNITEE. THE CONTRACTOR SHALL PROMPTLY ADVISE OWNER IN WRITING OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION AS TO WHICH THIS INDEMNIFICATION MAY APPLY, AND CONTRACTOR, AT THE CONTRACTORS EXPENSE, SHALL ASSUME ON BEHALF OF OWNER (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL SATISFACTORY TO

©2024 Rawley McCoy & Associates, PLLC

OWNER; PROVIDED, HOWEVER, THAT OWNER SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY ADVISORY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY THE CONTRACTOR TO FULLY PERFORM IN ACCORDANCE WITH THIS INDEMNIFICATION PARAGRAPH, OWNER, AT ITS OPTION, AND WITHOUT RELIEVING CONTRACTOR OF ITS OBLIGATIONS HEREUNDER, MAY SO PERFORM, BUT ALL COSTS AND EXPENSES SO INCURRED BY OWNER IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO OWNER, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY OWNER UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS UNDER THE LAWS OF THE STATE OF TEXAS. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS. THE CONTRACTOR'S INSURANCE SHALL NOT BE REQUIRED TO INDEMNIFY THE NAMED INDEMNITIES FOR ACTIONS IN WHICH THE CONSTRACTOR IS NOT PARTIALLY OR WHOLLY RESPONSIBLE FOR. IT IS INTENDED AND AGREED THAT THIS INDEMNITY PROVISION SATISFIES THE 'EXPRESS NEGLIGENCE RULE'.

Delete to §3.18.2 in its entirety and in lieu of substitute the following: §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 ACT OR INSURANCE, DISABILITY ACTS OR INSURANCE OR OTHER EMPLOYEE BENEFIT ACTS OR RELATED INSURANCE.

Add §3.18.3 to read: §3.18.3 CONTRACTOR SHALL BE RESPONSIBLE FOR AND SHALL HOLD INDEMNITEES FREE AND HARMLESS FROM LIABILITY RESULTING FROM LOSS OF OR DAMAGE TO CONTRACTOR'S OR ITS SUBCONTRACTORS' CONSTRUCTION TOOLS AND EQUIPMENT AND RENTED ITEMS WHICH ARE USED OR INTENDED FOR USE IN PERFORMING THE WORK, REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF INDEMNITY. THIS PROVISION SHALL APPLY, WITHOUT LIMITATION, TO LOSS OR DAMAGE OCCURRING AT THE WORK SITE OR WHILE SUCH ITEMS ARE IN TRANSIT TO OR FROM THE WORK SITE AND IS IN ADDITION TO CONTRACTOR'S OBLIGATIONS UNDER SECTION 3.18.1. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO, BOTH CONTRACTOR AND OWNER, THAT THE INDEMNITY IS PROVIDED FOR IN THIS SECTION AS TO CONTRACTOR'S OR ITS SUBCONTRACTOR'S TOOLS AND EQUIPMENT AND RENTAL ITEMS, IS AN AGREEMENT BY CONTRACTOR TO INDEMNIFY AND PROTECT INDEMNITIES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

ANY INDEMNITEE WHETHER THAT NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE LOSS OR DAMAGE.

Add §3.18.4 to read: §3.18.4 Indemnification hereunder shall include, without limiting the generality of the foregoing, liability which could arise to an Indemnity pursuant to State statutes for the safety of workmen and in addition, all Federal statutes and rules existing thereunder for protection, occupational safety and health to workmen. It being agreed that the primary obligation of the Contractor is to comply with said statutes in performance of the Work by Contractor and that the obligations of the Owner, its agents, consultants, and representatives or any other Indemnitee under said statutes are secondary to that of the Contractor.

Add §3.18.5 to read: §3.18.5 THE PROVISIONS OF ARTICLE 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§3.19. Representations and Warranties

Add §3.19. §3.19. Representation and Warranties

Add §3.19.1 to read: §3.19.1 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, the following 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 plant, tools, materials, supplies, equipment and labor required to 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 and public quasi-public authorities having jurisdiction over it and over the Work and the site of the Project;

.4 that the execution of the Contract and its performance thereof is within its duly authorized powers; and

.5 that its duly authorized representative has visited the site of the Work, familiarized itself with the local conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract Documents.

Add §3.19.2 to read: §3.19.2 Contractor, in performing its obligations under Contract, shall establish and maintain appropriate business standards, procedures, and controls, including

©2024 Rawley McCoy & Associates, PLLC

those necessary to avoid any real or apparent impropriety or adverse impact on the interest of Owner or affiliates. Contractor shall review, with Owner at a reasonable frequency during the performance of the Work hereunder, such business standards and procedures including, without limitation, those related to the activities of Contractor's employees and agents in their relations with Owner's employees, agents, and representatives, vendors, Subcontractors, and other third parties, and those relating to the placement and administration of purchase orders and contracts.

§3.20 Antitrust Violation

Add §3.20 to read: §3.20 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.A. Section 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

No Change to §4.1.1

No Change to §4.1.2

Delete §4.1.3 in its entirety and in lieu of substitute the following: §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 former Architect.

§ 4.2 Administration of the Contract

Delete §4.2.1 in its entirety and in lieu of substitute the following: §4.2.1 The architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided specifically in the Contract Documents. The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits or other services made necessary by the fault, neglect or request of the Contractor as per Paragraphs §4.2.2, §4.2.3 of the AIA - B103 Owner-Architect Agreement and their respective subparagraphs.

No Change to §4.2.2

No Change to §4.2.3

§ 4.2.4 Communications

©2024 Rawley McCoy & Associates, PLLC

No Change to §4.2.4 Communications

No Change to §4.2.5

Delete §4.2.6 in its entirety and in lieu of substitute the following: §4.2.6 The Architect or Owner has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect or Owner considers it necessary or advisable, the Architect or Owner will have authority to require inspection or testing of the Work in accordance with Sections §13.4.2 and §13.4.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect or Owner 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 Owner to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work. Certain portions of the Work will be tested and/or observed at various stages, sometimes off the Project site, between initial observation or review and final positioning of the completed Work. Nothing in any initial or prior approval or test result shall govern if at any subsequent time the Work or any portion thereof is found not to conform to the requirements of the Contract Documents.

Delete §4.2.7 in its entirety and in lieu of substitute the following: §4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents.

Add §4.2.7.1 to read: §4.2.7.1 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 Contract Documents, the 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, so as to keep from delaying the Work or the activities of the Owner, Contractor or other Contractors.

No Change to §4.2.8

©2024 Rawley McCoy & Associates, PLLC

Delete §4.2.9 in its entirety and in lieu of substitute the following: §4.2.9 The Architect and Owner will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion. The Architect will 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 and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

Delete §4.2.10 in its entirety and in lieu of substitute the following: §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 set forth in an exhibit to be incorporated in the Contract Documents.

Delete §4.2.11 in its entirety and in lieu of substitute the following: §4.2.11 Upon written request of the Owner or Contractor, the Architect will issue its interpretation of the requirements of the plans and specifications. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

Delete §4.2.12 in its entirety and in lieu of substitute the following: §4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings.

Delete §4.2.13 in its entirety and in lieu of substitute the following: §4.2.13 The Architect's decision on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents and not expressly overruled in writing by the Owner.

Delete §4.2.14 in its entirety and in lieu of substitute the following: §4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limit 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 expense to Owner, unless responses are required as described in Paragraphs §4.2.2.2, §4.2.2.3 or §4.2.2.4 of AIA B101-2017 Agreement between Owner and Architect, as amended by the Owner.

Add §4.2.15 to read: §4.2.15 The Architect may appoint an employee or other person to assist him during the construction. These representatives will be instructed to assist the Contractor in interpreting the Contract Documents; however, such assistance shall not relieve the Contractor from any responsibility as set forth by the Contract Documents. The fact that the Architect's Representative may have allowed Work not in accordance with the Contract Documents shall not prevent the Architect from insisting that the faulty Work be corrected to conform to the Contract Documents and the Contractor shall correct same.

©2024 Rawley McCoy & Associates, PLLC

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

No Change to §5.1.1

No Change to §5.1.2

§ 5.2 Award of Subcontracts and other Contracts for Portions of the Work

No Change to §5.2.1

No Change to §5.2.2

No Change to §5.2.3

No Change to §5.2.4

§5.3 Subcontractual Relations

No Change to §5.3 Subcontractual Relations

Add §5.3.1 to read: §5.3.1 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to Subcontractors or vendors by the Contractor. As between Owner and Contractor, the Owner shall be deemed a third-party beneficiary of all subcontracts of all tiers and shall be entitled to performance and enforcement of all Subcontractors' obligations under all subcontracts, provided Owner shall first give Contractor fourteen (14) days' notice and opportunity to cure. Owner acknowledges Contractor is under no obligation to include, or to require the inclusion of, a clause designating Owner as a third-party beneficiary in any subcontracts at any tier. The Contractor shall deliver to the Owner a copy of any one or more of the subcontracts promptly upon the Owner's request.

Add §5.3.2 to read: §5.3.2 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 contract. 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.

Add §5.3.3 to read: §5.3.3 Any part of the Work performed for the Contractor by a Subcontractor shall be pursuant to a written subcontract between the Contractor and such Subcontractor. Each such subcontract shall at a minimum:

.1 require that such Work be performed in accordance with the requirements of the Contract Documents;

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

.2 waive all rights the contracting parties may have against one another or that the Subcontractor may have against the Owner for damages caused by fire or other perils covered by the property insurance required by the Contract Documents;

.3 require the Subcontractor to carry and maintain liability insurance in accordance with the Contract Documents; and

.4 require the Subcontractor to furnish such certificates and waivers as the Owner may reasonably request.

Add §5.3.4 to read: §5.3.4 Contractor may require major subcontractors to provide bonds to the Contractor to secure performance or payment of their work to the Contractor as a prerequisite to receiving a subcontract on the Project.

§5.4 Contingent Assignment of Subcontracts

Delete §5.4.1 in its entirety and in lieu of substitute the following: §5.4.1 In the event this Contract is terminated by the Owner for any of the reasons set forth in Section §14.2, the Owner shall have the right to, without any responsibility to do so, assume the rights and responsibilities of the Contractor under all or some subcontracts, any construction, materials, tools, equipment or rental agreements and/or other commitments which the Owner, in its sole discretion, chooses to assume. While this provision shall constitute a present assignment of Contractor's rights with respect to any and all such contractors, agreements, and commitments which Owner so chooses to assume, the Contractor, upon request from the Owner, shall promptly execute and deliver to the Owner written assignments of Contractor's rights to such contractors, agreements and commitments which the Owner, in its sole discretion, so chooses to take by assignment. All contracts with Subcontractors shall provide for this assignment.

No Change to §5.4.2

No Change to §5.4.3

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

Delete §6.1.1 in its entirety and in lieu of substitute the following: §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. 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.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

No Change to §6.1.2

No Change to §6.1.3

No Change to §6.1.4

§ 6.2 MUTUAL RESPONSIBILITY

No Change to §6.2.1

No Change to §6.2.2

No Change to §6.2.3

No Change to §6.2.4

No Change to §6.2.5

§ 6.3 OWNER'S RIGHT TO CLEAN UP

No Change to §6.3

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

No Change to §7.1.1

No Change to §7.1.2

No Change to §7.1.3

Add §7.1.4 to read: §7.1.4 Notwithstanding any other provisions in the Contract Documents, the adjustment in the Contract Sum and Contract Time, if any, set forth in a Change Order shall constitute the entire compensation and adjustment, including all indirect costs and expenses due to the Contractor on account thereof, unless otherwise provided in the Change Order.

§ 7.2 CHANGE ORDERS

No Change to §7.2.1

Add §7.2.2 to read: §7.2.2 Acceptance of a disbursement from any allowance fund or contingency by issuance and acceptance of a Change Order by the Contractor shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including but not limited to impact, delay or acceleration damages, arising from the subject matter of the disbursement or Change Order.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

Add §7.2.3 to read: §7.2.3 Notwithstanding any other provisions in the Contract Documents, the adjustment in the Contract Sum and Contract Time, if any, set forth in a Change Order shall constitute the entire compensation and adjustment, including all indirect costs and expenses due to the Contractor on account thereof, unless otherwise provided in the Change Order.

§ 7.3 Construction Change Directives

No Change to §7.3.1

No Change to §7.3.2

No Change to §7.3.3

No Change to §7.3.4

No Change to §7.3.5

No Change to §7.3.6

Delete §7.3.7 in its entirety and in lieu of substitute the following: §7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section §7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section §7.3.7 shall be limited to the following:

.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.2 Costs of materials, supplies and equipment, including costs of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit and inspection fees related to the Work; and

.5 Additional costs of supervision and field office personnel directly attributable to the change, if change results in an increase of contract time.

©2024 Rawley McCoy & Associates, PLLC

Delete §7.3.8 in its entirety and in lieu of substitute the following: §7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent for profit and overhead as confirmed by the Architect, subject to equitable adjustment recommended by the Architect and approved by the Owner. 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.

No Change to §7.3.9

No Change to §7.3.10

Add §7.3.11 to read: §7.3.11 When changes in the Work are indicated to be paid from a contingency allowance, if any, identified in the Contract Documents, the Contractor's supervision and all other overhead items and profit shall be deemed to be included in the Contract Sum, and not in the contingency allowance.

§ 7.4 Minor Changes in the Work

No Change to §7.4 Minor Changes in the Work

ARTICLE 8 TIME

§ 8.1 Definitions

No Change to §8.1.1

Delete §8.1.2 in its entirety and in lieu of substitute the following: §8.1.2 The date of commencement of the Work shall be the date established in the Contractor's written notice to proceed. The notice to proceed shall not be issued until the Agreement has been signed by the Contractor and the Owner, the Owner and Architect have received and approved as to form all required payment and performance bonds and insurance as required by Article 11.

Delete §8.1.3 in its entirety and in lieu of substitute the following: §8.1.3 The date of Substantial Completion is the date certified by the Architect and Owner in accordance with Section §9.8. The date of Final Completion is the date certified by the Architect in accordance with Section §9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than sixty (60) days after the date of Substantial Completion.

No Change to §8.1.4

§ 8.2 Progress and Completion

Delete §8.2.1 in its entirety and in lieu of substitute the following: §8.2.1 Time limits stated in the Contract Documents are the essence of the Contract. By executing the Agreement the

©2024 Rawley McCoy & Associates, PLLC

Contractor confirms and accepts that the Contract Time is a reasonable period for performing the Work.

No Change to §8.2.2

No Change to §8.2.3

Add §8.2.4 to read: §8.2.4 In the event Substantial Completion is not achieved by the designated date, or as it may be extended, Owner may withhold payment of any further sums due until Substantial Completion is achieved. Owner shall also be entitled to deduct out of any sums due to the Owner in accordance with the Contract Documents.

Add §8.2.5 to read: §8.2.5 If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time, the Owner shall be entitled to retain or recover from the Contractor and the Contractor's surety, as liquidated damages and not as a penalty, the following per diem amounts commencing upon the first day following expiration of the Contract Time and continuing until the actual Date of Substantial Completion. Such liquidated damages are hereby agreed to be a reasonable estimate of damages the Owner will incur as a result of delayed completion of the Work: $200.00 per Calendar Day as per Article 5 and Article 6 of executed AIA Document A101 – 2017 Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum.

§ 8.3 Delays and Extensions of Time

Delete §8.3.1 to read: §8.3.1 The Owner, except as provided for in this Section §8.3.1, shall not be liable to the Contractor for delay to the Contractor's Work by the act, neglect or default of the Owner or the Architect, or by reason of fire, act of God, riot, strike, action of workmen or others, or any cause beyond the Owner's control. Should the Owner or Architect delay the Contractor in the Work, Contractor shall receive an extension of time for completion equal to the delay if a written claim is made within ninety-six (96) hours, and under no circumstances shall Owner be liable to pay the Contractor any monetary compensation for such Owner or Architect caused delays and under no circumstances shall Owner be liable to pay the Contractor.

No Change to §8.3.2

Delete §8.3.3 in its entirety and in lieu of substitute the following: §8.3.3 This Agreement does not permit the recovery of damages by the Contractor for delay, disruption or acceleration. Contractor agrees that Contractor shall be fully compensated for all delays solely by an extension of time.

ARTICLE 9 PAYMENTS AND COMPLETION (The Owner's obligations under this Article will be primarily be performed by County Officials of Matagorda County and their actions shall be binding to the extent State Law allows.)

©2024 Rawley McCoy & Associates, PLLC

§ 9.1 Contract Sum

Delete §9.1.1 in its entirety and in lieu of substitute the following: §9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. All costs of overtime work required by the Contract Time and the nature of the Work, as set forth in or inferable from the Contract Documents, except costs of emergencies covered in Section §10.4, shall be and are included in the Contract.

No Change to §9.1.2

No Change to §9.2

§ 9.3 Applications for Payment

Delete §9.3.1 in its entirety and in lieu of substitute the following: §9.3.1 At least ten (10) 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 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. Owner or Architect may also require receipts, invoices, cancelled checks, time sheets, or any other form of proof of costs or expenses, including non-fixed general conditions, for the Work for payment is being requested. The form of Application for Payment, duly notarized, shall be a current authorized edition of AIA Document G702, Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703, Continuation Sheet.

No Change to §9.3.1.1

No Change to §9.3.1.2

Add §9.3.1.3 to read: §9.3.1.3 Contractor agrees that, for purposes of Texas Government Code Section 2251.042, receipts of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Architect's Certificate for Payment shall be construed as a receipt of an invoice by the Owner, for purposes of Texas Government Code section 2251.042.

No Change to §9.3.2

Delete §9.3.3 in its entirety and in lieu of substitute the following: §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,

©2024 Rawley McCoy & Associates, PLLC

information and belief, be free of claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers or other entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

Add §9.3.3.1 to read: §9.3.3.1 CONTRACTOR SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ANY CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

Add §9.3.4 to read: §9.3.4 Upon Owner's request, Contractor will at his own expense, by bonding or otherwise, receive prompt discharge of any claims that may be filed against the Owner arising out of the contract.

§ 9.4 Certificates for Payment

Delete §9.4.1 in its entirety and in lieu of substitute the following: §9.4.1 The Architect will, within ten (10) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section §9.5.1.

No Change to §9.4.2

§ 9.5 Decisions to Withhold Certification

Delete §9.5.1 in its entirety and in lieu of substitute the following: §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;

©2024 Rawley McCoy & Associates, PLLC

.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 delay beyond the times set forth elsewhere in the Contract Documents including but not limited to the submission for approval of the schedule of values, cost breakdowns on proposal requests, progress schedule, list of Subcontractors and insurance requirements;

.9 evidence of financial inability to perform the Contract fully;

.10 failure to submit record documents required by the Contract; or

.11 failure of the Contractor to perform any other obligations of the Contract.

Delete §9.5.2 in its entirety and in lieu of substitute the following: §9.5.2 The Owner shall not be deemed in default by reason of withholding payment in whole or in part as provided for in Section 9.5.1, and Contractor may not file Claim against Owner for withholding of such payments.

No change to §9.5.3

Add sentence end of §9.5.4 to read: Owner's issuance of a joint check to Contractor and a Subcontractor shall in no way be construed as creating a contractual relationship between the Owner and that Subcontractor

§ 9.6 Progress Payments

Delete §9.6.1 in its entirety and in lieu of substitute the following: §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) days if Owner disputes the Architect's Certificate for Payment, pursuant to Texas Government Code section 2251.042 *et.seq.* 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.

©2024 Rawley McCoy & Associates, PLLC

Delete §9.6.2 in its entirety and in lieu of substitute the following: §9.6.2 The Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the construction, furnished and equipping of the improvements and the performance of the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor's failure to make payments within such time shall constitute a material breach of this contract. Contractor shall include a provision in each of its contracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder. 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, the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner as per §9.5.1.3.

No Change to §9.6.3

Delete§9.6.4 in its entirety and in lieu of substitute the following: §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) 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 by required by law.

No Change to §9.6.5

No Change to §9.6.6

Delete §9.6.7 in its entirety and in lieu of substitute the following: §9.6.7 The Contractor shall, as a condition precedent to any obligation of the Owner under the Contract Documents, provide to the Owner payment and performance bonds in the full penal amount of the Contract in accordance with Texas Government Code Chapter 2253.

Delete §9.6.8 in its entirety

§ 9.7 Failure of Payment

Delete §9.7 in its entirety and in lieu of substitute the following: §9.7 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within thirty (30) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents the amount certified by the Architect, then the Contractor may, upon seven (7) 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.

©2024 Rawley McCoy & Associates, PLLC

§ 9.8 Substantial Completion

Delete §9.8.1 in its entirety and in lieu of substitute the following: §9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, but in no case sooner than any certification from State Agencies from whom certification may be required prior to use or occupancy of the facilities when occupancy is contingent on such certifications. In the event Substantial Completion is not achieved by the designated day, or as it may be extended, Owner may withhold payment of any further sums due until Substantial Completion is achieved. Owner shall also be entitled to deduct out any sums due to Contractor any or all liquidated damages due Owner in accordance with the Contract Documents.

Delete §9.8.2 in its entirety and in lieu of substitute the following: §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 the Owner a comprehensive list (a "punch list") which shall identify all (1) non-conforming, defective and incomplete Work and establish the date of commencement of warranties in connection with any Work, and (2) any other items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. The Contractor acknowledges that during the period when it is completing the punch list, Owner may be occupying or preparing to occupy the Project, and that disputes may arise between Contractor and Owner as to the responsibility for correction of certain damage to the Work. Contractor agrees that it shall promptly perform any such corrective work irrespective of any dispute as to Contractor's responsibility therefore, subject to Contractor's right to make claim for additional compensation resulting therefrom pursuant to the terms of this Contract.

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

.1 If, in Architect's opinion during the inspection, the Project, or the designated portion thereof which Owner has agreed to accept separately, is not sufficiently complete to warrant inspection, or if the list of items to be completed or corrected is not sufficiently complete to warrant inspection, then Architect may terminate the inspection and notify the Contractor that the Project is not ready for inspection. If for such reasons, Architect is required to make additional

©2024 Rawley McCoy & Associates, PLLC

inspections, the Owner may deduct the cost of Architect's additional services made necessary thereby from any payments due the Contractor. The Architect's compensation shall be determined in accordance with the applicable provisions of the Agreement between the Owner and Architect.

.2 Except with the consent of the Owner, the Architect will perform no more than two (2) inspections to determine whether the Work has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect, Engineer, Consultant or service provider for any additional inspections.

No Change to §9.8.4

Delete §9.8.5 in its entirety and in lieu of substitute the following: §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, the Owner will pay contractor in full for all work identified as being substantially complete less retainage. Payment of retainage will not be made until all items on the punch list attached to the Certificate of Substantial Completion are completed.

Add §9.8.6 to read: §9.8.6 Retainage is not due to the Contractor until thirty-one (31) days after Final Completion of the Work as set out in Section 9.10. After the Certificate of Substantial Completion is accepted by the Owner, the Owner may, in its sole discretion and upon acceptance and consent of surety, make payment of retainage on all or a part of the Work accepted.

§ 9.9 Partial Occupancy or Use

Delete §9.9.1 in its entirety and in lieu of substitute the following: §9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the property insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section §9.8.2, and upon receipt of the Contractors list, Architect and Owner will respond as provided under Section §9.8.3. 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.

©2024 Rawley McCoy & Associates, PLLC

No Change to §9.9.2

Delete §9.9.3 in its entirety and in lieu of substitute the following: §9.9.3 Unless expressly agreed upon in writing, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

Delete §9.10.1 in its entirety and in lieu of substitute the following: §9.10.1 When all of the Work is finally completed and the Contractor is ready for a final inspection it shall notify the Owner and Architect thereof in writing. Thereupon, the Architect and Owner will make final inspection of the Work and, if the Work is complete in full accordance with the Contract Documents and this Contract has been fully performed, the Architect will promptly issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. Except with the consent of the Owner, the Architect will perform no more than two (2) inspections to determine whether the Work has attained Final Completion in accordance with the Contract Documents. If the Architect is unable to issue its final Certificate for Payment and is required to repeat its final inspection(s) of the Work, the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect, Engineer, Consultant or service provider for any additional inspections.

Delete §9.10.2 in its entirety and in lieu of substitute the following: §9.10.2 The Contractor shall not be entitled to final payment unless and until it submits to the Architect its affidavit that the payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property, might be responsible have been fully paid or otherwise satisfied; releases and waivers of claims from all Subcontractors of the Contractor and of any and all other parties required by the Architect or the Owner; such other provisions as Owner may request; and consent of Surety to final payment. If any third party fails or refuses to provide a release or waiver as required by Owner, the Contractor shall furnish a bond or secure continuance of bonds already in force which would be satisfactory to the Owner to discharge any such claim or indemnify the Owner from liability.

Delete §9.10.3 in its entirety and in lieu of substitute the following: §9.10.3 The Owner shall make final payment of all sums due the Contractor not more than thirty-one (31) days after the Architect's execution of a final Certificate for Payment. The Final Payment shall not constitute a waiver of any claims by the Owner.

Delete §9.10.4 in its entirety

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

©2024 Rawley McCoy & Associates, PLLC

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

No Change to §10.1

Delete §10.1 in its entirety and in lieu of substitute the following: §10.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, including but not limited to the following;

.1 Contractor's employees, agents, and Subcontractors shall not perform any service for Owner while under the influence of alcohol or any controlled substance. Contractor, its employees, agents, and Subcontractors shall not use, possess, distribute, or sell illicit or nonprescription controlled drugs or drug paraphernalia, or misuse legitimate prescription drugs while performing the Work. Contractor, its employees, agents, and Subcontractors shall not use, possess, distribute, or sell alcoholic beverages while performing the work.

.2 Contractor has adopted or will adopt its own policy to assure a drug and alcohol-free work place while performing the Work.

.3 Contractor will remove any of its employees from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such employee, 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 employees from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, Contractor's employees 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 employee was in compliance with this contract. Contractor will not use an employee to perform the Work who either refuses to take, or tests positive in, any alcohol or drug test.

.4 Contractor will comply with all applicable federal, state, and local drug and alcohol related laws and regulations (e.g., Department of Transportation regulations, Department of Defense Drug-Free Workplace Policy, Drug-Free Workplace Act of 1988).

.5 Policy bans the presence of all weapons on the Project site, including handguns, whether or not the owner thereof has a license to carry a handgun, concealed or open.

§10.2 Safety of Persons and Property

Delete §10.2.1 in its entirety and in lieu of substitute the following: §10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

©2024 Rawley McCoy & Associates, PLLC

.1 employees on the Work site, persons on Owner's premises and other persons who may be affected thereby, which protection shall include the installation of fencing or other barriers between the Work site and the occupied portion of a connecting or adjacent 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 of the Contractor's Subcontractors or Sub-Subcontractor; and

.3 other property at the site or adjacent thereto, such as other buildings, fencing, trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

Delete §10.2.2 in its entirety and in lieu of substitute the following: §10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, insurance requirements, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

Delete §10.2.3 in its entirety and in lieu of substitute the following: §10.2.3 The Contractor shall erect and maintain as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities. 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 fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees, and cause all subcontractors or others working under Contractor to do likewise.

Delete §10.2.4 in its entirety and in lieu of substitute the following: §10.2.4 When use or storage of 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 and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

Delete §10.2.5 in its entirety and in lieu of substitute the following: §10.2.5 CONTRACTOR SHALL BE RESPONSIBLE FOR AND SHALL HOLD INDEMNITEES FREE AND HARMLESS FROM LIABILITY RESULTING FROM LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS ON OR OFF THE SITE AND/OR IN TRANSIT AS REFERRED TO IN CLAUSE 10.2.1.2 EVEN IF SUCH LOSS OR DAMAGE RESULTS ANY INDEMNITEE, INDEMNITEE'S CONSULTANT'S NEGLIGENCE. AS TO PROPERTY REFERRED TO IN CLAUSE 10.2.1.3, CONTRACTOR SHALL HOLD INDEMNITEES FREE AND HARMLESS

©2024 Rawley McCoy & Associates, PLLC

FROM LIABILITY RESULTING FROM LOSS OF OR DAMAGE CAUSED IN WHOLE OR IN PART BY THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, ANYONE FOR WHOSE ACTS OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH DAMAGE IS CAUSED IN PART BY THE NEGLIGENT ACTS OR OMISSIONS OF ANY INDEMNITEES. THE FOREGOING OBLIGATIONS OF THE CONTRACTOR ARE IN ADDITION TO HIS OBLIGATIONS UNDER SECTION 3.18.

NOTWITHSTANDING THE FOREGOING, THE ARCHITECT AND THE ARCHITECT'S CONSULTANTS SHALL BE INDEMNIFIED ONLY TO THE EXTENT ALLOWED BY LAW. THIS IS NOT INTENDED TO COVER THE ARCHITECT'S AND ARCHITECT'S CONSULTANTS' PROFESSIONAL LIABILITIES.

No Change to §10.2.6

No Change to §10.2.7.

§10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

Delete §10.2.8 in its entirety and in lieu of substitute the following: 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 three (3) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. No provision of the Contract Documents shall waive Owner's immunity under the Texas Tort Claims Act, Texas Civil Practice and Remedies Code, Chapter 101.

§ 10.3 Hazardous Materials and Substances

No Change to §10.3.1

No Change to §10.3.2

Delete §10.3.3 in its entirety and in lieu of substitute the following: §10.3.3 TO THE FULLEST EXTENT PERMITTED BY TEXAS STATE LAW, THE OWNER SHALL 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 AND EXPERT WITNESS 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

©2024 Rawley McCoy & Associates, PLLC

THAT SUCH DAMAGE, LOSS OR EXPENSE IS DUE TO THE FAULT OR NEGLIGENCE OF THE PARTY SEEKING RELIEF. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS SECTION 10.3.3, THE AGREEMENT OF THE OWNER TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE PARTIES DESCRIBED IN THIS SECTION SHALL NOT EXTEND OR APPLY TO CLAIMS, DAMAGES, LOSSES, EXPENSES OR LIABILITIES RELATED TO, CREATED OR CAUSED IN WHOLE OR IN PARTY BY A PARTY HELD HARMLESS; IT BEING AGREED AND UNDERSTOOD THAT THE OWNER AND ANY PARTY SO IDENTIFIED SHALL EACH BEAR LIABILITY FOR ITS OWN NEGLIGENT ACTS OR OMISSIONS, AND THAT SUCH LIABILITY SHALL EXTEND ONLY FOR THE NEGLIGENT ACTS AND OMISSIONS OF THE OWNER.

No Change to §10.3.4

No change to §10.3.5

No Change to §10.3.6

§10.4 Emergencies

Delete §10.4 in its entirety and in lieu of substitute the following: 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.

Add §10.4.1 to read: §10.4.1 The performance of the foregoing services by the Contractor shall not relieve the Contractor of its 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.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

Delete §11.1.1 in its entirety and in lieu of substitute the following: §11.1.1 The Contractor shall purchase from and maintain in a company or companies with a "Best Rating" of "A" or better and lawfully authorized to conduct business in the jurisdiction in which the project is located the following kinds of liability insurance and minimum limits of coverage which will protect the Contractor from claims which may arise out of or result from the Contractor's operations under the contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable:

Add §11.1.1.1 to read: §11.1.1.1 Worker's Compensation Coverages in compliance with 28 TAC 110.110(c) (7), adopted to implement Texas Labor Code 406.096.

©2024 Rawley McCoy & Associates, PLLC

a. A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83 or TWCC-84), showing statutory worker's compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of the project.

b. Duration of the project includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

c. Persons providing services on the project ("subcontractor" in TEXAS LABOR CODE 406.096) include all persons or entities performing all or part of the services that the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and 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.

d. Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries and delivery of portable toilets.

e. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of TEXAS LABOR CODE 401.011(44) for all employees of the contractor providing services on the project for the duration of the project.

f. The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

g. 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 governmental entity showing that coverage has been extended.

h. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

> **1)** a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
>
> **2)** no later than seven (7) 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.

©2024 Rawley McCoy & Associates, PLLC

i. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

j. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten 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.

k. The contractor shall post on each project site a notice, in the text, form, and manner prescribed by the Texas Worker's Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

l. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of TEXAS LABOR CODE 401.011(44) 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. (Owner may request copies of these certificates from the contractor):

a) a certificate of coverage, prior to the other person beginning work on the project; and

b) 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 governmental entity in writing by certified mail of personal delivery, within ten 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

©2024 Rawley McCoy & Associates, PLLC

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.

m. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity 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, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self- Insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

n. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor that entitles the governmental entity to declare the contract void if the contractor does not remedy the breach with-in ten (10) days after receipt of notice of breach from the governmental entity.

o. The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC 110.110(i)

Add §11.1.1.2 to read: §11.1.1.2 Contractor's Comprehensive General Liability including Independent Contractor's Liability, Contractual Liability, Completed Operations & Products Liability and Excavation & Underground coverage, where applicable, all on an occurrence basis with Personal Injury and Broad Form Property Damage coverage. **CLAIMS MADE POLICIES ARE NOT ACCEPTABLE**. Completed Operations Liability shall be kept in force for at least one year after the date of final completion. Provide the following minimum limits of coverage:

a. Bodily Injury, Each Occurrence	$1,000,000.00
b. Damage to Rented Premises Each Occurrence	$300,000.00
c. Medical Expense – Any One Person	$10,000.00
d. Personal & Advertising Injury	$1,000,000.00
e. General Aggregate	$2,000,000.00
f. Products – Completed Operations Aggregate	$2,000,000.00

Add §11.1.1.3 to read: §11.1.1.3 Automobile Liability covering hired, owned and non-owned vehicles. Provide the following minimum limits of coverage:

©2024 Rawley McCoy & Associates, PLLC

a. Bodily Injury Per Person & Property Damage Combined Single Limit (CSL) $1,000,000.00

Add §11.1.1.4 to read: §11.1.1.4 Excess Indemnity Policy (Umbrella) covering both General and Automobile Liability. Provide the following minimum coverage:

a. Each Occurrence $1,000,000.00

b. Annual Aggregate $2,000,000.00

Add §11.1.1.5 to read: §11.1.1.5 All of the Contractor's liability policies required above shall name the Owner, Matagorda County and the Architect and all of their consultants as additional insureds and include waivers of subrogation in favor of the Owner, Matagorda County and the Architect and all of their consultants.

Add §11.1.1.6 to read: §11.1.1.6 The amendment of form language relative to cancellation notification on certificates of insurance cannot simply be made on the face of the form but must actually be made by policy endorsement in compliance with State of Texas insurance regulations.

Add §11.1.1.7 to read: §11.1.1.7 The required insurance must be written by a company licensed to do business in Texas at the time the policies are issued. In addition, the company must be acceptable to the Owner.

Delete §11.1.2 in its entirety and in lieu of substitute the following: §11.1.2 The Contractor shall procure and obtain all bonds at the appropriate time as prescribed by Section 2269.258 of the Texas Government Code as required of the Owner by applicable Laws or by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. All bonds must comply with the requirements of Texas Insurance Code, Section 7.19-1 and all bonding companies must be licensed to do business in the State of Texas and, if bond amounts exceed $100,000.00, hold a certificate of authority from the U.S. Secretary of the Treasury or reinsurance for liability in excess of $100,000.00 from a reinsurer authorized and admitted as a reinsurer in the State of Texas and that is a holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. Owner and Architect reserve the right to rely on the Treasury list of companies holding certificates of authority to determine whether the surety or reinsurer complies with the legal requirement. 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 furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the state in which the Project is located, including Chapter 2253 of the Texas Government Code, and in form and substance satisfactory to the Owner and, without limitation, complying with the following specific requirements:

©2024 Rawley McCoy & Associates, PLLC

Add §11.1.2.1 to read: §11.1.2.1 Except as otherwise required by statute the form and substance of such bonds shall be satisfactory to the Owner in the Owner's sole judgment;

Add §11.1.2.2 to read: §11.1.2.2 Bonds shall be executed by a responsible surety licensed in the state in which the Project is located, and shall remain in effect for a period not less than two (2) years following the date of Substantial Completion of the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer;

Add §11.1.2.3 to read: §11.1.2.3 The Performance Bond and the Labor and Material Payment Bond shall each be in an amount equal to 100% of the Contract Sum;

Add §11.1.2.4 to read: §11.1.2.4 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 his power of attorney indicating the necessary limit of such power;

Add §11.1.2.5 to read: §11.1.2.5 Every Bond under this Section §11.1.2 must be an original and display the Surety's Bond Number, and also include the name, address and telephone number of the bond company. A rider including the following provisions shall be attached to each Bond;

.1 Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change, or other modification of the Contract Documents which, singularly or in the aggregate, does not exceed ten percent (10%) of the Contract Sum. Except as to increases in the Contract Sum in excess of the percentages set forth above in this Clause §11.1.2.5.1, any other addition, alteration, change, extension of time, or other modification of the Contract Documents, or a forbearance on the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder and notice to the Surety of such matters is hereby waived.

.2 Surety further agrees that in event of any default by the Owner in the performance of the Owner's obligations to the Contractor under the Contract, the Contractor or surety shall cause written notice of such default (specifying said default in detail) to be given to the Owner, and the Owner shall have thirty (30) days from time after receipt of such notice within which to cure such default, or such additional reasonable period of time as may be required if the nature of such default is such that it cannot be cured within thirty (30) days. Such Notice of Default shall be sent by certified or registered U.S. Mail, return receipt requested, first class postage prepaid, to Lender, if applicable, and the Owner.

.3 Surety agrees that it is obligated under the bonds to any successor, grantee or assignee of the Owner.

Add §11.1.2.6 to read: §11.1.2.6 The Contractor shall keep the surety informed of the progress of the Work, and, where necessary, obtain the surety's consent to, or waiver of:

©2024 Rawley McCoy & Associates, PLLC

.1 notice of changes in the Work;

.2 request for reduction or release of retention;

.3 request for final payment; and

.**4** any other material required by the surety. The Owner shall be notified by the Contractor, in writing, of all communications with the surety. The Owner may, in the Owner's sole discretion, inform surety of the progress of the Work and obtain consents as necessary to protect the Owner's rights, interest, privileges and benefits under and pursuant to any bond issued in connection with the Work.

Add §11.1.2.7 to read: §11.1.2.7 The Contractor shall provide Maintenance Bond Coverage to extend for the one (1) year period of the General Warranty to insure his performance under the terms of his obligation.

Delete §11.1.3 in its entirety and in lieu of substitute the following: §11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made. Contractor must provide all subcontractors and suppliers with copies of Payment Bond provided on the Project and contact information for the company issuing the Bond upon execution of a subcontract or placement of order for materials.

No Change to §11.1.4

Add §11.1.5 to read: §11.1.5 The Contractor shall affect and maintain builders risk All Risk insurance protection written on an Installation Floater form, which allows the Owner to fully occupy the premises during the work, for the completed value of new portions of the entire structure on which work of this Contract is done, using standard insurance forms or their equivalent for this purpose. The Owner, Contractor and Architect and his consultants shall be named or designated in such capacity as insured jointly with the Contractor in this policy or policies, which shall be open to any of the Insured's inspections. The Contractor shall accomplish this by having an appropriate rider added to all policies as follows: The (name of insurance company) does insure (names of Owner, the Property Owner and Architect) with them at the described premises, but only to the extent of their individual interests, if any, as they may appear. If not covered under the All Risk insurance or otherwise provided in Contract Documents, the Contractor shall affect and maintain similar property insurance on portions of the work stored off the site or in transit when such portions of the work are to be included in an Application for Payment under Subparagraph §9.3.2. Policy shall have as endorsements, Texas Form No. 21, (Actual Completed Value), Texas Form No. 79-c, (Vandalism and Malicious Mischief Endorsement) including name of the Contractor and Owner. If the project is in a tier one wind storm zone the policy must also include windstorm coverage.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

Add §11.1.6 to read:11.1.6. The Contractor shall purchase and maintain separate boiler and machinery insurance which shall specifically cover such insured objects during installation and until final acceptance by Owner if the Contractor's normal liability or property insurance coverage excludes such objects. 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.

Add § 11.1.7 to read: § 11.1.7 If the Owner 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 Contractor shall, if possible, include such insurance, and the cost thereof shall be charged to the Owner by appropriate Change Order.

Add § 11.1.8 to read: § 11.1.8 A loss insured under the Contractor's property insurance shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear. 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.

Add § 11.1.9 to read: § 11.1.9 If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

Add § 11.1.10 to read: § 11.1.10 The Contractor 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 Contractor'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.

Add § 11.1.11 to read: § 11.1.11 Before an exposure to loss may occur, the Contractor shall file with the Owner a copy of each policy that includes insurance coverages required by this Section §11.1. 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 Owner and others who are jointly insured.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

§ 11.2 OWNER'S INSURANCE

Delete §11.2.1 in its entirety and in lieu of substitute the following: §11.2.1 Owner may, in its sole discretion, purchase an Owner Controlled Insurance Program (OCIP) for the Project. Owner will consult and confer with Contractor prior to purchasing OCIP. If OCIP is purchased, its cost will be included in the Cost of Work.

Delete §11.2.2 in its entirety

Delete §11.2.3 in its entirety

§ 11.3 Waivers of Subrogation

Delete §11.3.1 in its entirety and in lieu of substitute the following: §11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, 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 Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

No change to §11.3.2

Delete §11.4 in its entirety

Delete §11.5 including §11.5.1 and §11.5.2 in their entirety

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

No Change to §12.1.1

Delete §12.1.2 in its entirety and in lieu of substitute the following: §12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the

©2024 Rawley McCoy & Associates, PLLC

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.

§12.1.2.1 If a portion of the Work has been covered and the Architect has specifically requested to see such Work, or if any known deficiencies exist, or the Contract Documents specifically request inspection prior to its being covered, the Architect may request to see that Work and it shall be uncovered by the Contractor. If the Work is not in accordance with the Contract Documents, it must be corrected and covered at the expense of the Contractor. If the Work is according to the Contract Documents, the cost to restore cover on the Work is at the sole expense of the Contractor.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

No Change to §12.2.1

§ 12.2.2 After Substantial Completion

No Change to §12.2.2.1

No Change to §12.2.2.2

No Change to §12.2.2.3

Delete §12.2.2.4 in its entirety and in lieu of substitute the following: §12.2.2.4 Upon request by the Owner and prior to the expiration of one (1) year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

No Change to §12.2.3

No Change to §12.2.4

No Change to §12.2.5

Add §12.2.6 to read: §12.2.6 Contractor shall (1) re-execute any parts of the Work that fail to conform with the requirements of this Agreement that appear in the progress of the Work; (2) remedy any defects in the Work due to faulty materials or workmanship which appear within a period of one (1) year from Substantial Completion of the Work hereunder, or within such longer period of time as may be set forth in the Drawings and Specifications of other Contract Documents; and (3) replace, repair, or restore any parts of the Project or furniture, fixtures,

©2024 Rawley McCoy & Associates, PLLC

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 Contract Documents or defects in the Work.

Add §12.2.7 to read: §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 provisions of this Section §12.2.7 shall not apply to corrective Work attributable solely to the acts or omissions of any separate Contractor or Owner unless Contractor is acting in such capacities. The cost to Contractor to performing any of its obligations under this Clause §12.2.7 to the extent not covered by insurance shall be borne by Contractor.

Add §12.2.8 to read: §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 Contract Documents, as equitable deduction from the Contractor Sum 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 unreasonable delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

Add §12.2.9 to read: §12.2.9 Contractor's express warranty herein shall be in addition to, and not in lieu of, any other remedies Owner may have under the Contract Documents, at law, or in equity for defective Work.

§ 12.3 Acceptance of Nonconforming Work

No Change to §12.3

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

Delete §13.1 in its entirety and in lieu of substitute the following: The Contract shall be governed by the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. The Contract is deemed performable entirely in Matagorda County, Texas. Any litigation to enforce or interpret any terms of the Contract, or any other litigation arising out of or as a result of the Contract, shall be brought in the State courts of said County. No provision of this Agreement shall waive any immunity or defense.

Add § 13.1.1 As per TGC Chapter 2270 Israel Verification, Rawley McCoy & Associates, PLLC hereby verifies that under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

.1 Does not boycott Israel currently; and

.2 Will not boycott Israel during the time of the contract.

©2024 Rawley McCoy & Associates, PLLC

Add § 13.1.2 Pursuant to Section 2270.001, Texas Government Code:

.1 "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and

.2 "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit. "Governmental entity" means a state agency or political subdivision of this state

§13.2 Successors and Assigns

No Change to §13.2.1

No Change to §13.2.2

§13.3 Rights and Remedies

No Change to §13.3.1

No Change to §13.3.2

Add §13.3.3 to read: §13.4.3 If any provision or any portion of a provision of the Contract Documents or of any other document to be executed in connection with the Contract is deemed to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the remaining portion of that provision or of any other provision of any of the Contract Documents or such other document, as each provision of the Contract and all such other documents shall be deemed to be severable from all other provisions hereof and thereof."

Add §13.3.4 to read: §13.3.4 Written notice shall be deemed to have been duly served if delivered in person to the individual or 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 return receipt requested, or by courier service providing proof of delivery, or by electronic facsimile transmission to the last business address known to the party giving notice.

§ 13.4 Tests and Inspections

Delete §13.4.1 in its entirety and in lieu of substitute the following: §13.4.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, insurance requirements, rules and regulations or lawful orders of public authorities. The Owner will contract for, independently

©2024 Rawley McCoy & Associates, PLLC

of the Contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for the acceptance of the Work by the Owner. The Contractor shall give timely notice to the persons or entities selected by the Owner of the need for such services. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

No Change to §13.4.2

No Change to §13.4.3

No Change to §13.4.4.

No Change to §13.4.5

No Change to §13.4.6

§13.5 Interest

Delete §13.5 Interest in its entirety and in lieu of substitute the following: Payments due and unpaid under the Contract Documents shall bear interest in accordance with the Texas Prompt Payment Act, Texas Gov't Code Chapter 2251. Any such payment shall be deemed overdue on the thirty-first (31st) day after Owner receives the Contractor's Certificate for Payment from the Architect if Owner's governing body meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth (46th) day after Owner receives the Contractor's Certificate for Payment from the Architect if Owner's governing body 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.

Add §13.6 Project Information and Records

Add §13.6.1 to read: §13.6.1 Contractor agrees to furnish Owner such information as may be available in Contractor's files and records for the Project for the purpose of aiding Owner in establishing a depreciation schedule for the Project or such portions thereof as Owner may determine.

Add §13.6.2 to read: §13.6.2 Contractor shall at all times through date of Final Completion, maintain Job Records, including, but not limited to, invoices, payment records, payroll record, daily reports, diaries, logs, instructions, drawings, receipts, contracts, 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

©2024 Rawley McCoy & Associates, PLLC

ten (10) 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.

Add §13.6.3 to read: §13.6.3 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 system shall be satisfactory to the Owner.

Add §13.6.4 to read: §13.6.4 Contractor shall keep all Construction Documents related to the Project 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.

Add §13.6.5 to read: §13.6.5 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 overpayment within thirty (30) days of such audit findings, or the Owner, as its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

Delete §14.1.1 in its entirety and in lieu of substitute the following: §14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 an act of government, such as a declaration of national emergency that requires all Work to be stopped; 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 §9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents.

Delete §14.1.2 in its entirety and in lieu of substitute the following: §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

©2024 Rawley McCoy & Associates, PLLC

aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

Delete §14.1.3 in its entirety and in lieu of substitute the following: §14.1.3 If one of the reasons described in Section §14.1.1 or §14.1.2 exists, the Contractor may, upon fifteen (15) days written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment in an amount which would have been recoverable had the termination been for the Owner's convenience.

Delete §14.1.4 in its entirety and in lieu of substitute the following: §14.1.4 If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon fifteen (15) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section §14.1.3

§ 14.2 Termination by the Owner for Cause

Delete §14.2.1 in its entirety and in lieu of substitute the following: §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, insurance requirements, rules and regulations, or lawful orders of a public authority.

.4 Otherwise is guilty of substantial breach of a provision of the Contract Documents.

.5 Or if any Subcontractor becomes insolvent, enters bankruptcy, receivership or other like proceeding; voluntary or involuntarily, or makes an assignment for the benefit of creditors; and the Contractor, within fifteen (15) days after receipt of notice from the Owner, fails to provide satisfactory evidence that the Contractor will either (1) perform the Work of such Subcontractor with the Contractor's own forces, in a timely manner, or (1) replace the Subcontractor with another similarly qualified Subcontractor who is ready, willing and able to do such Subcontractor's Work in a timely manner; or

.6 Fails to proceed continuously and diligently with the construction and completion of the Work; except as permitted under the Contract Documents.

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

Delete §14.2.2 in its entirety and in lieu of substitute the following: §14.2.2 When any of the above reasons exist the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's Surety, if any, seven (7) days' written notice, terminate employment of the Contractor and may, subject to any prior rights of Surety:

.1 Take possession of the site and of all materials, equipment, tools, and construction equipment, and machinery thereof owned by the Contractor.

.2 Accept assignment of contracts pursuant to Section §5.4.

.3 Finish the Work by whatever reasonable method the Owner may deem expedient.

Add §14.2.2.1 to read: §14.2.2.1 In any such event, title to the Work, and any products thereof, whether completed or partially completed, as well as all materials prepared, provided procured or set aside by the Contractor for use in the Work, shall vest in the Owner at the Owner's option, and the Owner may enter the Contractor's premises and remove the same therefrom. No election hereunder shall be construed as a waiver of any rights or remedies of the Owner with regard to any breach of the Contract Documents.

No Change to §14.2.3

No Change to §14.2.4

§ 14.3 Suspension by Owner for Convenience

No Change to §14.3.1

No Change to §14.3.2

§ 14.4 Termination by Owner for Convenience

No Change to §14.4.1

No Change to §14.4.2

Delete §14.4.3 in its entirety and in lieu of substitute the following: §14.4.3 In the case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, for profits only on that portion of the Work executed, and for reasonable costs of demobilization.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

©2024 Rawley McCoy & Associates, PLLC

No change to §15.1.1

No change to §15.1.2

§15.1.3 Notice of Claims

No change to §15.1.3.1

No change to §15.1.3.2

§15.1.4 Continuing Contract Performance

No change to §15.1.4.1

No change to §15.1.4.2

§ 15.1.5 Claims for Additional Cost

No Change to §15.1.5 Claims for Additional Cost

§ 15.1.6 Claims for Additional Time

No Change to §15.1.6.1.

Delete §15.1.6.2 in its entirety and in lieu of substitute the following: §15.1.6.2 The Contractor shall be entitled to an extension of the contract time for delays or disruptions due to unusually inclement weather in excess of that normally experienced at the job site. Unusual inclement weather as used herein means unusually severe weather which is beyond the normal weather recorded and expected for the locality of the Work and/or the season or seasons of the year.

Add §15.1.6.2.1 to read: §15.1.6.2.1 Prepare as a base line for monthly weather reporting Norm based upon information compiled from the records of the U.S. Weather Bureau Station at the location of the Work. This shall determine monthly ANTICIPATED unusual weather days. The contractor's progress schedule must reflect these ANTICIPATED adverse weather delays in all-weather dependent activities. In order for a weather-related time extension to be awarded the weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month based upon information compiled from the records of the U.S. Weather Bureau Station at the location of the Work.

Add §15.1.6.2.2 to read: §15.1.6.2.2 Keep Daily Jobsite Reports including both written and photographic record of all weather information, specifically noting any adverse weather, including temperature, wind, rain, etc. If unusually inclement weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating such conditions, the fact that the same could not have been reasonably anticipated, and the fact that

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers

they had an adverse effect on the scheduled construction. Give a description of how any adverse weather event will affect the Project Critical Path Schedule and resultant impact to normally scheduled work. The delay must be beyond the control and without the fault or negligence of the contractor. Keep a record of any adverse weather delays as a result of previous project delays. Such extension of time will be granted only if such unusual inclement weather prevented the execution of Work on normal working days.

Add §15.1.6.2.3 to read: §15.1.6.2.3 The Contractor shall bear the entire economic risk of all weather delays and disruptions and shall not be entitled to any increase in the Contract Price by reason of such delays or disruptions. Requests for an extension of time pursuant to this Subparagraph shall be submitted to the Architect not later than the fifteenth (15th) day of the month following the month during which the delays or disruptions occurred.

§ 15.1.7 Waiver of Claims for Consequential Damages

No Change to §15.1.7 Waiver of Claims for Consequential Damages

§ 15.2 Initial Decision

No change to §15.2.1

No change to §15.2.2

No change to §15.2.3

No change to §15.2.4

No change to §15.2.5

No change to §15.2.6

No change to §15.2.6.1

No change to §15.2.7

Delete §15.2.8 in its entirety and in lieu of substitute the following: §15.2.8 It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialman, artisan, or laborer, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the building, or any of the improvements of whatever nature or kind so erected or to be erected by virtue of this Contract nor upon any of the land upon which said building or any of the improvements are so erected, build, or situated.

Add §15.2.9 to read: §15.2.9 Nothing herein shall preclude the Owner or the Contractor from requesting that the Architect or one or more subcontractors be joined as parties to the mediation, to the extent allowed by their respective contracts.

©2024 Rawley McCoy & Associates, PLLC

§ 15.3 Mediation

Delete §15.3.1 in its entirety and in lieu of substitute the following: §15.3.1 In the event that the Owner or the Contractor shall contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

Delete §15.3.2 in its entirety and in lieu of substitute the following: §15.3.2 The parties shall endeavor to resolve their claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution 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.

Delete §15.3.3 in its entirety and in lieu of substitute the following: §15.3.3 The parties shall select the mediator by mutual agreement and share the mediator's fee and any filing fees equally. If the parties cannot mutually agree upon a mediator the Presiding Judge of the District Courts of Matagorda County, Texas shall select the mediator.

Delete §15.3.4 in its entirety and in lieu of substitute the following: §15.3.4 The mediation shall be held in Matagorda County, Texas unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Venue for binding dispute resolution shall also be in Matagorda County, Texas

§ 15.4 Arbitration

Delete §15.4 in its entirety

§ 15.4.4 Consolidation or Joinder

Delete §15.4.4 in its entirety

Add §15.5 Immunity

Add §15.5.1 to read: §15.5.1 Contractor stipulates that Owner is a political subdivision of the State of Texas and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. 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 provided by law.

END OF 00 73 00

©2024 Rawley McCoy & Associates, PLLC Architects and Interior Designers