

SCHOOL DISTRICT OF PHILADELPHIA
Office of Capital Programs

**SPECIFICATIONS FOR
GENERAL SERVICE CONTRACT**

**PAINT AND PLASTER REPAIRS
AT
(PROJECT LOCATION)**



SDP Contract No. B-002 G-X of 2018/19
General Service Contract

Volume 1 of 1

SCHOOL REFORM COMMISSION
SCHOOL DISTRICT OF PHILADELPHIA

Office of Capital Programs
Third Floor – Suite 371
440 N. Broad Street
Philadelphia, PA 19130-4015
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SPECIFICATION B-002 G-X OF 2018/19 - General Service

**SPECIFICATIONS FOR
GENERAL SERVICE CONTRACT**

PAINT AND PLASTER REPAIRS

AT

(Project Location)

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**NO CONSTRUCTION DRAWINGS
ISSUED FOR THIS PROJECT**

END OF SECTION 01 0010

The School District of Philadelphia
School Reform Commission

INVITATION TO BID
PAINT AND PLASTER REPAIRS AT

PHILADELPHIA, PA

Sealed Proposals are invited for the following Contract in connection with Paint and Plaster Repairs at _____ in Philadelphia, Pennsylvania (the Project), with specifications prepared by the Office of Environmental Management and Services (OEMS), the Project Designer, also hereinafter referred to as the Architect/Engineer.

General ServicesContract No. B-002 G of 2018/19

Bid Documents may be obtained at:

The School District of Philadelphia
Office of Capital Programs
440 N. Broad Street
Third Floor – Suite 371
Philadelphia, PA 19130-4015

on and after XXXday, XXXXXX XX, 2018, upon the payment of a non-refundable fee of Twenty-Five Dollars (\$25.00) per set in the form of a certified check made payable to The School District of Philadelphia.

Bid Proposals will be received at:

The School District of Philadelphia
Office of Capital Programs
440 N. Broad Street
Third Floor – Suite 371
Philadelphia, PA 19130-4015

until 10:00 a.m. on XXXXXday, XXXXXX XX , 201x, at which time, in the Conference Room, or other designated location, all proposals received will be opened and read aloud at 2:00 p.m.

A MANDATORY Pre-Bid Meeting and Site Visit will be held on XXXXXXday, XXXXXXr XX, 2018 at X:00 XM at:

_____ School

Philadelphia, PA 191__

Prospective bidders are strongly urged to be prepared with any questions or comments pertinent to the Project or the bidding process.

Prospective bidders are also strongly urged to review the Bidding Documents. All questions are to be submitted in writing to capitalbids@philasd.org

Bid Bond or other Bid Security is not required for this Contract

All inquiries (RFIs) regarding the Drawings and Specifications MUST be submitted to the School District at capitalbids@philasd.org NO LESS THAN XX (XX) DAYS PRIOR TO THE SCHEDULED BID OPENING:

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All responses will be issued as an addendum

The selected bidder(s) for each prime contract is required to attend a Post-Bid Conference to review and confirm its bid at School District Headquarters to be held IMMEDIATELY AFTER THE BID OPENING. A principal or representative of the low bidder authorizes to make commitment must be present.

END OF DOCUMENT 00 0050

SECTION 00 0100 - INSTRUCTIONS TO BIDDERS

BACKGROUND

The Owner is The School District of Philadelphia and is referred to throughout the Contract Documents as School District and as if singular in number and neuter in gender. The Board of Education (hereinafter referred to as "Board") is the governing body of the School District of Philadelphia pursuant to the Public School Code, 24 P.S. §21-2102 and §3- 301.

1. CONSTRUCTION

- A. Incorporation of Background. The above Background is incorporated by reference into the Bidding Documents and the Contract Documents.
- B. Definitions. Except as expressly provided otherwise in the General Conditions of the Contract for Construction, capitalized terms have the meanings specified in Paragraph 1 of these Instructions to Bidders. Such meanings shall be applicable to both the singular and plural of the term defined. Whenever the context requires, words used in the singular shall be construed to mean or include the plural and vice versa; and pronouns of any gender shall be deemed to include and designate the masculine, feminine, and neuter genders. "Or" shall include "and/or".
 - 1. Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms. The proposed Contract Documents consist of the form of Agreement between the School District and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda and General Requirements issued prior to execution of the Contract.
 - 2. Definitions set forth in the General Conditions of the Contract for Construction or in other Contract Documents are applicable to the Bidding Documents.
 - 3. Addenda are written or graphic instruments issued by the Architect/Engineer and the School District, prior to the execution of the Contract, which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.
 - 4. A Bid is a complete and properly signed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.
 - 5. A Bidder is a person or entity that submits a Bid.

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6. A Sub-bidder is a person or entity that submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.
 7. School District or Owner means the School District of Philadelphia.
 8. NOT USED.
 9. NOT USED.
 10. NOT USED.
 11. Architect/Engineer is the person or firm identified elsewhere in the Bidding and Contract Documents performing architectural and/or engineering design services for this project for the School District's Capital Improvement Program pursuant to architectural design services contract with the School District.
 12. NOT USED.
 13. (i) "General Service Contract" or "Contract" – means the contract for General Service Work on the Project, including all documents attached hereto and/or incorporated herein, as amended from time to time by written amendment executed by both parties, and all modifications or revisions made in accordance with the terms hereof.

(j) "General Service Contractor" or "Contractor" – means the person, firm or company awarded the contract for General Service Work on the Project by the SRC.
 14. Subcontractor(s) or Subconsultant(s) mean(s) any person(s), firm(s), partnership(s), corporation(s), other entity (ies), or combination thereof, or their respective duly authorized representative(s), who has (have) or will enter into a contract or consulting agreement with the Contractor(s) to perform any Work covered by the Bidding Documents and Contract Documents.
 15. School District Consultant(s) is(are) the pre-qualified professional consulting services firm(s) performing services, other than architectural and/or engineering design services, on the Project for the School District's Capital Improvement Program pursuant to a professional services contract(s) with the School District.
- C. General Rules of Construction. Except as expressly stated otherwise, all references to "Sections" or "Paragraph(s)" or "Subparagraphs" are references to Sections and Paragraphs and Subparagraphs of the Bidding Documents or Contract Documents or the Exhibits included in the Bidding Documents or Contract Documents; and all references to Exhibit(s) are references to the Exhibits included in the Bidding Documents or Contract Documents. The

indexes and table of contents and headings used in the Bidding Documents and Contract Documents are for reference and convenience only, do not in any way define, limit, describe, or amplify the provisions of the Bidding Documents and Contract Documents or the scope or intent of their provisions, are not a part of the Bidding Documents and Contract Documents, and will not enter into the interpretations of the Bidding Documents and Contract Documents.

There is no order of precedence for the Bidding Documents and Contract Documents. One portion of the Bidding Documents or Contract Documents cannot be read and interpreted as to annul another portion of the Bidding Documents or Contract Documents. Each portion of the Bidding Documents or Contract Documents must be read and interpreted as being consistent with, and not in conflict with, another portion of the Bidding Documents or Contract Documents.

2. PRE-BID CONFERENCE/SITE TOUR

- A. Bidders are responsible to visit the Project site and familiarize themselves with the site conditions
- B. A Pre-Bid Conference and Tour of the existing facilities will be scheduled for this Project at a time and place specified in the Invitation to Bid
- C. Attendance at the Pre-Bid Conference and Tour is MANDATORY for any Bidder submitting a Proposal.

3. PROPOSAL RECEIPT

Bid Proposals will be received at:

The School District of Philadelphia
Office of Capital Programs
440 North Broad Street
Third Floor - Suite 371
Philadelphia, PA 19130-4015

at the date and time specified in the Invitation To Bid, at which time all proposals received will be opened and read aloud in the Capital Programs Main Conference Room. Proposals received after time is called shall be returned.

4. PREQUALIFICATION: DISQUALIFICATION. SUSPENSION OR DEBARMENT

- A. **Prequalification:** All Bidders wishing to be selected must be prequalified prior to bidding by the School District through the RFQ process for this project

The School District will **not** accept bids from a Bidder that has not been prequalified prior to bidding through the prequalification RFQ process.

The School District will **not** award a contract to, or enter into a contract with, a Bidder that has not been prequalified prior to bidding through the prequalification RFQ process.

- B. **Disqualification. Suspension or Debarment of Bidders:** The School District shall solicit or accept bids from and shall award contracts to or consent to subcontracting **only** with responsible bidders. Bidders, contractors, or affiliates may be disqualified, suspended or debarred as not responsible to protect the School District's and the

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public's interest in accordance with the standards and procedures adopted by the School District and any other applicable law.

A complete statement of Policy No. 621 entitled "Disqualification, Suspension or Debarment of Bidders" adopted June 16, 1986, as amended is incorporated herein by reference and included in the Attachments to the Contract.

5. BIDDER'S REPRESENTATIONS

The Bidder, by making a Bid, represents that:

1. The Bidder has read and understands the Bidding Documents and the Bid is made in accordance therewith.
2. The Bidder has read and understands the Bidding Documents or proposed Contract Documents, including Division 1 General Requirements, to the extent that such documentation relates to the Work for which the Bid is submitted, for other portions of the Project, if any, being bid concurrently or presently under construction.
3. The Bidder has visited the Project site, has become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.
4. The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

6. **BIDDING DOCUMENTS**

A. **COPIES**

1. Bidders shall use complete sets of Bidding Documents in preparing Bids. Neither the School District nor Architect/Engineer assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
2. In making copies of the Bidding Documents available on the above terms, the School District and the Architect/Engineer do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant permission for any other use of the Bidding Documents. Bidding Documents shall be available for review only at locations indicated in the Advertisement or Invitation to Bid. The Bidding Documents shall be available for review only and not for estimating purposes.

B. **INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS**

1. The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently, if any, to the extent that it relates to the Work for which the Bid is submitted, shall examine the Project site and local conditions, and shall at once report to the Architect/Engineer errors, inconsistencies or ambiguities discovered.
2. Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make an oral or written request, which shall reach the Architect/Engineer at least 10 calendar days prior to the date for receipt of Bids.
3. Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner shall not be binding and Bidders shall not rely upon them.
4. The Bidder shall not engage in pre-bid or post-bid communications or negotiations with the School District or any of its employees, agents or representatives that seek to modify or change the terms and conditions of the Bidding Documents or Contract Documents, as such pre-bid or post-bid communications or negotiations violate Pennsylvania law.

C. **SUBSTITUTIONS (OR EQUAL)**
(NOT APPLICABLE TO THIS CONTRACT)

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D. ADDENDA

1. Addenda will be mailed and faxed or delivered to all who are known by the issuing office to have received a complete set of Bidding Documents.
2. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.
3. No Addenda will be issued later than 5 calendar days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one that included postponement of the date for receipt of Bids.
4. Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge its receipt of all issued Addenda in the Bid.

7. **BIDDING PROCEDURES**

A. FORM AND STYLE OF BIDS

1. Bids shall be submitted on forms identical to the forms included with the Bidding Documents.
2. All blanks on the bid form shall be filled in by typewriter or manually in ink.
3. Where so indicated by the makeup of the bid form, sums shall be expressed in both words and figures, and in case of a discrepancy between the two, the amount written in words shall govern.
4. Interlineations, alterations and erasures must be initialed by the signer of the Bid.
5. Each copy of the Bid shall include the legal name of the Bidder and a statement that the Bidder is a sole proprietor, partnership, corporation or other legal entity. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a Contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

B. BID SECURITY: NOT REQUIRED FOR THIS CONTRACT

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C. SUBMISSION OF BIDS

1. All copies of the Bid and other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name and Contract name and number, the Bidder's name, address and the designated portion of the Work for which the bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" with the project information clearly marked on the face thereof.
2. Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids shall be returned unopened. Bids received from Bidders that have not been prequalified prior to bidding through the prequalification RFQ process shall be returned unopened.
3. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
4. Oral, telephone, telegraphic or facsimile Bids are invalid and shall not receive consideration.

D. MODIFICATION OR WITHDRAWAL OF BID

1. An erroneous Bid may be withdrawn by the Bidder after the Bid opening but before the Contract Award based on a Bid mistake if the Bidder requests relief in writing and presents credible supporting evidence to the School District's Operations Manager of Capital Programs or her designee, within 2 business days after the Bid opening, that the reason for the substantially lower Bid price is a clerical mistake as opposed to a judgment mistake, and is actually due to an unintentional and substantial arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the Bid, and the withdrawal of the Bid would not result in the awarding of the Contract on another Bid of the same Bidder, his partner, or to a corporation or business venture owned by or in which the same Bidder has a substantial interest, as required by the Withdrawal of Bids statute, 73 P.S. §1602.
2. No Bidder who is permitted to withdraw a Bid shall supply any material or labor to, or perform any subcontract or other work agreement for any person to whom a Contract or Subcontract is awarded in the performance of the Contract for which the withdrawn Bid was submitted, without the written approval of the School District, as required by the Withdrawal of Bids statute, 73 P.S. §1602.
3. After the Bidder's Bid is withdrawn pursuant to this Paragraph, the School District shall have the right to award the Contract to the next lowest responsible and responsive Bidder or to reject all bids and resubmit the Project for bidding, in accordance with the Withdrawal of Bids statute, 73 P.S. §1603. If the School District resubmits the Project for bidding, the withdrawing Bidder shall pay the costs, in connection with the resubmission, of printing new Contract Documents, required advertising, and printing and mailing notices to

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prospective bidders, if the School District finds that such costs would not have been incurred but for the withdrawal of the withdrawing Bidder's Bid; and, in no event, shall the withdrawing Bidder be permitted to resubmit a bid for the Project, in accordance with the Withdrawal of Bids statute, 73 P.S. §1603.

4. Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by the Bidder by notice to the party receiving the Bids at the place designated for receipt of Bids if a receipt for the Bid is signed. Such notice shall be in writing over the signature of the Bidder or by telegram; if by telegram, written confirmation over the signature of the Bidder shall be mailed and postmarked on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid. Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

8. CONSIDERATION OF BIDS

A. OPENING OF BIDS

1. The properly identified Bids received on time shall be opened publicly and shall be read aloud.

B. REJECTION OF BIDS

1. The School District shall have the right to reject any or all Bids, reject a Bid not accompanied by the required Bid Security, or by other data or documents required by the Bidding Documents, or reject a Bid which is in any way incomplete or irregular, or reject a Bid from a Bidder that has not been prequalified prior to bidding through the prequalification RFQ process, or reject any or all bids when such rejection is in the best interest of the School District.

C. NON-RESPONSIVE BIDS

1. Any submitted Bid Proposal or Bid which is not based upon the Drawings, Specifications, or any other Bidding Documents or Contract Documents, or which contains any qualifying language, or is accompanied by any letter or memorandum that qualifies or changes the Drawings, Specifications, Conditions of the Contract (General, Supplementary or other), or any other Bidding Document or Contract Document, shall be rejected; and the Bid of the Bidder shall be deemed to be "non-responsive".
2. Any submitted Bid Bond which contains any qualifying language, or is accompanied by a letter or memorandum qualifying or changing same, or contains any language or is accompanied by a letter or memorandum that qualifies or changes the Conditions of the Contract (General, Supplementary or other) or any other Bidding Document or Contract Document, shall be rejected; and the Bid of the Bidder shall be deemed to be "non-responsive".

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3. Any language contained in a Bid Proposal, Bid, or any language, letter or memorandum accompanying a Bid Proposal, Bid, that qualifies or changes the Drawings, Specifications, Conditions of the Contract (General, Supplementary or other), or any other Bidding Document or Contract Document shall not, under any circumstances, be deemed to be binding on the School District.

D. ACCEPTANCE OF BID (AWARD)

1. It is the intent of the School District to award a Contract to the lowest responsible and responsive prequalified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The School District shall have the right to waive informalities or irregularities in a Bid received and to accept the Bid that, in the School District's judgment, is in the School District's own best interests. The School District of Philadelphia is a "***distressed school district***" under the Public School Code, Act of March 10, 1949, P.L. 30, No. 14 (24 P.S. §6-691) and a "first class school district" under the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (known as "PICA Act"), Act of June 5, 1991, P.L. 9, No. 6 (53 P.S. §12720.104), and therefore the following provisions of the Pennsylvania Commonwealth Procurement Code, Part II. General Procurement Provisions, Chapter 39, Contracts for Public Works, (62 Pa.C.S.A. §§3938(b)(2)&(4)), do ***not*** apply to the School District of Philadelphia: (1) Subchapter B. General Provisions, §3911. Time for awarding contract; (2) Subchapter B. General Provisions, §3912. Time for executing contract; and (3) Subchapter B. General Provisions, §3913. Release of successful bidder. The School District has up to 90 calendar days from the date of opening of bids for the Contract to award the Contract to the lowest responsible and responsive bidder, pursuant to the Public School Code, 24 P.S. §7-751. The School District may extend the date of the Contract Award for a mutually agreed-upon time period, upon the mutual written consent of the lowest responsible and responsive bidder, which consent shall not be unreasonably withheld. 24 P.S. §7-751. The School District has up to 120 calendar days from the date of opening of bids for the Contract to award the Contract to the lowest responsible and responsive bidder, pursuant to the Public School Code, 24 P.S. §7-751, if the award of the Contract is delayed by the required approval of another governmental agency, the sale of bonds, or the award of a grant.
2. If for any reason whatsoever, the School District rejects Bidder's Bid, Bidder agrees that it shall not seek to recover lost profits on work performed nor shall it seek to recover its Bid preparation costs.
3. The Base Bid Proposal Amounts and the Add/Deduct Alternatives Amounts, if any, shall be used in determining the lowest bid for the Contract Award in the manner set forth in Paragraph 16 of these Instructions to Bidders.

E. POST BID CONFERENCE

The apparent low bidder for each prime contract is required to attend a Post-Bid Conference to be held at School District Headquarters IMMEDIATELY AFTER BIDS are opened to review and confirm its bid. A principal of the bidder or representative authorized to make binding commitments must attend the meeting.

9. **PERFORMANCE BOND, LABOR AND MATERIAL MEN'S BOND AND MAINTENANCE BOND**
(NOT REQUIRED FOR THIS CONTRACT)

10. **ANTI DISCRIMINATION POLICY: MBE/WBE PARTICIPATION REQUIREMENTS**

A. **Anti-Discrimination Policy:** It is the policy of the School District of Philadelphia (the "District") acting through and by the School Reform Commission (the "SRC") to ensure equal opportunity in all contracts let by the District (the "Contracts"). In light of this policy, the District has adopted this Anti-discrimination Policy (the "Policy") which is applicable to all Contracts, including but not limited to, Contracts for the design, development, construction, operation and maintenance of school buildings and other buildings and structures owned, leased or used by the District or its contractors, assignees, lessees and licensees (the "Facilities"); Contracts for professional services and Contracts for the purchase of goods, services, supplies and equipment for the District and the Facilities. The objective of the Policy is the promotion of prime contract and subcontract opportunities for minority and woman-owned business enterprises ("M/W/BEs") that are approved by the District or that are certified by the Minority Business Enterprise Council of the City of Philadelphia, Southeastern Pennsylvania Transportation Authority or any other certifying agency designated by the District in its discretion.

The fundamental requirement of the Policy is that all contractors, vendors and consultants that contract with the District (the "Contractors"), satisfy the District that they will: (1) not discriminate against any person in regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability; and (ii) provide a full and fair opportunity for the participation of M/W/BEs in Contracts. Contractors must demonstrate that the participation of M/W/BEs is "meaningful and substantial" in all phases of a Contract under criteria adopted by the District. "Meaningful and substantial" shall be interpreted by the District as meaning the range of participation that reflects the availability of bona fide M/W/BEs in the Philadelphia Metropolitan Statistical Area. Participation shall be measured in terms of the actual dollars received by M/W/BEs.

The complete provisions of the Anti-Discrimination Policy of the School District of Philadelphia adopted November 14, 2007 are incorporated herein by reference and set forth in the Attachments to the Contract Documents

B. **Minority/Women-Owned Business Enterprise Participation Plan:** The Bidder shall submit with its Bid either: (i) a completed Minority/Woman-Owned Business Enterprise (MWBE) Participation Plan ("MWBE Participation Plan") that meets the Participation Range for the Contract set forth in the Anti-Discrimination Policy Notice to Bidders in the Bidding Documents and lists the names, addresses, dollar amounts and scope of work to be performed by the minority-owned business enterprises (MBEs) and woman-owned business enterprises (WBEs), or (ii) a brief narrative explaining its reasons for not submitting a MWBE Participation Plan that meets the Participation Range set forth in the Anti-Discrimination Policy Notice to Bidders in the Bidding Documents.

Submission of the MWBE Participation Plan is an element of bid responsiveness. Failure to submit a completed MWBE Participation Plan or a narrative explaining the reasons that the Participation Plan could not be met may result in the rejection of a bid.

11. **EXECUTION OF AGREEMENT**

A. The Bidder to whom the Contract is awarded by the School District shall, within 5 calendar days after Notice of Contract Award and receipt of the Contract Documents from the School District, sign and deliver to the School District, all required copies of the School District/Contractor Agreement, a copy of which is included in the Bidding Documents.

B. At or prior to delivery of the signed Contracts, the Bidder shall deliver to the School District the policies of insurance or insurance certificates as required by the General Conditions and General Specifications of the Contract for Construction. All policies or certificates of insurance

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shall be approved by the School District before the successful Bidder may proceed with the Work.

12. AS-IS CONDITION: EXAMINATION OF CONDITIONS AFFECTING WORK

- A. By execution of the Contract, the successful Bidder agrees that it accepts the Project site in whatever condition it is in on the date the Contract is executed, without representation or warranty of any kind, expressed or implied, by the School District or by any other person or entity. Prior to submitting a Bid, each Bidder shall examine and familiarize itself with all existing conditions, including all applicable laws, codes, ordinances, rules and regulations that shall affect the Work. To assist in this process, the School District shall make available to any Bidder, at its offices designated in the Invitation to Bid, all of the existing conditions, studies and related material in its possession. Bidders are urged to familiarize themselves with such documents and data.
- B. Bidders shall visit the Project site and ascertain by any reasonable means all conditions that shall in any manner affect the Work. Prior to submitting a Bid, Bidders shall request in writing from the School District or Architect/Engineer, any additional information that they deem necessary in order to be fully informed so as to be able to submit their Bid. Any information referred to in this Paragraph 12 of these Instructions to Bidders and furnished to Bidders is furnished for informational purposes only and does not form any part of the Contract. The School District makes no representation as to the accuracy or completeness of the information, which is furnished, and the delivery thereof shall not be deemed to constitute such representation. It shall be the Bidder's responsibility to take such additional steps as the Bidder deems necessary to satisfy itself as to the conditions of the Project site and to include in its Bid sufficient allocations for unknown or unidentified conditions. Any information furnished shall not be legally binding on the School District under this Paragraph 12 unless issued by Addendum.
- C. The Drawings have been prepared by the Architect/Engineer on the basis of surveys and inspections of the Project site, and represent a reasonably accurate indication of the physical conditions at the Project site. This, however, shall not impose responsibility or liability therefore on the School District and shall not relieve the Bidder of the necessity for fully informing itself as to existing physical conditions. The School District makes no representation as to the accuracy or completeness of such Drawings, and the delivery or use of such Drawings shall not be deemed to constitute such a representation by the School District.
- D. By submitting a Bid Proposal, each Bidder acknowledges that there have been, or shall be, contractors or consultants that have performed or shall perform work or services on the Project site pursuant to contracts with persons or entities other than the School District. The School District shall accept no responsibility for the work or services of such other contractors or consultants. It shall be the successful Bidder's responsibility to resolve disputes and coordinate with all other contractors or consultants (whether or not the School District is party to the contract with that contractor or consultant), which have performed or are performing work or services at the Project site. Similarly, each successful Bidder shall be responsible to such other contractors or consultants, which have performed or are performing work or services at the Project site, if the Bidder's actions, errors or omissions cause any damage or delay to such other contractors or consultants.
- E. Bidders shall be responsible for being thoroughly familiar with all conditions affecting labor in the neighborhood of the Project, including but not limited to unions, incentive pay, procurement,

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
PAINT AND PLASTER STANDARD SPECIFICATIONS

living and commuting conditions, and wage decisions applicable to the Work. The Bidder shall assume responsibility to the School District for all costs resulting from the failure to verify all conditions affecting labor. Each Bidder shall be responsible for the maintenance and observance of sound labor practices by itself and its Subcontractors, and shall take all steps reasonably necessary to avoid labor disputes and the potential delay and disruption arising therefrom. In particular, the Bidder shall assure that the trade union affiliations of persons employed by it and its Subcontractors in the performance of the Work are compatible with the employees of other Contractors and their Subcontractors on the Project site, if any.

- F. By receipt of the Bidding Documents, each Bidder acknowledges that the School District may undertake or award other contracts while the Bidder is performing the Work. As more fully set forth in the General Conditions of the Contract for Construction, the successful Bidder shall need to coordinate its Work with the work or services of other contractors or consultants on the Project. Each Bidder must take such coordination obligation into account in submitting its Bid.

13. SCHEDULE

The Bidder's attention is directed to the schedule information stated in Specifications, Division 1, General Requirements, Section 00 1300 entitled "Time of Completion, Milestones and Phasing or Sequencing Requirements".

14. CONTRACT TIME

The Bidder's attention is directed to the dates of Substantial Completion and Final Completion and any Project milestone or interim completion dates established for this Work stated in Specifications, Division 1, General Requirements, Section 00 1300 entitled "Time of Completion, Milestones and Phasing or Sequencing Requirements".

15. COMPLIANCE WITH LAWS

The Bidder shall comply with all federal, state and local statutes, laws, rules, regulations and ordinances, including those of any public authorities connected with the Project.

16. ALTERNATIVE BIDS PROCESS (Not applicable to this Contract – No Alternates)

17. GENERAL REQUIREMENTS

Division 1 General Requirements shall apply to the single Contract or all multiple separate Contracts on the Project.

18. SCHOOL DISTRICT PARTNERSHIP AGREEMENT

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
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A. Pursuant to SRC Resolution No. SRC-3 dated May 24, 2006, the School District's School Reform Commission ("SRC") has entered into a Partnership Agreement with the Philadelphia Building and Construction Trades Council ("Philadelphia Building Trades Council"), dated June 7, 2006, which will, among other things:

(1) cover all its construction, reconstruction, alteration and maintenance projects included in its approved Capital Improvement Program; and

(2) include a goal that Local residents as defined in the Partnership Agreement will perform twenty-five percent (25%) of all hours worked, on a craft-by-craft basis, on such School District projects; and

(3) include a goal that apprentices who are Local residents will perform twenty percent (20%) of all apprentices hours worked, on a craft-by-craft basis, on such School District projects; and

(4) permit minority-owned and women-owned Contractors who have not previously been signatory to collective bargaining agreements with unions participating in the Partnership Agreement, if awarded a contract within the scope of the Partnership Agreement, to utilize all of their employees on a covered project; and provide for referral of such employees for admission to the appropriate craft union for journeyman assignment or apprentice recruitment; and

(5) prohibit strikes, sympathy strikes, picketing, work stoppages, slowdowns, sickouts, handbilling, lockouts, or other disruptive activity on School District property, except with regard to the non-payment of fringe benefit payments or wages or the remission of monies withheld from such wages.

The Contractor agrees to become a signatory to the School District's Partnership Agreement with the Philadelphia Building Trades Council at the time of contract award, and to accept and to be bound by all the goals, terms and conditions contained in this Partnership Agreement, which goals in this Partnership Agreement do not override other commitments contained in the Contracts as awarded. The Contractor shall require each Subcontractor, to the extent of the work to be performed by the Subcontractor, to accept and to be bound by all the goals, terms and conditions contained in this Partnership Agreement, which goals in this Partnership Agreement do not override other commitments contained in the Contracts as awarded, and to evidence its acceptance by the execution of a written Agreement or a Letter of Assent prior to the commencement of work. The Partnership Agreement is attached to and hereby incorporated by reference into this Contract.

19. COLLECTIVE BARGAINING REQUIREMENT

A. Pursuant to SRC Resolution No. SRC-2 dated May 24, 2006, the School District's SRC has adopted the School District's Small Contractors Capital Maintenance Work Program in conjunction with the Partnership Agreement between the School District and the Philadelphia Building Trades Council. Pre-qualified small Contractors awarded contracts to perform School District Capital Maintenance Work pursuant to the SRC-approved Small Contractors Capital Maintenance Work Program are required at the time of contract award to be a signatory to the appropriate collective bargaining agreement(s) covering the work to be performed in accordance with the Partnership Agreement between the School District and the Philadelphia Building Trades Council.

20. TAX COMPLIANCE

A. **Tax Compliance.** It is the policy of the School District of Philadelphia ("School District") to ensure that firms, businesses and other legal entities receiving School District contracts are current in their payment of City of Philadelphia ("City") taxes and School District taxes or other indebtedness owed to the City or the School District, including but not limited to taxes collected by the City on behalf of the School District, at the time of contract award. Pursuant to SRC Resolution SRC-2 dated February 21, 2013, the School District's School Reform Commission ("SRC") has adopted a Tax Compliance of Vendors Policy which provides that generally, the SRC will not authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City and/or the School District at the time of contract award.

All firms, businesses and other legal entities wanting to receive a School District contract or receiving a School District contract shall comply with all of the terms and conditions of the Tax Compliance of Vendors Policy, which is set forth in detail in GC-4.25 of the General Conditions

21. PREVAILING WAGES

This contract is subject to the requirements of the Federal Davis-Bacon Act and/or the Pennsylvania Prevailing Wages Act and other related statutes and regulations governing wages, hours and conditions of employment, which are set forth in detail in Article GC-7.22-WAGE RATES, HIRING PRACTICES, AND OTHER FEDERAL, STATE AND LOCAL REQUIREMENTS of the General Conditions.

The contractor is required, among other things, to comply with the Prevailing Minimum Wage Determination included in the Bidding Documents.

22. BID PROCESSING FEE

A non-refundable processing fee is required to be submitted with each bid along with all other specified bid securities. Payment is to be made by certified check or money order payable to the School District of Philadelphia. Payments to be made in accordance with the following bid processing schedule:

Amount of Bid		Amount of Processing Fee	
\$ 10,000.00		And Less	\$0.00
\$ 10,001.00	To	\$ 100,000.00	\$10.00
\$ 100,001.00	To	\$ 300,000.00	\$30.00
\$ 300,001.00	To	\$ 500,000.00	\$50.00
\$ 500,001.00	To	\$1,000,000.00	\$100.00
\$1,000,001.00	To	\$2,000,000.00	\$200.00
\$2,000,001.00	To	\$3,000,000.00	\$300.00
\$3,000,001.00	To	\$4,000,000.00	\$400.00
\$4,000,001.00	To	\$5,000,000.00	\$500.00
\$5,000,001.00	And More		\$600.00

END OF SECTION 00 0100

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
PAINT AND PLASTER STANDARD SPECIFICATIONS

**SCHOOL DISTRICT OF PHILADELPHIA
ANTI-DISCRIMINATION POLICY**

NOTICE TO BIDDERS

This Bid is issued under the Anti-Discrimination Policy adopted by the School Reform Commission on November 17, 2007. A fundamental requirement of the Policy is that all contractors, vendors and consultants who contract with the District provide a full and fair opportunity for the participation of Minority and Woman-Owned firms (MWBEs) in the performance of the contract. Ranges of participation have been established that represent meaningful and substantial participation for this contract based upon the availability of bona fide MWBE firms in the Philadelphia Metropolitan Statistical Area. The range of participation is:

Combined M/WBE Range: 15% - 20%

The Anti-Discrimination Policy and Participation Form are included with the resolution. The form must be completed and submitted with it. Proposers are advised to carefully review the instructions. Failure to comply may result in disqualification.

This range of participation for this resolution may be amended or adjusted.

All questions about the Anti-Discrimination Policy and compliance requirements should be directed to the ***Small Business Development department at (215) 400-4390.***

PREVAILING WAGE RATES

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
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TO BE PROVIDED

BID PROPOSAL FORM

PAINT AND PLASTER REPAIRS AT

(Project Location)_____

TO: **Contract No. B-002G-X of 2018/19 General Services**
The School District of Philadelphia **OWNER**
School Reform Commission

Office of Capital Programs
The School District of Philadelphia
440 North Broad Street
Third Floor - Suite 371
Philadelphia, PA 19130-4015

ADDRESS

FROM: _____ **CONTRACTOR**
_____ **ADDRESS**

_____ **CITY/STATE**
_____ **CONTACT NAME**
_____ **PHONE NO.**

BASE CONTRACT PROPOSAL:

1. Having become completely familiar with the local conditions affecting the cost of Work at the places where Work is to be executed, and having carefully examined the Bidding and Contract Documents prepared for this project, together with any Addenda to such Bidding and Contract Documents as listed hereinafter, the Undersigned hereby proposes and agrees to provide all labor, materials, plant, equipment, transportation and other facilities as necessary and/or required to execute all of the Work described by the Contract Documents for: **Paint and Plaster repairs at: (Project Location)**

For THE LUMP SUM PRICE OF:

_____ (\$ _____)

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
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Bidder understands and agrees that the School District of Philadelphia may award more than one contract for this work and that the Bidder is not guaranteed to be assigned any amount of work on this Contract, even if awarded a contract.

BID ALTERNATES (Not applicable to this Contract – No Alternates)

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA:

2. The Undersigned acknowledges receipt of the following Addenda (list by number and date appearing on Addenda):

<u>Addendum No.</u>	<u>Date</u>	<u>Addendum No.</u>	<u>Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TIME OF COMPLETION:

3. The Undersigned agrees to Substantially Complete all Work under this Contract within the time periods specified in Division 1, General Requirements, Section 0101000-Summary of Work and Section 00 1300- Time of Completion, Milestones and Phasing or Sequencing Requirements.

INSURANCE:

4. All Bidders are instructed to refer to Article GC-12 of the General Conditions. All Contractors or Subcontractors bidding Work on the Project shall include in their bids the costs of Workers Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, Automobile Liability Insurance, Excess Umbrella Liability Insurance (Commercial Umbrella Liability Insurance) and any other types of insurance identified in Division 1- General Requirements, Section 01200 (or 01 1200) entitled "Special Insurance Requirements".

LIQUIDATED DAMAGES:

5. Upon failure by the Contractor to achieve Substantial Completion within the time specified in Article GC-3.4 of the General Conditions from the Date of Commencement as set forth in the Notice to Proceed, the Contractor shall pay to the School District, as liquidated damages and not as a penalty, the sum stipulated per day for each consecutive calendar day of delay until such time as Substantial Completion of the Work is achieved.

6. In addition, the Contractor shall be responsible for and pay for the cost of completion of construction of the Work, as well as for any and all additional charges of the School District, Architect/Engineer, other Project Contractors, and any other Consultants to the School District relating to the Contractor's failure to achieve Substantial Completion on a timely basis, including, but not limited to, delay damages, disruption damages, acceleration costs or expenses, investigative expenses, consulting fees, experts' fees, and attorneys' fees.

7. The Contractor and the School District agree that the amounts so fixed herein as liquidated damages are reasonable forecasts of just compensation for the harm that will be caused to the School District by the Contractor's breach.

GENERAL STATEMENT:

8. The Undersigned declares that the person or persons signing this Proposal is/are fully authorized to sign on behalf of the firm listed and to fully bind the firm listed to all the Proposal's conditions and provisions thereof.

9. It is agreed that the Undersigned has complied or will comply with all requirements of local, state, and federal laws, and that no legal requirement has been or will be violated in making or accepting this Proposal, in awarding the Contract to it and/or in prosecution of the Work.

10. Bid Security-(Not Required for this Contract)

11. The Undersigned further agrees within five (5) calendar days from date of Notice of Acceptance of this Proposal or Contract award, to sign and deliver to the School District, all required copies of the School District/Contractor Agreement and the policies of insurance or insurance certificates as required by the General Conditions. In case the undersigned fails or neglects to deliver within the specified time the School District/Contractor Agreement and the insurance policies or certificates, all as aforesaid, the undersigned shall be considered as having abandoned the Contract.

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
PAINT AND PLASTER STANDARD SPECIFICATIONS

Respectfully submitted this _____ day of _____, 201__.

Individual Proprietorship or Partnership

If Contractor is an individual proprietorship or is a partnership, sign here:

(Trade Name of Firm)

By: _____ By: _____ (SEAL)
(Witness) (Owner or Partner)

Corporation

If Contractor is a corporation, sign here:

(Name of Corporation)

ATTEST:

By: _____ By: _____ (SEAL)
(Secretary or Treasurer) (President or Vice President)

(CORPORATE SEAL)

Signature by anyone other than the President or Vice President and the Secretary or Treasurer of the Corporation must be accompanied by a power of attorney, executed by the proper corporate officers under the corporate seal indicating authority to execute this Bid.

**SCHOOL DISTRICT OF PHILADELPHIA
OFFICE OF PROCUREMENT SERVICES**

I. Information in this section refers to the Prime Contractor/Vendor.

Company Name _____ **Contact Person:** _____

Address: _____ **Phone:** _____

City: _____ State: _____ Zip: _____

Fax: _____ **E-mail:** _____

Owner: African-American, Hispanic, Asian, Native American, Woman, Non-Profit, Caucasian, Other

Federal Tax ID_____ **Certifying Agency:**_____ **Certification No.:**_____

Bid Number or Subject of Resolution: _____

II. Information in this section refers to MWBE firms to be used in the performance of this contract.

Company Name: _____ **Owner:** _____

Address: _____ **Phone:** _____

City: _____ State: _____ Zip: _____

Fax: _____ **E-mail:** _____

Owner: African-American, Hispanic, Asian, Native American, Woman, Non-Profit, Caucasian, Other

Federal Tax ID _____ **Certifying Agency:** _____ **Certification No.:** _____

Description of Work: _____

Dollar Value \$ _____ **Percentage of Total Contract** _____

Vendor Signature_____

If no commitment, give reasons and supporting documentation (e.g., evidence of contacting M/WBEs).

[illegible]

MBE/WBE PARTICIPATION PLAN

PAGE 1 of 1

I certify that the information provided is true and correct_____ **Date:**_____

Authorized Representative

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
PAINT AND PLASTER STANDARD SPECIFICATIONS

GENERAL SERVICE CONTRACT AT VARIOUS SCHOOL
PAINT AND PLASTER STANDARD SPECIFICATIONS

SCHOOL DISTRICT/CONTRACTOR AGREEMENT

This Contract for General Service Work (the "General Service Contract") is made this ____ day of _____, 20____, by and between the **SCHOOL DISTRICT OF PHILADELPHIA** (hereinafter called "the School District"), acting through its Board of Education, located at 440 N. Broad Street, Philadelphia, Pennsylvania 19130-4015 and _____ (hereinafter called "General Service Contractor") located at _____.

WHEREAS, the School District has solicited qualifications for General Service Work-Paint and Plaster Repairs and has awarded this General Service Contract designated Specification No. **B-002 G of 2018/19** for certain General Service Work (hereinafter called the "Work") described in the attached Specifications of the General Service Contract, at various Schools/Locations (hereinafter called the "Project") to the General Service Contractor named above;

WHEREAS, the General Service Contractor has submitted Certificate(s) of Insurance reflecting the insurances required by said School District for approval of the School District Department of Risk Management;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants, promises, and agreements set forth herein, the School District and the General Service Contractor, intending to be legally bound, agree as follows:

1. **The Work.** The General Service Contractor shall perform all the Work required by the Contract Documents for General Service Work for the Project.

2. **Time of Commencement and Completion.** The General Service Contractor agrees to begin the Work contemplated by this General Service Contract on the date of Notice to Proceed, and to complete the Work to the satisfaction and approval in every respect, of the School District in accordance with the specific dates and subject to the terms and conditions set forth in Paragraph 3 of the General Conditions of the General Service Contract and General Specifications, Section 01 1000-Summary of Work and Section 01 1300-Time of Completion. The General Service Contractor further agrees that if it shall fail to complete the Work in accordance with the specific dates and the terms and conditions set forth in the foregoing contract provisions, then the General Service Contractor shall pay to the School District or agrees to a deduction from any funds due said General Service Contractor from said School District the daily sum stipulated in Paragraph 3.4 of the General Conditions of the General Service Contract for each and every calendar day thereafter until such Work shall be completed, not as a penalty but as liquidated damages, and the General Service Contractor shall also be responsible and pay for the cost of completion of construction of the Work, as well as for any and all additional costs incurred by the School District relating to the failure of the General Service Contractor to complete the Work in accordance with the foregoing, including without limitation, compensation for additional services for the Architect/Engineer and any other consultants to the School District relative to the General Service Contractor's failure to complete the Work in accordance with the foregoing.

3. **Contract Sum and Final Payment.** The School District has established a NOT TO EXCEED or Aggregate Sum of SIX MILLION DOLLARS (\$6,000,000.00) to be shared by any and all contractors to whom an award has been made for this project. It is the intent of the School District to make work assignments as its needs and the availability and capability of the awarded firms dictate; however, the School District reserves the right to award a contract to more than one bidder and does not promise or guarantee any specific number of assignments or dollar amount of work to any individual contractor awarded a contract, or to expend the entire amount of approved funds. Payment will be made in accordance

with Paragraph 5 of the General Conditions of the General Service Contract, provided, however, that deductions from or additions to said sum to be paid will be made under the circumstances and upon the basis set forth in the General Conditions of the General Service Contract. It is agreed that, if by reason of alterations in the Drawings or in the character of the Work to be performed under the General Service Contract, the quantity of Work to be performed shall be increased or decreased, additions to or deductions from the Contract Sum shall be made in the manner set forth in the General Conditions of the General Service Contract and as agreed to in writing by the School District and further that the School District shall have no liability for and the General Service Contractor shall have and make no claims for loss of anticipated profits if the quantities of any items or Work actually ordered to be done shall be less than those set forth in the Specifications or be entirely omitted.

Modification or changes of this General Service Contract shall not be made except by written instrument, duly authorized by the School District as provided more fully in the General Conditions of the General Service Contract. Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the School District to the General Service Contractor upon Final Completion of the Work, the General Service Contract fully performed, and the Architect/Engineer having issued a final Certificate for Payment which approves the final payment due the General Service Contractor.

4. **Contract Documents.** The Contract Documents consist of this General Service Contract, the Instructions to Bidders, Bid Proposal Form, School District/Contractor Agreement, Conditions of the Contract (General, Supplementary or other), Plans and Specifications, the Drawings described in said Plans and Specifications (the signature of the General Service Contractor on one set, which set has been retained by the School District), all Addenda issued prior to execution of the General Service Contract, and all other prints, papers, documents, and forms attached hereto or referred to herein. Such documents are hereby incorporated into and made part of the General Service Contract to the same extent as if they were fully set forth herein.

5. **No Liens and Waiver.** The General Service Contractor will not at any time suffer or permit any lien, attachment or other encumbrance, under any laws of this State or any other State, or the Federal Government, by any persons to be put or remain on the building or premises, into or upon which any Work is done or materials are furnished under this General Service Contract for such Work or materials, or by any reason or any other claim or demand against the General Service Contractor. The General Service Contractor will not put any materials on said building to which he has not obtained absolute title. Any such lien, attachment, or other encumbrance, or claims of a third party, until it is removed, shall preclude any and all claim or demand or any payment whatsoever under or by virtue of this General Service Contract, and in the event that same is not removed, the School District may remove the same at the expense, including legal fees, of the General Service Contractor. The General Service Contractor agrees to waive and does hereby waive and relinquish all rights to a lien upon the real estate hereinabove described and the building to be erected thereon in accordance with the terms of the General Service Contract. The General Service Contractor also expressly agrees that no lien shall attach to the real estate, building, structure, or any other improvement of the School District, either on behalf of the General Service Contractor herein or on behalf of all subcontractors, mechanics, journeymen, laborers, materialmen, or persons performing labor upon or furnishing materials and machinery for such property or improvement of said School District through the General Service Contractor, and the General Service Contractor does hereby expressly waive all rights to any such lien under the laws of the Commonwealth of Pennsylvania for and on behalf of themselves and all other persons furnishing labor and materials as aforesaid in any form or manner whatsoever for the erection, construction, and completion of the building or other installation.

6. **Remedy of Defects.** The General Service Contractor covenants and agrees to remedy without cost to the School District, any defect in the Work which may develop within 1 year from the date of letter of acceptance from the School District for the Work performed under this General Service Contract or such longer time period as specified in the Contract Documents.

7. **Miscellaneous Provisions.** Terms used in this General Service Contract that are defined in the General Conditions of the General Service Contract and the Specifications shall have the meanings set

forth in the General Conditions of the General Service Contract and the Specifications. The Contract Documents, which constitute the entire agreement between the School District and the General Service Contractor, are listed in Paragraph 4 herein, except for Modifications issued after execution of this General Service Contract.

IN WITNESS WHEREOF, the parties hereto have executed this General Service Contract the day and year aforesaid written.

THE SCHOOL DISTRICT OF PHILADELPHIA

By: _____
Chairperson
Board of Education

EXAMINED AND APPROVED:

Dawn Renee Chism, Assistant General Counsel
Attorney for
The School District of Philadelphia

CONTRACTOR:

If Contractor is an Individual Proprietorship or a Partnership:

	_____ (Trade Name of Firm)
Witness:	
By: _____	By: _____ (SEAL)
Name:	Name: (Owner or Partner)

If Contractor is a Corporation:

	_____ (Name of Corporation)
ATTEST:	
BY: _____	By: _____ (SEAL)
Name: (Secretary or Treasurer)	Name: (President or Vice President)

GENERAL CONDITIONS OF THE GENERAL SERVICE CONTRACT

BACKGROUND

The Owner is The School District of Philadelphia and is referred to throughout the Contract Documents as School District and as if singular in number and neuter in gender. The Board of Education (hereinafter referred to as "Board") is the governing body of the School District of Philadelphia pursuant to the Public School Code, 24 P.S. §21-2102 and §3- 30

Incorporation of Background. The above Background is incorporated by reference into the General Service Contract and the Specifications for General Service Work.

1.1 **Definitions.** Except as expressly provided otherwise in the General Service Contract, or in the Project Specifications, capitalized terms shall have the meanings specified in this Paragraph 1.2. Such meanings shall be applicable to both the singular and plural of the term defined. Whenever the context requires, words used in the singular shall be construed to mean or include the plural and vice versa; and pronouns of any gender shall be deemed to include and designate the masculine, feminine, and neuter genders. "Or" shall include "and/or".

(a) "Architect/Engineer" – means the person, firm or company performing architectural/engineering services on the Project under a professional design services contract with the School District.

(b) "Approval" or "Approve" – means the written approval of the SRC or its authorized representative. "Approve" or "Approval" when used in conjunction with the responses by the Architect/Engineer or other School District Consultant(s) to submittals, requests, inquiries, applications, reports and claims by the General Service Contractor shall be limited by their responsibilities and duties as specified in their written contracts with the School District. In no case shall approve or approval by the Architect/Engineer or other School District Consultant(s) be interpreted as a release of the General Service Contractor from responsibilities to fulfill requirements of the Contract Documents.

(c) "As Shown" or "As Indicated" or "As Detailed" – These words, and words of like implication, refer to information contained by drawings, sketches or plans describing the Work, unless explicitly stated otherwise in other Contract Documents.

(d) "Bid" – means the Bid Proposal submitted by the General Service Contractor in response to the Advertisement or Invitation To Bid.

(e) "Contract Documents" – consist of the executed Contract between the School District and the General Service Contractor, the General Service Contractor's Bid, Conditions of the Contract (General, Supplementary or other) for General Service Work, Project Specifications, Drawings, or other documents, and all addenda issued prior to and all modifications issued after the execution of the Contract.

(f) "Drawings" – mean all drawings, sketches or plans, or reproductions of drawings, sketches or plans pertaining to required Work, including approved shop drawings.

(g) "Effective Date" – means the date first written above.

(h) "General Service Contract" or "Contract" – means the contract for General Service Work on the Project, including all documents attached hereto and/or incorporated herein, as amended from time to time by written amendment executed by both parties, and all modifications or revisions made in accordance with the terms hereof.

(i) "General Service Contractor" or "Contractor" – means the person, firm or company awarded the contract for General Service Work on the Project by the SRC.

(j) "Erect" or "Install" – means set in place and make usable that which is furnished.

(k) "Furnish" – means purchase and supply new and deliver to Project site, ready for operations at Project site, and for School District's ownership and intended usage.

(l) "Indicated" – means shown on Drawings, noted on Drawings, specified, or a combination thereof.

(m) "Term" – means the time period of the General Service Contract that commences on the effective date of Notice to Proceed and, unless sooner terminated by the School District pursuant to the terms of the General Service Contract, continues in full force and effect up to the Contract period specified in the General Service Contract.

(n) "Necessary" – means needed, as reasonably inferable from the General Service Contract or required, in order to make Work complete and available for use.

(o) "Notice to Proceed" – means verbal or written authorization by the Contract Administrator for the School District to commence the Work.

(p) "Other School District Consultant(s)" – means the person(s), firm(s) or company(ies) performing technical and professional services in support of the assessment, design or construction, construction management, environmental management and servicing, or maintenance or repair of school facilities projects that are part of the CIP, other than architectural/engineering services, for the Project under a professional services contract(s) with the School District.

(q) "Project" – means the total design, construction, maintenance and repair of which the Work performed under the Contract Documents may be the whole or a part and which includes General Service Work by the School District and by the General Service Contractor.

(r) "Project Specifications" – means the written design, construction and General Service Work requirements for the Project General Service Work, together with Project drawings, sketches, plans, reports, material specifications, and any other design, construction or General Service Work documents, and includes any modifications that may be issued.

(s) "Provide" – means, as a directive to the General Service Contractor, newly furnish and install completely ready for intended use, unless otherwise indicated elsewhere in the Contract Documents.

(t) "Renewal Term" – means an additional time period formally approved by resolution of the SRC that renews or extends the General Service Contract.

(u) "School District" or "Owner" – means the School District of Philadelphia or an authorized representative thereof.

(v) "School Board" – means the School District's Board of Education or any successor body.

(w) "Subcontractor" – means any person, firm, partnership, corporation, other entity, or combination thereof, or their respective duly authorized representative(s), who has or will enter into a contract with the General Service Contractor to furnish, supply, or provide labor, materials, supplies, equipment, or services, or perform any Work covered by this General Service Contract.

(x) "Subcontract" – means a contract entered into by the General Service Contractor with a Subcontractor in order to perform, directly or indirectly, its Work under this General Service Contract.

(y) "Termination Notice" – means a notice given by the School District of its intent to terminate and its termination of this General Service Contract. The termination procedure is set forth in General Condition 16. **TERMINATION**.

(z) "Work" or "General Service Work" – comprises the completed General Service Work required by the Contract Documents and includes all labor, materials, consumables, small tools, and equipment, and contractual requirements as indicated in the Contract Documents, necessary to produce such General Service Work, and all materials and equipment incorporated or to be incorporated in such General Service Work, and whether or not they become part of the completed Project. "General Service

Work” includes reproduction services for photocopying and imaging of plans and specifications and other documents for the School District’s Office of Capital Programs; maintenance type repairs which supplement the School District’s Maintenance Department work, e.g., air conditioning repairs, boiler refractory repairs, boiler repairs, elevator repairs, fire alarm and emergency systems repairs, high voltage repairs, piping and sewer system repairs, plumbing repairs, public address/intercom system repairs, structural repairs due to weather or accidental building damage, trailer repairs and relocation, and window repairs; and other similar work or services.

(aa) “Work Schedule” – means that schedule submitted to and approved by the School District for the completion of those tasks necessary to complete the Work, as may be amended from time to time subject to the written approval of the School District.

1.2 **General Rules of Construction.** Except as expressly stated otherwise, all references to “Paragraph(s)” or “Section(s)” in the Project Specifications or the General Service Contract or the Specifications for General Service Work are references to Paragraphs and Sections of the Project Specifications or the General Service Contract or the Specifications for General Service Work. The index, table of contents and headings used in the Project Specifications and the General Service Contract and the Specifications for General Service Work are for reference and convenience only, do not in any way define, limit, describe, or amplify the provisions of the Project Specifications and the General Service Contract and the Specifications for General Service Work or the scope or intent of its provisions, are not a part of the Project Specifications and the General Service Contract and the Specifications for General Service Work, and will not enter into the interpretation of the Project Specifications and the General Service Contract and the Specifications for General Service Work. Words and abbreviations that have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein. Any material or operation specified by reference to published specifications of a manufacturer, a society, an association, a code, or other published standard shall comply with requirements of the listed document that is current on the date of receipt of the proposal. In case of a conflict between the referenced document and Project Specifications, the one having more stringent requirements shall govern. The Contractor, when requested or noted elsewhere in the Contract Documents, shall furnish an affidavit from the manufacturer certifying that materials or products delivered to the job meet requirements specified. Whenever in the Contract Documents an article, material or equipment is defined by describing a proprietary product, or by using a trade name, or by the name of the manufacturer or vendor, the term “or equal” shall be implied if not inserted therewith. All references to “days” in the Project Specifications and the General Service Contract and the Specifications for General Service Work mean calendar days unless otherwise stated. The term “business days” or “working days” means Monday through Friday, excluding holidays observed by the School District which are published on the School District’s website at the address <http://www.philasd.org> under the subject “Calendar”.

2. GENERAL SERVICE CONTRACTOR’S WORK AND RESPONSIBILITIES

2.1 **Scope of Work.** The description of the Work in the General Service Contract is intended to be general in nature and should not be construed to be a complete description of the Work, or a limitation on the Work to be provided hereunder. For a full description of the Work in the General Service Contract, the General Service Contractor should refer to Division 1 Section “Summary of Work”, the Project Specifications and the Drawings.

2.2 **Work, Labor, Materials, Supplies and Equipment.** The General Service Contractor must be licensed by the City of Philadelphia (“City”) Department of Licenses and Inspections (“L&I Department”) or other governing authority(ies) having jurisdiction over the Project to do work of this nature in the Commonwealth of Pennsylvania. All Work shall be executed in conformity with the Project Specifications, Drawings, and other Project documents and Contract Documents and all express warranties in the General Service Contract. All Work shall be performed in a skillful and workmanlike manner. All materials, supplies and equipment furnished and used shall be new unless otherwise specified, of good quality, free from defects, and in conformance with the Contract Documents. All materials, supplies and equipment shall be merchantable and fit for their general purpose for which they were intended on the Project. All materials, supplies and equipment shall also be fit for

the particular purpose for which they are intended on the Project. All Work, materials, supplies or equipment which do not conform to the Contract requirements shall be deemed defective, and shall be repaired or removed and replaced, to the School District's satisfaction, together with any Work disarranged by such repair, removal or replacement, at the General Service Contractor's sole expense. If the School District determines, in its sole discretion, that it is expedient to accept such defective Work, materials, supplies or equipment, the School District shall have the right to deduct from monies due, owed or to be paid to the General Service Contractor an amount equal to the difference in value between such defective Work, materials, supplies or equipment and that which is specified, indicated, detailed or shown in the Contract Documents. The General Service Contractor agrees to replace, free of charge, for a period of one (1) year from the date of approval of the final bill of the General Service Contractor, all Work, materials, supplies, or equipment which it installs that does not meet specified Project or Contract requirements or become worthless or inoperative through defects in material and workmanship. The General Service Contractor also agrees to repair, without additional cost to the School District, for a period of one (1) year from the date of final completion, any defects that may develop during that period. Such guarantee shall be in addition to any and all warranties that may be called for under the Project Specifications and other Contract Documents. The requirements set forth in this Paragraph 2.2 shall constitute warranties and guarantees of the General Service Contractor to the School District. The warranties and guarantees set forth in this Paragraph 2.2 and elsewhere in the Contract Documents shall survive final payment and termination of the Contract.

2.3 **Supervision and Construction Procedures.** The General Service Contractor shall supervise and direct the Work, using its best skill and attention, and shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work on the Project under the General Service Contract. The General Service Contractor shall provide continuous supervision of the Work at the Project site by a competent superintendent or foreman or project manager. **Immediately upon receipt of Notice to Proceed,** the General Service Contractor shall furnish the name and qualifications of the proposed superintendent or foreman or project manager to the School District. The General Service Contractor shall obtain the School District's **prior approval** of the proposed Superintendent or Foreman or Project Manager **before** commencing performance of actual General Service work at the Project site, which approval shall not be unreasonably withheld. The General Service Contractor shall **not** employ or use a proposed Superintendent or Foreman or Project Manager on the Project who has not received prior approval from the School District. The General Service Contractor shall **not** remove, reassign, replace, or substitute the approved Superintendent or Foreman or Project Manager on the Project without the **prior written notice to and approval of** the School District, which approval shall not be unreasonably withheld. In the event that the approved Superintendent or Foreman or Project Manager becomes unavailable to serve on the Project, the General Service Contractor shall obtain the School District's **prior approval** of a proposed replacement or substitute Superintendent or Foreman or Project Manager on the Project, which approval shall not be unreasonably withheld. The General Service Contractor shall employ only competent workers who are thoroughly skilled in their branches of labor or qualified, licensed, or certified personnel for the Work at all times. The General Service Contractor, its employees and all others acting under its direction or control shall, at all times, observe and comply with any and all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes, actions, orders, and permits during performance of the Work, including but not limited to, School District policies and procedures, the Occupational Safety and Health Act of 1970 (OSHA) as amended and its standards and regulations, and the Philadelphia Building Code or International Construction Code, as most recently amended, and standards referenced therein. The General Service Contractor shall ensure that the quality of the Work is performed, provided, placed, put in, erected, or installed on the Project according to the Project Specifications and Drawings. The General Service Contractor, its employees and all others acting under its direction or control shall perform the required Work in such a manner as to not create a risk of harm to the School District, its agents, representatives, and employees, the general public, the environment, and the property of others.

2.3.1 The City Administrative Board has approved a waiver of the construction permit fees imposed under Section A902.2 of the City Administrative Code and levied by the City L&I Department for School District capital projects, effective prospectively from October 12, 1999. In accordance with the City Administrative Board Rule No. 4, no permit fee is to be paid by the School District to the City for the following permits: zoning, building, fire service, plumbing, electrical, and other similar construction permits. With assistance from the Architect/Engineer, the School District shall provide the required Waiver of Permit Fees applications to the

General Service Contractor for the zoning, building, fire service, plumbing, electrical, and other similar construction permits with the City L&I Department, Permit Services Division, in order to obtain City waivers of the permit fees for the Project. The General Service Contractor shall, without additional expense to the School District, be responsible for obtaining and paying for any other necessary licenses and permits and for complying with all applicable Federal, State and Local laws, codes and regulations in connection with the prosecution of the Work. The General Service Contractor shall pay for any other charges and fees necessary or required for performance of the Work and shall give all required notices to public or private authorities, bodies, organizations, bureaus, or companies in order that necessary or required inspections may be made for the progress of the Work. Failure to comply with the City L&I Department regulations shall result in penalties, payable by the General Service Contractor, to the City, at no additional cost to the School District.

2.3.2 All ferrous metal products used on the Project must comply with the requirements of the Steel Products Procurement Act (73 P.S. §1881 et seq., as amended). The General Service Contractor shall complete and submit to the School District the appropriate Steel Origin Certification on forms ST1 to ST4 provided by the School District for all ferrous metal products prior to incorporating them into the Project. The General Service Contractor shall be responsible for procuring and submitting appropriate Steel Origin Certifications from its Subcontractors or fabricators, as applicable. The School District shall enforce the Steel Products Procurement Act by means of removal and replacement of non-complying steel products, at the sole expense of the General Service Contractor.

2.3.3 The School District may demand the removal of any person employed by the General Service Contractor or Subcontractor in or about the Work, who is deemed incompetent or guilty of misconduct, or who neglects or refuses to comply with the directions given or Contract requirements. The services of such person shall not be allowed on School District projects without the written consent of the School District. Should the General Service Contractor continue to employ or again employ such person on the School District project without the written consent of the School District, the School District may withhold all payments which are or may become due or the School District may suspend the Work at the expense of the General Service Contractor, until such orders are complied with. Any delay arising out of such suspension shall not be reason for extension of the Contract time.

2.4 **Use and Protection of Premises.** During the school year, the building will be open from 7:30 A.M. to 4:30 P.M., Mondays through Fridays, inclusive. Work may be performed at other times, and on Saturdays, Sundays, and holidays, either upon the School District's verbal or written request or the General Service Contractor's providing three (3) days' advance notice of the Work to be performed and the School District's giving written permission to the General Service Contractor to perform such Work after school building hours or on Saturdays, Sundays, or holidays. No Work shall be performed after school building hours or on Saturdays, Sundays, or holidays, except in case of emergency, without the presence of an inspector or other representative of the School District. Costs to keep building open on holidays and weekends will be permitted, provided that the General Service Contractor agrees to pay all costs for watchmen, custodial or other necessary School District personnel.

2.4.1 Personnel of the General Service Contractor and its Subcontractors must display the forms of identification that have been approved by the School District, at all times, whenever on School District property. All personnel of the General Service Contractor and its Subcontractors must sign in with security personnel at the entrance to the Project site before gaining access to the Project site. Any personnel not properly identified will be removed from the premises.

2.4.2 The use of tobacco products by visitors is prohibited in school buildings and on school grounds of the School District of Philadelphia, and in stadiums, or bleachers, or other premises leased by, or under the control of the School District of Philadelphia, unless visitors are in a smoking area designated for non-students where the designated area is no less than 50 feet from school buildings, stadiums, or bleachers, in accordance with Act 128 of 2000 (18 Pa.C.S.A. §6306.1) and School District of Philadelphia Board Policy No. 222. "Smoking, Tobacco Products & Paraphernalia" and Board Policy No. 316. "Use of Tobacco Products". "Tobacco products" shall mean all uses of tobacco, including cigars, cigarettes, pipes, and smokeless tobacco, as well as other substances used as smoking material.

2.4.3 Photographs of students of the School District of Philadelphia are prohibited, in accordance with School District of Philadelphia Board Policy No. 907. "School Visitors", paragraph 6. Photography, Filming, or Videotaping in School District Buildings.

2.4.4 The General Service Contractor shall, at all times, keep the building premises and all Work and storage areas neat, clean, and free from accumulations of waste materials, discarded materials and rubbish caused by its operations. The General Service Contractor shall remove all waste materials, rubbish, discarded material and debris generated by the Contractor and its Subcontractors from the Project site. Burning of debris shall not be permitted on the premises. Cleaning and disposal operations shall be conducted in compliance with governing codes, ordinances, regulations and anti-pollution laws. All materials not to be incorporated into the Work shall be removed from the Project site and properly and legally disposed of. If the General Service Contractor or its Subcontractors fail to clean up during or at the completion of the Work, the School District may do so, and the cost thereof shall be backcharged to the General Service Contractor and the General Service Contractor hereby authorizes the School District to withhold the amount of the cost for cleanup and removal of waste materials, rubbish, discarded materials, and debris from monies due or to become due the General Service Contractor under its applications for payment and to deduct the cost thereof from any monies due or to become due the General Service Contractor under this Contract to pay for the cost of such cleanup and removal. If the General Service Contractor or its Subcontractors fail to clean up and remove waste materials, rubbish, discarded materials, and debris from the Project site as required, the School District, at its sole option, shall have the right to stop payment of all progress payments due the General Service Contractor until the General Service Contractor and its Subcontractors comply with their cleaning and removal obligations, to the School District's satisfaction. The foregoing rights are in addition to other rights of the School District enumerated in the General Conditions and those provided by law.

2.5 **Protection of Persons and Property.** The General Service Contractor shall perform its work with due regard to the safety of persons and property. It is a condition of this General Service Contract, and the General Service Contractor agrees, that the General Service Contractor shall not require its employees employed in the performance of this Contract to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to personal health and safety, as determined by the School District, or under the School District's health and safety program, guidelines, procedures, and requirements or the Contract Documents, as well as any applicable OSHA regulations. The School District's health and safety program, guidelines, procedures, and requirements are hereby incorporated into the General Service Contract by reference as though set forth in full. The School District's health and safety program, guidelines, procedures, and requirements and applicable laws, rules and regulations, and codes shall be observed by the General Service Contractor and its Subcontractors. It is the responsibility of the General Service Contractor to ensure that the work of its employees and Subcontractors required hereunder is performed in a safe and workmanlike manner and in compliance with general safety standards for the performance of such work. The General Service Contractor must ensure that all its personnel are able to adhere to the School District's health and safety program, guidelines, procedures, and requirements. Safety deficiencies shall be brought to the attention of the School District.

2.5.1 The General Service Contractor shall: (1) pre-plan, coordinate, and execute all Project activities in a manner that assures the prevention and control of conditions that may cause students, teachers, school staff personnel, school visitors, and Project neighborhood residents injury and work-related illness; and (2) prevent and control conditions that may cause the General Service Contractor or Subcontractor employee injury and work-related illness; and (3) control exposures and/or conditions that come in contact with the general public; and (4) comply with all applicable federal, state, and local regulations; and (5) decrease operating costs through conservation of human physical resources. The General Service Contractor shall meet all OSHA standards for the safety of, and shall take all reasonable precautions for safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (1) all employees on the Project and all other persons who may be affected thereby; (2) all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Project site, under the care, custody or control of the General Service Contractor or any of its Subcontractors or Sub-subcontractors; and (3) other property at the Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

2.5.2 The General Service Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss. The General Service Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all 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 utilities. The General Service Contractor shall promptly remedy all damage or loss to any property referred to in this Paragraph 2.5 caused, in whole or in part, by the General Service Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the General Service Contractor is responsible under Paragraph 2.5, except damage or loss solely attributable to the acts or omissions of the School District, Architect/Engineer, or other School District Consultant(s), or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the General Service Contractor. The foregoing obligations of the General Service Contractor are in addition to his obligations under General Condition 11. **INDEMNIFICATION**. In accordance with the School District's health and safety program, guidelines, procedures, and requirements, the General Service Contractor shall designate a responsible member of his organization at the Project site whose duty shall be prevention of accidents. This person shall be the General Service Contractor's superintendent or foreman or project manager, unless otherwise designated by the General Service Contractor in writing to the School District. The General Service Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety or the safety of persons or property. The General Service Contractor shall promptly report, in writing, to the School District, all accidents arising out of or in connection with the Work which cause death, personal injury or property damage, giving full details and statements of any witnesses. In addition, if death or serious personal injuries or serious damages are caused, the accident shall be reported immediately, by telephone or messenger, to the School District. In any emergency affecting the safety of persons or property, the General Service Contractor shall act, at its discretion, to prevent threatened damage, injury or loss, at no additional compensation and without extension of time. In the event emergency repairs or work is necessary to prevent damage and the General Service Contractor is not available, the School District may make such repairs or do such work, either by itself or through another contractor. The General Service Contractor shall pay the expenses of the repairs or work when necessitated by defects in the General Service Contractor's work.

2.5.3 The General Service Contractor and its Subcontractors are fully and solely responsible for the jobsite safety of the construction means, methods, techniques, sequences, and procedures utilized by the General Service Contractor and its Subcontractors in connection with construction work or General Service Work on the Project. The General Service Contractor and its Subcontractors are responsible for maintaining and supervising all safety precautions and programs in connection with construction work or General Service Work on the Project, and for any violations of the safety precautions and programs in connection with construction work or General Service Work on the Project. The General Service Contractor and its Subcontractors are also responsible for complying with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property, or their protection from damage, injury or loss, in connection with construction work or General Service Work on the Project, and for taking all necessary precautions to protect the safety and health of their employees and others on the Project jobsite, including compliance with all applicable federal, state and local safety and health laws, regulations, and building codes, and for adhering to and enforcing the safety regulations set forth in the Contract Documents and the School District's health and safety program, guidelines, procedures, and requirements.

2.6 **Loss or Injury to Persons or Property**. The General Service Contractor shall be liable for any loss or injury to persons or property, including property of the School District, occasioned by its negligence or breach of contract, during the progress of the Work, until the Work has been completed and finally accepted by the SRC. The General Contractor shall also assume full responsibility for loss by reason of violation of any Federal, State, or Local laws. The General Service Contractor shall immediately restore, replace and/or repair to the condition required by the Project Specifications and Drawings then in effect any damage to Work done or loss of property resulting from an Act of God or any cause, not directly attributable to the negligence of the School District, at no additional cost to the School District, the said loss to fall

entirely upon the General Service Contractor.

2.7 **Cooperation.** If the General Service Contract is proceeding concurrently with others in the building, the General Service Contractor shall cooperate with the other contractors in expediting the work of all. The General Service Contractor shall secure and anchor the work and avoid damage to the work of the other contractors and shall do everything necessary in order that the general public and the School District shall not suffer any injury to persons or property.

2.8 **Tests, Samples, Inspections, and Shop and Erection Drawings.** Tests of materials required under the Project Specifications, unless noted otherwise, shall be paid for by the School District. The selection of bureaus, laboratories and/or agencies for the inspection and testing of supplies, materials and equipment (not paid for by the School District) shall be subject to the approval of the School District. Satisfactory documentary evidence that the material has passed the required inspections and tests shall be furnished to the School District. Upon request, the General Service Contractor shall submit samples of materials to be incorporated in the Work to the School District, for prior approval, in the sample number, amount, form and manner (*i.e.*, markings, identification, and purpose) required by the School District. Sample materials are subject to inspection and testing as to their compliance with the Project Specifications. Tests on samples shall be made in accordance with the methods prescribed in the Project Specifications or by ASTM specifications, except as otherwise provided. Approval of any sample shall be only for characteristics and for the use named in such approval and for no other use. The General Service Contractor shall not use any material which material or a sample thereof has failed required tests, or does not comply with the Project Specifications, or has not been approved by the School District. All Work, materials, supplies and equipment are subject to the School District's inspection and approval, both at the Project site and wherever it is in the course of preparation of manufacture. Any material not specified or approved by the School District that is incorporated in the Work, used or delivered to the Project site shall be immediately removed, upon the order of the School District, and replaced to the satisfaction of the School District, at the General Service Contractor's sole expense. Upon request, the General Service Contractor shall furnish samples of material even at the sacrifice or destruction of the actual Work already performed, provided that the expense involved shall fall upon the General Service Contractor if it develops that the material or Work, or both, does not conform to the Project Specifications. When special makes or grades of materials are specified or approved, such materials shall be delivered to the Project site in their original packages or cans, with seals unbroken and labels attached, and shall not be opened until inspected and approved by the School District. The General Service Contractor shall prepare and submit complete shop and erection drawings required under the Project Specifications, for approval by the School District or Architect/Engineer, in the drawing number, format, and manner required by the Project Specifications or the School District or Architect/Engineer. Shop drawings and erection drawings without an approval stamp of the School District shall not be permitted on the Project site. Actual fabrication or erection of the Project work shall not proceed until the shop drawings and erection drawings have received the approval of the School District or Architect/Engineer. The General Service Contractor shall not use any drawings which do not have the stamp of approval of the School District on the Project.

2.9 **Disputes Concerning the Work.** In the event of any dispute between the General Service Contractor and the School District, or the Architect/Engineer, or any other School District Consultant, the General Service Contractor shall, nevertheless, expeditiously proceed with the performance of the Work

2.10 **Tax Compliance.** It is the policy of the School District of Philadelphia ("School District") to ensure that firms, businesses and other legal entities receiving School District contracts are current in their payment of City of Philadelphia ("City") taxes and School District taxes or other indebtedness owed to the City or the School District, including but not limited to taxes collected by the City on behalf of the School District, at the time of contract award. Pursuant to SRC Resolution SRC-2 dated February 21, 2013, the School District's School Reform Commission ("SRC") has adopted a Tax Compliance of Vendors Policy which provides that generally, the SRC will not authorize the award of a School District contract to a firm, business or other legal entity that is delinquent in its payment of City or School District taxes or other indebtedness owed to the City and/or the School District at the time of contract award.

2.10.1 All firms, businesses and other legal entities (hereafter called "Contractor") receiving a

School District contract shall comply with all of the terms and conditions of the Tax Compliance of Vendors Policy.

2.10.2 Tax Indebtedness Representation, Warranty and Covenant.

2.10.2.1 The Contractor represents, warrants and covenants to the School District that the Contractor and any other person controlling, controlled by, or under common control with the Contractor are not currently indebted to the City or the Commonwealth of Pennsylvania for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District) for which no written settlement agreement or payment plan with the City, or the Commonwealth of Pennsylvania, as the case may be, has been executed and delivered.

2.10.2.2 The Contractor further represents, warrants and covenants to the School District that the Contractor and any other person controlling, controlled by, or under common control with the Contractor will not at any time during the term of this Contract (including any extensions or renewals thereof) be indebted to the City or the Commonwealth of Pennsylvania for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District), liens, judgments, fees or other debts for which no written settlement agreement or payment plan with the City of Philadelphia, or the Commonwealth of Pennsylvania, as the case may be, has been executed and delivered.

2.10.3 Proof of Tax Compliance.

2.10.3.1 During the duration of any School District contract, the Contractor shall provide proof of its tax compliance in the form of a "Certificate of Tax Clearance" to the School District, at the School District's written request, in the sole discretion of the School District.

2.10.4 Satisfactory Arrangement, Settlement Agreement or Payment Plan with City.

2.10.4.1 The Contractor agrees to provide written proof to the School District of any satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District taxes or other indebtedness owed to the City or the School District.

2.10.4.2 The Contractor shall continue to comply with said City satisfactory arrangement, settlement agreement or payment plan during the duration of any School District contract.

2.10.5 Agreement to Set off or Offset for Delinquent Tax or other Indebtedness.

2.10.5.1 The Contractor agrees that the School District may set off or offset the amount of any City or School District tax or taxes or other indebtedness owed to the City or the School District against any School District payment or payments due under any School District contract.

2.10.5.2 In addition to any other rights or remedies available to the School District at law or in equity, the Contractor acknowledges and agrees that the School District may set off or offset the amount of any City or School District tax or taxes or other indebtedness owed to the City or the School District against any School District payment or payments due under any School District contract if the Contractor breaches the tax indebtedness representation, warranty and covenant, and such breach is not resolved, to the School District's satisfaction, within a reasonable time frame specified by the School District in writing.

2.10.6 Agreement to Withholding of Contract Payment.

2.10.6.1 The Contractor agrees that the School District may withhold payment or payments due to the Contractor under any School District contract if the Contractor is delinquent in its payment of City or School District tax or taxes or other indebtedness owed to the City or the School District.

2.10.6.2 The Contractor agrees that the School District may withhold payment or payments due to the Contractor under any School District contract if the Contractor is delinquent in its payment of City or School District tax or taxes or other indebtedness owed to the City or the School District, and the Contractor has not entered into a satisfactory arrangement, settlement agreement or payment plan with the City to become compliant in the payment of City or School District tax or taxes or other indebtedness owed to the City or the School District.

2.10.6.3 The Contractor agrees that the School District may withhold payment or payments due to the Contractor under any School District contract if the Contractor is in default of any satisfactory arrangement, settlement agreement or payment plan with the City.

2.10.6.4 In addition to any other rights or remedies available to the School District at law or in equity, the Contractor acknowledges and agrees that the School District may withhold payment or payments due to the Contractor under any School District contract if the Contractor breaches the tax indebtedness representation, warranty and covenant, and such breach is not resolved, to the School District's satisfaction, within a reasonable time frame specified by the School District in writing.

2.10.6.5 The Contractor agrees that the School District may continue withholding payment or payments due to the Contractor under any School District contract until the City Revenue Department notifies the School District that the Contractor is tax compliant.

2.10.7 Good Faith Contest.

2.10.7.1 The Contractor shall be permitted to, in good faith, contest the amount of any Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District.

2.10.7.2 The Contractor shall diligently and expeditiously proceed to resolve the matter with the City, or the Commonwealth of Pennsylvania, as the case may be, in order to reach a satisfactory settlement agreement or payment plan with the City, or the Commonwealth of Pennsylvania, as the case may be.

2.10.7.3 The Contractor shall expeditiously pay all uncontested obligations.

2.10.8 Termination of Contract.

2.10.8.1 Termination for Convenience. The School District, at its sole discretion, may terminate any School District contract for its convenience, at any time, upon fourteen (14) days prior written notice to the Contractor of the School District's intention to terminate said contract ("Termination Notice"), and without penalty, cost or liability to the School District, provided the Contractor is:

(i) delinquent in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District; and

(ii) the Contractor has not contested the amount of the Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District; and

(iii) the Contractor has not entered into or executed any satisfactory arrangement, settlement agreement or payment plan with the Commonwealth of Philadelphia or the City, as the case may be, to become compliant in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, City or the School District; or

(iv) the Contractor is in default of any satisfactory arrangement, settlement

agreement or payment plan with the Commonwealth of Philadelphia or the City, as the case may be, to become compliant in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, City or the School District.

2.10.8.2 Termination for Default. The School District may terminate any School District contract for default by giving the Contractor a Termination Notice provided:

(i) the Contractor is delinquent in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District; and

(ii) the Contractor has not contested the amount of the Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, the City or the School District; and

(iii) the School District has requested in writing that the Contractor enter into or execute a satisfactory arrangement, settlement agreement or payment plan with the Commonwealth of Philadelphia or the City, as the case may be, to become compliant in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, City or the School District, and the Contractor has willfully or in bad faith refused or declined to comply with said School District request; or

(iv) the School District has requested in writing that the Contractor cure its default of any satisfactory arrangement, settlement agreement or payment plan with the Commonwealth of Philadelphia or the City, as the case may be, to become compliant in the payment of Commonwealth of Pennsylvania, City or School District tax or taxes or other indebtedness owed to the Commonwealth of Pennsylvania, City or the School District, and the Contractor has willfully or in bad faith refused or declined to comply with said School District request.

The Contractor shall be liable for all excess costs and other damages resulting from said termination for default.

3. SCHEDULE AND TIME OF COMPLETION

3.1 Mobilization. The General Service Contractor shall commence its Work immediately upon receipt of the verbal or written Notice to Proceed issued by the School District.

3.2 Work Schedule. The General Service Contractor should refer to the Supplementary Conditions of the Contract, Paragraph 1. "Scheduling of Work" for completion date and schedule information for its Work.

3.3 Time is of the Essence. Time is of the essence in the CIP and on the Work. The General Service Contractor shall commence its Work immediately upon Notice to Proceed and shall diligently prosecute the Work to Final Completion. The General Service Contractor shall use its best efforts to complete the Work on or ahead of the date of Final Completion. The date of Final Completion of the Work or the Project or designated portion thereof is the date determined by the School District or certified by the Architect/Engineer when the Work or the construction is sufficiently complete, in accordance with the Contract Documents, for the use for which it is intended so the School District can fully occupy and utilize the Work or the Project or designated portion thereof for the use for which it is intended, with all of the Work's or the Project's parts and systems operable as required by the Contract Documents and where all Work is complete, accessible, operable, and usable by the School District for the School District's full use, and all incidental corrective work under "punchlists" have been finally completed.

3.4 Time of Completion. Upon failure by the General Service Contractor to achieve Final Completion within the time specified by the School District from the date of commencement as set forth in the Notice to

Proceed, the General Service Contractor shall pay to the School District, as liquidated damages and not as a penalty, the sum per day for each consecutive calendar day of delay set forth in the list below until such time as Final Completion of the Work is achieved.

<u>Amount of Contract</u>	<u>Liquidated Damages per Day</u>
\$5,000 and less	\$ 20
Over \$5,000 and less than \$10,000	\$ 40
Over \$10,000 and less than \$15,000	\$ 60
Over \$15,000 and less than \$20,000	\$ 75
Over \$20,000 and less than \$50,000	\$100
Over \$50,000 and less than \$100,000	\$150
Over \$100,000 and less than \$300,000	\$250
Over \$300,000 and less than \$500,000	\$300
Over \$500,000 and less than \$1,000,000	\$400
Over \$1,000,000 and less than \$1,500,000	\$500
Over \$1,500,000 and less than \$2,000,000	\$600
Over \$2,000,000 and less than \$3,000,000	\$700
Over \$3,000,000 and less than \$5,000,000	\$800
\$5,000,000 and over	\$850

In addition, the General Service Contractor shall be responsible for and shall pay for the cost of completion of construction of the Work, as well as for any and all additional charges by the Architect/Engineer and any other Consultants to the School District relating to the General Service Contractor's failure to achieve final completion on a timely basis. The General Service Contractor and School District agree that the amounts so fixed herein as liquidated damages are reasonable forecasts of just compensation for the harm that will be caused the School District by the General Service Contractor's breach.

3.5 **Extension of Time of Completion is Sole Remedy.** Except as otherwise specifically provided under General Condition 14. **MODIFICATION OF CONTRACT DOCUMENTS**, the General Service Contractor shall not be entitled to any increase in the Contract compensation, cost or price, or any payment or compensation of any kind from the School District, Architect/Engineer, or other School District Consultant(s) for direct, indirect, or impact damages, including but not limited to, costs of acceleration or for loss of revenue, overhead or profit, arising because of hindrance, interference, disruption, or delay from any cause whatsoever, whether such hindrance or delay be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Instead, as its sole right and remedy with respect to such hindrance, interference, disruption, or delay (other than due solely to fraud or bad faith), the General Service Contractor shall be entitled to extensions in the Contract time of completion. The Contract time of completion shall be adjusted only for Changes in the Work (pursuant to General Condition 14. **MODIFICATION OF CONTRACT DOCUMENTS**), the School District's right to stop the Work (pursuant to General Condition 4. **SCHOOL DISTRICT'S RIGHTS, SERVICES AND RESPONSIBILITIES**, General Condition 15. **WORK OR PROJECT STOPPAGE, SUSPENSION OR ABANDONMENT**, and General Condition 16. **TERMINATION**), and excusable delays set forth in Subparagraph 3.5(1) herein. The General Service Contractor acknowledges and agrees that actual delays (due to said changes, suspension of Work or excusable delays) in activities which, according to the Project schedule, do not affect the Contract time of completion, or do not have any effect upon the Contract time of completion, shall not be the basis for a change therein.

(1) Subject to other provisions of this Contract, the General Service Contractor may be entitled to an extension of the Contract time of completion (but no increase in the Contract compensation, cost or price) for delays, disruptions, interferences, or hindrances arising from unforeseeable causes beyond the control and without the fault or negligence of the General Service Contractor or its Subcontractors for the following:

(a) Labor strikes or disputes (including strikes or disputes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of the Contract time of

completion on account of an individual labor strike or dispute shall not exceed the number of calendar days of said strike or dispute. In addition, an extension of the Contract time of completion shall not be allowed if a strike or dispute applies to labor or material that the General Service Contractor can obtain from other sources.

(b) Acts of God or natural disaster (e.g., tornadoes, fires, hurricanes, blizzards, earthquakes, typhoons, or floods) that damage completed Work or stored materials.

(c) The Contract time of completion shall not be extended due to normal inclement weather. The time of performance as stated in the Contract Documents includes an allowance for calendar days per month which may not be available for construction out-of-doors; for the purposes of the General Service Contract, the General Service Contractor agrees that said numbers of calendar days per month are to be considered as normal inclement weather. Unless the General Service Contractor can substantiate to the satisfaction of the School District that there was greater than normal inclement weather considering the full term of the Contract time of completion using a ten-year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for the locale of the Project and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract time of completion, the General Service Contractor shall not be entitled to an extension of time. If the total accumulated number of calendar days lost due to inclement weather, from the start of the Work until final completion exceeds the total accumulated number to be expected for the same period, the time for completion shall be extended by the number of calendar days needed to include the excess number of calendar days lost.

(d) Acts of war or the public enemy, acts of civil disturbance; court order, change in governmental regulation; acts of the State, Federal, or Local government in its sovereign capacity, delay or failure by third parties to provide critical goods or services that the General Service Contractor cannot obtain from other sources; and acts of another Contractor in the performance of a contract with the School District relating to the Project, which in fact directly affect progress of the Work and can be so substantiated by the General Service Contractor.

(e) Delay in obtaining Project site access due to problems or delays in the land acquisition process that are not caused by the School District.

(f) Delay in obtaining Project site access due to failure or refusal of any adjoining property owner to give necessary permission for required construction work, General Service Work or necessary entry onto adjoining property to perform required construction work or General Service Work.

(g) Delay or failure of governmental or regulatory authorities having jurisdiction over the Project and the Work to give necessary or required approvals or documents for Project site access, construction work, General Service Work, or remediation of known, unknown, differing, or unforeseen Project site conditions or environmental hazards or conditions.

In the event that the General Service Contractor requests an extension of the Contract time of completion, the General Service Contractor shall furnish such justification and supporting evidence as the School District may deem necessary for a determination as to whether the General Service Contractor is entitled to an extension of the Contract time of completion under the provisions of the General Service Contract. All requests for extensions of time shall be made in writing to the School District no more than 3 calendar days after the beginning of the delay (or disruption, hindrance, or interference, if applicable); otherwise all such requests are waived by the General Service Contractor. In the case of a continuous cause of delay (or disruption, hindrance, or interference, if applicable), only one (1) written request is necessary. The General Service Contractor shall provide an estimate of the probable effect of such delay (or disruption, hindrance, or interference, if applicable) on the progress of the Work.

4. SCHOOL DISTRICT'S RIGHTS, SERVICES AND RESPONSIBILITIES

4.1 **School District's Delegation of Authority to Consultants.** The School District has delegated or will delegate certain powers and duties in connection with the General Service Contract to the Architect/Engineer and other School District Consultants. Within the scope of this delegation, and as may be additionally authorized in writing by the School District, the Architect/Engineer and the other School District Consultants are authorized representatives of the School District. The Architect/Engineer and the other School District Consultants shall have authority to enforce compliance with the Contract Documents, all as more particularly set forth herein. The Architect/Engineer and the other School District Consultants are not authorized to change, revoke, alter, enlarge, relax or release any requirements of the General Service Contract, nor approve or accept any portion of the Work not constructed in accordance with provisions of the Contract Documents, nor issue instructions contrary to such provisions. The exercise of or failure to exercise delegated authority by the Architect/Engineer or the other School District Consultants shall not relieve the General Service Contractor of any of his obligations under the General Service Contract.

4.1.1 **Cooperation of Consultants.** Although there is no formal contractual relationship between the Architect/Engineer and the other School District Consultants, or between the Architect/Engineer and the General Service Contractor, the Architect/Engineer and the other School District Consultants have agreed to perform their services in full cooperation with each other.

4.1.2 **Limits on Authority and Responsibility.** Notwithstanding the School District's health and safety program, guidelines, procedures, and requirements, and any Project safety monitoring and oversight services of the School District, the School District is not acting in any manner so as to assume responsibility, in whole or in part, for noncompliance of the General Service Contractor or any of its Subcontractors with applicable federal, state, and local safety laws, statutes, ordinances, codes, rules, regulations, orders and decrees, including but not limited to, the Occupational Health and Safety Act (OSHA), or with safety standards and regulations established by the School District for the Project, including but not limited to the School District's health and safety program, guidelines, procedures, and requirements, or with federal, state, and local health laws, regulations and building codes, or for any accidents arising out of or in connection with safety precautions and safety programs in connection with the construction work or General Service Work on the Project which caused death, personal injury or property damage and which were caused by the General Service Contractor or any of its Subcontractors. Nothing contained in the Contract Documents, or the School District's health and safety program, guidelines, procedures, and requirements, shall be construed to mean that the School District is acting in a manner so as to assume the General Service Contractor's and its Subcontractors' responsibilities or liabilities, in whole or in part, for safety precautions and safety programs in connection with construction work or General Service Work on the Project. Nothing contained in the School District's health and safety program, guidelines, procedures, and requirements, or any contract(s) between the School District, on the one part, and the Architect/Engineer or the other School District Consultants, on the other part, shall be construed to mean that the School District, or the Architect/Engineer, or the other School District Consultants, are responsible for the jobsite safety of the construction means, methods, techniques, sequences, or procedures utilized by the General Service Contractor and its Subcontractors in connection with construction work or General Service Work on the Project.

4.2 **School District's Rights.** The School District and its Consultants on the Project have the right to inspect the Work of the General Service Contractor, its Subcontractors and all others acting under its direction or control, in progress at any reasonable location and at any reasonable time. The School District and its Consultants shall at all times have access to the Work whenever it is in preparation or progress. The General Service Contractor shall provide safe facilities for such access and shall make available all facilities for such inspection.

4.3 **School District's Services and Responsibilities.** The School District shall provide access to its educational facilities, during reasonable business hours or at other times as necessary, to the General Service Contractor, and furnish the personnel, materials, supplies, and equipment necessary for the General Service Contractor's performance of its Work. The School District shall furnish site surveys, reports, and legal, surface, subsurface, laboratory or environmental test information for the Project to the General Service Contractor, and the General Service Contractor shall be entitled to rely upon the accuracy

and completeness thereof. The School District shall provide special surveys, environmental studies and submissions required for approval of governmental authorities or others having jurisdiction over the Work site.

4.4 **School District Right to Award Other Contracts.** The School District reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with additional, different or other portions of the Project or additional or other Work on the Project site under these or similar Conditions of the Contract in the event that (a) the School District's School Reform Commission (SRC) elects to exercise its reserved power to suspend or waive requirements applicable to work on School District grounds and buildings pursuant to the Public School Code, 24 P.S. §6-696(i)(3) and §7-751; or (b) the School District determines, in its sole judgment, that it is in its own best interests to do so under the circumstances; or (d) the School District is ordered to do so by a court of competent jurisdiction.

4.5 **School District Right to Stop the Work.** The School District may order the General Service Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for such period of time as it may determine to be appropriate for the convenience of the School District. If the General Service Contractor fails to correct defective Work, or fails to carry out the Work or supply labor, material or equipment in accordance with the Contract Documents, the School District may order the General Service Contractor, in writing, to stop the Work or any portion thereof until the cause for such order has been eliminated. The right of the School District to stop the Work shall not give rise to any duty on the part of the School District to exercise this right for the benefit of the General Service Contractor or any other person or entity. This right shall be in addition to, and not in restriction of, the School District's rights to stop work under other provisions of the Contract Documents. The School District's right to stop the Work shall not relieve the General Service Contractor of any of its responsibilities, duties and obligations under the Contract Documents.

4.6 **School District Right to Carry out the Work.** If the General Service Contractor breaches, defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within 72 hours after receipt of written notice from the School District to commence and continue correction of such breach, default or neglect with diligence and promptness, the School District may make good such deficiencies, and may further elect to complete all Work thereafter through such means as the School District may select, including the use of a new or alternative contractor on a time (and overtime, if necessary) and material basis, and the School District shall back charge the General Service Contractor accordingly. The labor and material records approved by the School District for such work shall be conclusive, final and binding upon the General Service Contractor, and shall not be subject to appeal, dispute or claim. In such case, an appropriate Change Order shall be issued, deducting from the payments then or thereafter due the General Service Contractor the cost of correcting such deficiencies, including compensation for the additional services of the Architect/Engineer and other Project Consultants of the School District made necessary by such breach, default, neglect, or failure. If the payments then or thereafter due the General Service Contractor are not sufficient to cover such amount, the General Service Contractor shall immediately pay the difference to the School District upon demand.

4.7 **School District Right to Terminate the Contract.** The School District shall have certain rights to terminate the General Service Contract with the General Service Contractor as more particularly set forth in Paragraph 5.6, **Unavailability of Funds**, and General Condition 16. **TERMINATION**.

4.8 **Use of Facilities Before Completion.** The School District, may, prior to completion of the Work, occupy portions thereof, and/or move and store furniture, equipment and materials on the premises as may be required for the operation and administration of the School District.

4.9 **Interpretation of Contract Documents.** The Interim Senior Vice President of Capital Programs or her designee, on the School District's behalf, shall decide as to the meaning and applicability of any part of the General Conditions of the General Service Contract, other Conditions of the General Service Contract, Project Specifications, other Project documents, and Contract Documents, and his decision or his designee's decision shall be binding and final.

4.10 **Quantity and Quality of Work.** The decision of the School District as to the quantity and quality of the Work shall be final.

4.11 The rights of the School District stated in this General Condition 4 shall be in addition to and not in limitation of any other rights of the School District granted in the Contract Documents or at law or in equity.

5. COMPENSATION AND PAYMENT

5.1 **Compensation.** The School District agrees to pay the General Service Contractor up to the total amount approved by the SRC as compensation for the Work performed by the General Service Contractor under the General Service Contract.

5.2 Payment.

5.2.1 The General Service Contractor shall submit Applications for Payment for Work performed in accordance with General Condition 5 and Division 1 Section "General Service Work Requirements". All Applications for Payment must be submitted in the form required by the School District, and shall attach such supporting evidentiary documents as the School District may require.

5.2.3 Applications for Payment shall be exclusive of state or local sales, use or gross receipts taxes, and federal excise taxes. The School District's Pennsylvania Sales Tax Blanket Exemption Number is 76-51500-1; its Federal I.D. Number is 23-600-4102; and its Federal Excise Tax Number is 23-63-0021-K.

5.2.4 No payment shall be due to the General Service Contractor before the School District's receipt and approval of a properly itemized Application for Payment from the General Service Contractor. The General Service Contractor shall provide its Federal Tax Identification Number to the School District at the time of its submission of its first Application for Payment.

5.2.5 All amounts paid shall be subject to audit by the School District pursuant to Paragraph 5.12, and all Applications for Payment must be approved by the School District's Accounting Services or Auditing Services Offices as a condition of payment.

5.2.6 Neither the School District nor any of its Consultants shall have any obligation to pay or to see to the payment of any monies to any Subcontractor of the General Service Contractor, except as may otherwise be required by law. No Application for Payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the School District, shall constitute an acceptance of any Work which is not in accordance with the Contract Documents.

5.2.7 Applications for payment shall not include requests for payment on account of changes in the Work that have been approved by the School District, but have not yet been included in a Change Order approved by the SRC. Applications for payment shall not include "extra work", "additional work" or "changed work" of the General Service Contractor, Subcontractors, or Sub-subcontractors that has not been approved by the School District and included in a Change Order approved by the SRC. Applications for payment shall not include damages, costs, fees, and expenses of the General Service Contractor, Subcontractors, or Sub-subcontractors that have not been approved by the School District for payment and included in a Change Order approved by the SRC.

5.3 **Withholding of Payments.** Notwithstanding any other payment terms or conditions to the contrary, the School District reserves the right to withhold promised payments for the General Service Contractor's substantial failure to perform as agreed. The School District may withhold, or on account of subsequently discovered evidence, nullify, the whole or any part of any payment to the General Service Contractor to such extent as may be necessary to protect the School District from loss on account of: (1) delay beyond the times set forth in the General Service Contract; (2) defective or damaged Work not remedied; (3) claims filed or reasonable evidence indicating possible filing of claims; (4) damage to other

Contractors; (5) failure to make payments properly to Subcontractors for material, supplies, equipment, services or labor; (6) evidence of financial difficulty or prospective dissolution of the General Service Contractor or its inability to perform the Contract fully; (7) a reasonable doubt that the Contract can be completed for the balance of the monies then unpaid; (8) failure of the General Service Contractor to perform any other obligations of the Contract; or (9) any other valid claim for compensation not hereinbefore defined. When the grounds for withholding or nullifying a payment have been removed, payment shall be made to the General Service Contractor. However, before withholding payment under this General Service Contract, the School District shall notify the General Service Contractor in writing of such failure and grant the General Service Contractor the opportunity to remedy same within a specified time period of said written notice. The School District may extend such remedial period, at its sole discretion, if there is evidence of the General Service Contractor's good faith effort to remedy the failure. The School District will pay pro rata for the General Service Contractor's partial performance, provided such performance is acceptable to the School District and is rendered satisfactorily.

5.4 **Release of Claims and Liens.** Neither final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the General Service Contractor submits to the School District, in form and substance satisfactory to the School District: (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the School District or its property might in any way be responsible, have been paid or otherwise satisfied; (2) consent of surety, if any, for final payment; (3) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 calendar days' prior written notice has been given to the School District through its Risk Manager; (4) a written statement that the General Service Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; (5) General Service Contractor's sworn statement duly executed and acknowledged showing all subcontractors to be fully paid; (6) if required by the School District or Project Architect/Engineer, other data establishing payment or satisfaction of all such obligations, such as receipts, releases, and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the School District or Project Architect/Engineer; and (7) all assignable warranties and guarantees, as-built drawings, and operations and maintenance manuals for the Project as completed. If any Subcontractor or Sub-subcontractor refuses to furnish a release or waiver required by the School District, the General Service Contractor shall furnish a bond satisfactory to the School District to indemnify the School District against any loss, as a condition to final payment. If any such lien or claim remains unsatisfied after all payments are made, the General Service Contractor shall promptly pay to the School District all monies that the School District may be compelled to pay in discharging such lien or claim, including all costs and attorneys' fees. The School District may withhold from final payment any sum that the School District has reason to believe may be needed to satisfy any lien, claim, or threat of lien arising out of the Work. The School District may deduct from final payment an amount equal to any costs, expenses, and attorneys' fees incurred by the School District in removing or discharging any liens arising out of the Work.

5.5 **Non-Authorization of Funds.** The General Service Contractor acknowledges that payments under the General Service Contract may not exceed the amount that the School District's Auditing Services Office certifies as available for the General Service Contract. During the term of the General Service Contract, the School District reserves the right to fund the balance of the Compensation in varying amounts from time to time as funds become available, not to exceed in total the maximum amount stated in the General Service Contract. The General Service Contractor agrees that the School District shall not be obligated to fund the General Service Contract except out of funds certified by the School District's Auditing Services Office as currently available, even if those funds are less than the maximum amount stated in the General Service Contract. If at any time sufficient funds are not certified as available, the School District may, at its sole discretion, exercise its options described in Paragraph 5.6.

5.6 **Unavailability of Funds.** In the event funding for the General Service Contract is not obtained or continued from any source at an aggregate level sufficient to allow for payment for the Work required under the General Service Contract, the School District may, in its sole discretion, exercise one of the following alternatives: (a) Terminate the General Service Contract effective upon a date specified in a Termination Notice pursuant to General Condition 16. **TERMINATION**; or (b) Continue the General Service Contract by reducing, through written notice to the General Service Contractor, the amount of the General Service

Contract and Work, consistent with the nature, amount, and circumstances of loss of funding. Any termination or reduction of the General Service Contract pursuant to this Paragraph 5.6 shall not affect any obligations or liabilities of either party accruing prior to such termination or reduction. There shall be no liability or penalty to the School District as a result of such termination or reduction of the General Service Contract.

5.7 **Crossing Fiscal Years.** If any portion of the compensation set forth in the General Service Contract is to be paid in any School District fiscal year (July 1 – June 30) following the fiscal year in which the initial term or any renewal term of the General Service Contract commences (in either case, "Commencement FY"), the General Service Contractor understands and agrees that the portion of the compensation under the General Service Contract payable with School District funds for the period following the Commencement FY is subject to reauthorization by the SRC. If for any reason funds for that portion of the compensation are not continued in any year, the General Service Contract and School District liability under the General Service Contract shall automatically terminate at the end of the then current Commencement FY.

5.8 **Retainage.** The School District shall have the right to retain five percent (5%) of the amount of each Application for Payment until the final inspection and acceptance of the Work of the General Service Contractor on the Project. The School District of Philadelphia is a "distressed school district" under the Public School Code, Act of March 10, 1949, P.L. 30, No. 14 (24 P.S. §6-691) and a "first class school district" under the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (known as "PICA Act"), Act of June 5, 1991, P.L. 9, No. 6 (53 P.S. §12720.104), and therefore the following provisions of the Commonwealth Procurement Code, Part II. General Procurement Provisions, Chapter 39. Contracts for Public Works, (62 Pa.C.S.A. §§3938(b)(2)&(4)), do not apply to the School District of Philadelphia: (1) Subchapter C. Retainage, §3921. Retainage; (2) Subchapter C. Retainage, §3922. Payment of retainage to subcontractors; and (3) Subchapter E. Substantial/Final Payment, §3941. Substantial/final payment under contract. The School District may (at its sole discretion) decline to release any five percent (5%) retainage set forth in Paragraph 5.8, or subsequent to the release of any five percent (5%) retainage set forth in Paragraph 5.8, reinstitute the full five percent (5%) retainage if it is determined that the General Service Contractor is behind schedule, or is not prosecuting the Work with its best possible efforts, or is not strictly adhering to directives issued by the School District or its Consultants.

5.9 **Mechanics' Liens Prohibited: Filing of Payment Bond Claims Not Available Remedy.** The Mechanics' Lien Law, Act of August 24, 1963, P.L. 1175, No. 497 (49 P.S. §1101 et seq.) prohibits the filing of mechanics' liens on School District real property, construction or General Service Work projects. The Pennsylvania Public Works Contractors' Bond Law, 8 P.S. §191, et seq., requires performance and payment bonds **only** for construction, reconstruction, alteration or repair of school buildings or facilities. Therefore, filing of payment bond claims for School District General Service Work is not an available remedy.

5.10 **Non-Applicability of Pennsylvania Prompt Payment Acts.** The School District of Philadelphia is a "distressed school district" under the Public School Code, Act of March 10, 1949, P.L. 30, No. 14 (24 P.S. §6-691) and a "first class school district" under the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (known as "PICA Act"), Act of June 5, 1991, P.L. 9, No. 6 (53 P.S. §12720.104), and therefore the prompt payment provisions of the Award and Execution of Public Contracts Law, Act of December 12, 1994, P.L. 1042, No. 142 (73 P.S. §§1626.8(c)(2)&(4)) (repealed), and the prompt payment provisions of the Commonwealth Procurement Code, General Procurement Provisions, Act of May 15, 1998, P.L. 358, No. 57 (62 Pa.C.S.A. §§3938(b)(2)&(4)), do not apply to the School District of Philadelphia and its construction and General Service Work contracts. The School District of Philadelphia has no obligations to make progress payments, final payments, retainage payments, or any other type of payment, within the time periods set forth in the Award and Execution of Public Contracts Law (repealed) or the Commonwealth Procurement Code, General Procurement Provisions, and to pay interest, penalties, attorneys' fees, costs, and expenses to the General Service Contractor or any of its Subcontractors under the Award and Execution of Public Contracts Law (repealed) or the Commonwealth Procurement Code, General Procurement Provisions. Contractors, Subcontractors, and suppliers cannot make, assert or file a claim, cause of action or lawsuit against the School District of Philadelphia for violation of the prompt payment provisions of the Award and Execution of Public Contracts Law (repealed), or the prompt payment provisions of the Commonwealth Procurement Code, General Procurement Provisions. The School District of Philadelphia is also a "school district" and a "political subdivision" of the Commonwealth of Pennsylvania, and therefore the Contractor and Subcontractor Payment

Act, Act of February 17, 1994, P.L. 73, No. 7 (73 P.S. §501 et seq.), does not apply to the School District of Philadelphia and its construction and General Service Work contracts. The School District of Philadelphia has no obligations to make progress payments, final payments, retainage payments, or any other type of payment, within the time periods set forth in the Contractor and Subcontractor Payment Act, and to pay interest, penalties, attorneys' fees, costs, and expenses to the General Service Contractor or any of its Subcontractors under the Contractor and Subcontractor Payment Act. Contractors, Subcontractors, and suppliers cannot make, assert or file a claim, cause of action or lawsuit against the School District of Philadelphia for violation of the Contractor and Subcontractor Payment Act.

5.11 **Final Payment.** The making of final payment shall not be deemed to operate as a release by the School District of any claims against the General Service Contractor for: (1) unsettled liens and claims against the School District or its Consultants, or their employees, agents or representatives; (2) faulty or defective Work; (3) failure of the Work to comply with the requirements of the Contract Documents; (4) any warranties contained in or required by the Contract Documents; (5) damages incurred by the School District resulting from lawsuits brought against the School District or its Consultants, or their agents, employees, or representatives because of failures or actions on the part of the General Service Contractor, its Subcontractors, Sub-subcontractors, or any of their employees, agents, or representatives; or (6) responsibilities that survive final payment as noted elsewhere in the Contract Documents. The acceptance of final payment shall constitute a waiver of all claims by the General Service Contractor against the School District or its Consultants. Warranties required by the Contract Documents shall commence on the date of final acceptance of the Work, unless otherwise provided in the Contract Documents.

5.12 **School District's Right to Audit General Service Contractor's Records.** From time to time during the term of the General Service Contract and for a period of five (5) years after termination of the General Service Contract, the School District (including, without limitation, the Auditing Services Office) may audit the General Service Contractor's performance under the General Service Contract. If so requested, the General Service Contractor shall submit to the School District all vouchers and invoices presented for payment pursuant to the General Service Contract, all cancelled checks, work papers, books, records and accounts (whether in electronic, paper, or other form or medium) upon which the vouchers or invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to the General Service Contract. All such vouchers or invoices, work papers, books, records, accounts, cancelled checks, documentation and justification shall be subject to periodic review and audit by the School District. The General Service Contractor shall make available, within the School District or at the General Service Contractor's offices during regular business hours, at reasonable times during the term of the General Service Contract and for the period set forth in this Paragraph 5.12, all records (whether in electronic, paper, or other form or medium) pertaining to the General Service Contract for the purpose of inspection, audit or reproduction by any authorized representative of the School District. The General Service Contractor shall retain all such records, books of account and documentation pertaining to invoices, payments, or the documentation thereof under the General Service Contract, for the period set forth in this Paragraph 5.12; however, if any litigation, claim or audit is commenced prior to expiration of such period, then the records shall be retained until all litigation, claims or audit findings have been completely terminated or resolved, without right of further appeal; if applicable law requires or permits a longer period, then the records shall be retained for such longer period. The General Service Contractor shall include this Paragraph 5.12 in all Subcontracts for Work required by the General Service Contract.

5.13 **Assignment of School District's Rights to File Direct Claims against the General Service Contractor.** The General Service Contractor agrees that in no event shall the School District be liable to the School District's Consultants or to any other separate contractor on the Project for payment of compensation for additional services or work on the Project, or for any direct, indirect or impact damages, including but not limited to costs of acceleration, or for loss of revenue, overhead or profit, or for any delay damages, costs or expenses, including but not limited to attorneys' fees, court costs and legal expenses of whatever kind or nature, of the School District's Consultants or any other separate contractor, that are caused by or attributed to the fault, negligence, breach of contract, or willful act or omission of the General Service Contractor or any of its Subcontractors on the Project, or the delay, disruption, interference or hindrance of the General Service Contractor or any of its Subcontractors in Work on the Project. Under their respective written contracts with the School District, the School District has assigned to the School

District Consultants on the Project its rights under the General Service Contract to make, assert, file or bring direct claims, actions, causes of action or lawsuits against the General Service Contractor or any of its Subcontractors for additional compensation due to the School District Consultants on the Project for the School District Consultant's additional services that are caused by or attributed to the fault, negligence, breach of contract, or willful act or omission of the General Service Contractor or any of its Subcontractors on the Project, or the delay, disruption, interference or hindrance of the General Service Contractor or any of its Subcontractors in Work on the Project. For **the sole and only purposes** of making, asserting, filing or bringing direct claims, actions, causes of actions or lawsuits against the General Service Contractor or any of its Subcontractors, the General Service Contractor acknowledges and agrees that the School District has **assigned** to its Consultants on the Project the School District's right under the General Service Contract to make, assert, file or bring **direct** claims, actions, causes of action or lawsuits against the General Service Contractor or any of its Subcontractors for any additional compensation, damages, losses, costs and expenses of the School District's Consultants on the Project that are caused by or attributed to the fault, negligence, breach of contract, or willful act or omission of the General Service Contractor or any of its Subcontractors on the Project, or the delay, disruption, interference or hindrance of the General Service Contractor or any of its Subcontractors in Work on the Project. The General Service Contractor further acknowledges and agrees that the School District's Consultants on the Project shall be entitled to make, assert, file or bring a **direct** claim, action, cause of action or lawsuit against the General Service Contractor or any of its Subcontractors, **as an assignee of the School District**, pursuant to this Paragraph 5.13, with respect to any direct, indirect or impact damages, including but not limited to costs of acceleration or for loss of revenue, overhead or profit, or for any delay damages, costs or expenses, including but not limited to attorneys' fees, court costs and legal expenses of whatever kind or nature, that are caused by or attributed to the fault, negligence, breach of contract, or willful act or omission of the General Service Contractor or any of its Subcontractors on the Project, or the delay, disruption, interference or hindrance of the General Service Contractor or any of its Subcontractors in Work on the Project.

6. SUBCONTRACTORS

6.1 The General Service Contractor shall not subcontract any Work hereunder without the School District's prior written consent, other than to the Subcontractors which have been approved in advance by the School District, nor permit any of its Subcontractors to do so. If the General Service Contractor subcontracts any Work hereunder without the School District's prior written consent, said subcontracting shall be deemed a material breach of this General Service Contract, thereby giving the School District the right to immediately terminate this General Service Contract with no further obligation whatsoever on the part of the School District.

6.2 All Subcontracts between the General Service Contractor and its Subcontractors must be in writing, and shall include at least a detailed description of the Work to be performed, and the agreed-upon compensation schedule. All terms and conditions under this Contract applying to the General Service Contractor shall apply equally to its Subcontractors. The General Service Contractor agrees that all Subcontracts made pursuant to this Contract shall be made expressly subject to all of the terms and conditions of this General Service Contract. The General Service Contractor shall be as fully responsible for the acts and omissions of its Subcontractors and manufacturers and for everyone, either directly or indirectly employed by them, as it shall be for the acts and omissions of persons directly employed by it.

6.3 Subcontractors and suppliers shall look only to the General Service Contractor for payment, satisfaction, or legal redress in the event of any dispute arising out of the Contract Documents, and hereby waive any claim or cause of action against the School District arising out of a Subcontract or other transaction with the General Service Contractor. Neither the General Service Contractor, nor its Subcontractors, nor any person or entity employed by any of them, shall have any right or claim against the School District for any costs or damages arising from their performance of any of the Work, or for any monies due and owing to the General Service Contractor, for the performance of any of the Work on the Project. Subcontractors and suppliers also hereby waive any rights they may have in connection with the Work to file any liens, mechanics or otherwise. The General Service Contractor shall incorporate these requirements in all Subcontracts with Subcontractors.

6.4 **Disputes Concerning the Work.** In the event of any dispute between the Subcontractor and the General Service Contractor, the Subcontractor shall, nevertheless, expeditiously proceed with the performance of the Work. In the event of any dispute between the Subcontractor and the School District, or the Architect/Engineer, or any other School District Consultant, the Subcontractor shall, nevertheless, expeditiously proceed with the performance of the Work.

7. OTHER CONTRACTS AND CONTRACTORS

7.1 **Intended Third-Party Beneficiary.** Both the School District and each separate Contractor to each separate Contract awarded work on the Project agree and intend that each separate Contractor to each separate Contract awarded work on the Project shall be an **intended third party beneficiary** of all of the other separate Contracts awarded work on the Project for the **sole and only purposes** of asserting rights, or making claims, or filing claims, causes of actions, actions, or suits against the other separate Contractors under General Condition 7. **OTHER CONTRACTS AND CONTRACTORS**, and that each separate Contractor shall be entitled to enforce all of the other separate Contracts for its own benefit for said **sole and only purposes**, and that each separate Contractor shall be entitled to directly sue the other separate Contractors based on a third party beneficiary theory for said **sole and only purposes**.

7.2 **Liability for Delays, Interferences, and Disruptions.** In case the Contractor, by his own acts or the acts of any person or persons in his employ, shall unnecessarily delay, interfere with, or disrupt the Work of the School District or other Contractors, by not properly cooperating with them or by not affording them sufficient opportunity or facility to perform Work as may be specified, the Contractor shall, in that case, pay all costs and expenses incurred by such parties due to any such delays, interferences, or disruptions, and he hereby authorizes the School District to deduct the amount of such costs and expenses from any monies due or to become due the Contractor under this Contract, based on the investigations and recommendations of the Architect/Engineer or any other School District Consultant. Nothing contained in this Paragraph 7.2 shall, however, relieve said Contractor from any liability or damage resulting to the School District on account of such delay or delays, or disruption or disruptions, or interference or interferences.

7.3 **Liability for Damages, Losses, Injuries, Delays, Interferences, and Disruptions.** It shall be the affirmative duty of the Contractor to cooperate and coordinate the scheduling and progress of his Work with that of all other Contractors. Under no circumstances shall the School District be liable for damages for delays, interferences, or disruptions caused by the acts or omissions of another Contractor, or for damages, costs, losses or expenses incurred by a Contractor that are caused by the acts or omissions of another Contractor. In the event that any other Contractor performing work should hinder, delay, interfere with, disrupt, or damage the Contractor's Work or should otherwise cause loss or injury to the Contractor, Contractor agrees that he shall look solely to such Contractor for relief therefor. Neither the School District, nor Architect/Engineer, nor other School District Consultant(s) shall be responsible for any such hindrance, delay, interference, disruption, damage, loss or injury, and the Contractor shall, in no event, attempt to hold the School District, or Architect/Engineer, or other School District Consultant(s) liable for the costs thereof. The Contractor shall not make any claim for adjustment of the Contract compensation, price or cost, equitable or otherwise, against the School District based on any of the foregoing. Similarly, the Contractor agrees that he will be responsible to any other Contractor performing work related to the Project for any loss, injury, damage, interference, disruption, or delay, including acceleration costs incurred as a result of delay, interference, or disruption caused by the Contractor. The Contractor shall indemnify and hold harmless the School District, Architect/Engineer and other School District Consultant(s) from and against any claim brought against them by another Contractor, including costs, expenses and attorneys' fees incurred by any of them, as a result of the Contractor's alleged acts or omissions.

7.4 **Agreements to Settle and Indemnify.** If, through the acts or omissions of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage to the Work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim or bring any action against the School District, Architect/Engineer, or other School District Project Consultant(s) on account of any damage alleged to have been sustained, the School District, Architect/Engineer, or other School District Consultant(s), as the case may

be, shall notify the Contractor, who shall indemnify and hold harmless the School District, Architect/Engineer, and/or other School District Consultant(s) and pay and satisfy any judgement or award entered against the School District, Architect/Engineer, and/or other School District Consultant(s) in any such action and shall pay all costs and expenses, legal and otherwise, incurred by the School District, Architect/Engineer, and/or other School District Consultant(s) therein or thereby.

7.5 In the event there is more than one Contractor engaged on the Project, each such Contractor shall be responsible to the other for damages to work, injury to any person or persons, or for any losses, costs, claims, or damages arising out of or in connection with the Work required by this Contract or any losses, costs, expenses, or damages caused by the Contractor's neglect or failure to finish or satisfactorily complete his part of the Work within the time prescribed. In all events, the provisions of General Condition 11. **INDEMNIFICATION** shall be applicable.

8. CONTRACT ADMINISTRATORS

8.1 The General Service Contractor and the School District shall each designate a qualified Contract Administrator prior to the General Service Contractor's commencement of the Work. The Contract Administrators shall be in charge of the work covered by the General Service Contract and the principal points of contact with respect to administration of the General Service Contract and the parties' overall relationship, and resolution of disputes arising hereunder. Either party may designate a successor Contract Administrator at any time by giving notice to the other party.

9. EMPLOYMENT PRACTICES

9.1 Equal Opportunity.

9.1.1 The School District is an Equal Opportunity Employer and demands no less of companies with which it does business. The School District will not do business with companies or persons who unlawfully discriminate on the basis of age, race, color, sex, sexual orientation, disability, creed, ancestry, national origin, or any other impermissible ground in their hiring, promotion, subcontracting, or procurement practices. By submitting any proposal to contract or entering into any contract with the School District, the General Service Contractor represents and certifies that it is an Equal Opportunity Employer; conducts its business affairs without improper regard to age, race, color, sex, sexual orientation, disability, creed, ancestry, national origin, or other impermissible ground; and has not been debarred, suspended, or declared ineligible to contract by any public or private agency or entity because of its discriminatory practices. If the General Service Contractor has been debarred or suspended, the General Service Contractor must submit a statement with the bid identifying the debarring or suspending entity and giving the date that the debarment or suspension was or is scheduled to be lifted. The certifications in Paragraph 9.1 herein are material representations of fact upon which reliance was placed when this transaction was entered into. If it is later discovered or determined that the General Service Contractor knowingly rendered an erroneous certification, the School District may pursue available remedies, including termination of this contract, suspension or debarment.

9.1.2 All parties hereto agree that in the performance of this General Service Contract there shall be no discrimination against any employee or other person on account of age, race, color, sex, sexual orientation, creed, ancestry or national origin, disabled or Vietnam era veteran status. The School District, upon receipt of evidence of such discrimination by the General Service Contractor or its agents, employees, representatives, or Subcontractors, shall have the right, at its sole discretion, to terminate the General Service Contract. The General Service Contractor agrees to include this Paragraph 9.1, with appropriate adjustments for the identity of the parties, in any Subcontracts that are entered into for Work to be performed under this General Service Contract.

9.1.3 The General Service Contractor shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, union membership, disabled or Vietnam era veteran status, or limited English proficiency in the

performance of this General Service Contract, including, but not limited to, preparation, manufacture, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the General Service Contractor or its agents, employees or representatives, the School District shall have the right to terminate this Contract. In the event of the continued refusal on the part of the General Service Contractor to comply with this anti-discrimination provision, the General Service Contractor may be removed from the list of approved bidders of the School District. The General Service Contractor agrees to include this Paragraph 9.1, with appropriate adjustments for the identity of the parties, in all Subcontracts which are entered into for work to be performed pursuant to this General Service Contract.

9.2 Non-Discrimination.

9.2.1 **Non-Discrimination in Hiring.** The General Service Contractor agrees that it will comply with provisions of the Philadelphia Fair Practices Ordinance administered by the Human Relations Commission of the City of Philadelphia, the Pennsylvania Human Relations Act. No. 222, October 27, 1955, as amended, 43 P.S. Section 951 et seq.; Title 7 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 et seq., and all pertinent regulations adopted pursuant to the foregoing in providing equal employment opportunities in connection with all work performed by it pursuant to this General Service Contract. The General Service Contractor, therefore, agrees:

(1) That it will not discriminate nor permit discrimination by its agents, servants or employees against any employee or applicant for employment with regard to hiring, tenure or employment, promotion, or any other terms, conditions or privileges of employment because of race, color, religion, age, national origin, sex, ancestry, handicap or disability and will move aggressively as is hereinafter set forth to prevent same.

(i) In all publications or advertisements for employees to work at the job site covered by this General Service Contract placed by or on behalf of the General Service Contractor, the General Service Contractor will state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability.

(ii) The General Service Contractor will notify each labor union or workers' representative from whom it seeks workers of the General Service Contractor's commitment as set forth in its proposal, and request that each union or workers' representative include minority group members and women among its referrals.

(iii) The General Service Contractor will hire minority and female workers for the skilled and unskilled jobs required to perform this General Service Contract in proportion to their availability in the relevant labor pools in the Philadelphia Metropolitan Statistical Area, or to their availability in its qualified applicant pool, whichever is greater.

(iv) The General Service Contractor will post in conspicuous places available to its employees and to applicants for employment, a notice of fair practices to be provided by the Philadelphia Human Relations Commission.

(v) The General Service Contractor will maintain a work environment free of harassment, intimidation and coercion, and will ensure that all on-site supervisory personnel are aware of and carry out the General Service Contractor's obligation to maintain such a working environment.

(2) That it will identify on each certified payroll form submitted to the School District those of its employees who are minority group members and those who are female. As used here, "minority" means African American, Hispanic, Asian, or Native American. The School District shall at all times have access to work site and to the General Service Contractor's employment records to assure compliance with this subsection.

(3) That it will maintain on forms to be supplied by the School District, the name, race, sex, national origin, skill or craft, address, telephone number, and source of referral of each applicant for employment, which record shall show which applicants were hired.

(4) That in the event apprentices are hired in any skilled craft area, the General Service Contractor will endeavor to hire equal numbers of culturally diverse male and female trainees in each skill area.

(5) That it will insert the provisions of subsections (1), (2), (3), and (4) of this Subparagraph 9.2.1 in all Subcontracts which are entered into by the General Service Contractor under this General Service Contract, as covenants to be binding upon such Subcontractors.

(6) The General Service Contractor's agreement to meet the requirements of this Subparagraph 9.2.1 is a material representation of fact upon which reliance was placed when this Contract was awarded. If it is later determined that the General Service Contractor has not made good faith efforts to comply, within the School District's sole judgment, then the School District may pursue available remedies, including suspension or debarment of the General Service Contractor from future School District work as non-responsible.

9.2.2 Non-Discrimination in Subcontracting. It is the policy of the School District that business concerns owned and controlled by minority group members and women shall have full and fair opportunity to participate in performance of contracts let by the School District. Participation of minority- owned and women-owned business enterprises must be meaningful and substantial in all phases of the General Service Contract. The General Service Contractor shall ensure that minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs") have the maximum opportunity to participate in the performance of this engagement, and shall make a good-faith effort to achieve the goals set forth in the School District's Anti-Discrimination Policy and the Contract Documents. MBEs and WBEs are minority-owned business enterprises and women-owned business enterprises that have been certified or qualified by the School District Office of Small Business Development or have been certified by the City of Philadelphia's current Office of Economic Opportunity ("OEO") [on OEO's Registry of Certified Firms] or former Minority Business Enterprise Council or the Southeastern Pennsylvania Transportation Authority's DBE Program Office, or any other certifying agency designated by the School District in its discretion. A bidder's plan to joint venture with or subcontract to MBEs and WBEs and/or to utilize MBEs and WBEs as sources of supplies, equipment, or services will be a significant part of the evaluation of bidder responsibility. The General Service Contractor shall comply with the School District's Anti-Discrimination Policy, which is incorporated by reference herein, and with its M/W/DBE Participation Plan, which is made a part of the General Service Contract. The representations and agreements in this Paragraph 9.2.2 are material representations of fact upon which reliance was placed when this transaction was entered into. If it is later discovered or determined that the General Service Contractor has not made good faith efforts to comply, within the School District's sole judgment, then the School District may pursue available remedies, including suspension or debarment of the General Service Contractor from future School District work as non-responsible.

(1) The General Service Contractor will consider all bids from potential MBE/WBE joint ventures or subcontractors, and document on forms to be supplied by the School District, the reasons for not entering into a joint venture or subcontract with a MBE/WBE. If the reason given is that the MBE/WBE price quotation was not competitive, the General Service Contractor agrees to identify the joint venture or subcontractor accepted and to show that the joint venture's or subcontractor's price quotation was for the same work or materials quoted by the MBE/WBE.

(2) Within ten (10) days of the opening of bids, with regard to each joint venture or subcontract with or agreement to purchase supplies from MBE/WBEs, the General Service Contractor will provide the School District with a report naming the MBE/WBE, describing the joint venture or subcontract or purchase agreement, and stating the dollar value of the joint venture or subcontract or purchase agreement.

(3) Where the General Service Contractor proposes to perform the total contract with its own work force without any joint venture or subcontracting, before the General Service Contract is awarded, the General Service Contractor will submit to the School District information sufficient for the School District to determine that:

(a) It is the General Service Contractor's normal business practice to perform all parts of such contracts with its own force; and

(b) The General Service Contractor has the capability to perform all parts of the Contract with its own force without the use of joint ventures or subcontracts.

(4) The General Service Contractor's agreement to meet the requirements of this Paragraph 9.2.2 is a material representation of fact upon which reliance was placed when this General Service Contract was awarded. If it is later determined that the General Service Contractor has not made good faith efforts to comply, within the School District's sole judgment, then the School District may pursue available remedies, including suspension or debarment of the General Service Contractor from future School District work as non-responsible.

(5) The General Service Contractor's Minority/Woman Owned Business Enterprise (MWBE) Participation Plan ("MWBE Participation Plan") is hereby incorporated by reference into this Contract. The MWBE Participation Plan shall be enforceable as any other contractual term or condition of this Contract. Sanction for breach of the MWBE Participation Plan may include suspension, cancellation of this Contract and/or debarment from future contracting opportunities with the School District.

9.2.3 **Liability of Subcontractors.** Any Subcontractor of the General Service Contractor shall have the same responsibilities and obligations as the General Service Contractor to comply with the provisions of this Paragraph 9.2 and shall be subject to the same penalties for failure to comply as set forth in Paragraph 9.2.4.

9.2.4 Penalties for Failure to Comply.

(1) It is hereby agreed that failure to comply and demonstrate a good faith effort to comply with the foregoing requirements shall constitute a substantial breach of this General Service Contract.

(2) In the event that the School District determines, after investigation, that the General Service Contractor or any Subcontractor has failed to comply with any provision of this Paragraph 9.2 and to demonstrate a good faith effort to comply, the School District may, in its sole discretion, invoke the termination provisions of this General Service Contract or move to disqualify, suspend, or debar the General Service Contractor or any Subcontractor pursuant to Board Policy No. 621.

(3) The General Service Contractor or any Subcontractor, as the case may be, shall be given written notice of any determination of non-compliance and opportunity to achieve compliance within a time period to be specified in the notice.

(4) In the event the School District, after a hearing, determines to terminate the General Service Contract, entered into under this General Service Contract, for non-compliance with and failure to demonstrate a good faith effort to comply with the requirements of this Paragraph 9.2, all obligation on the School District's part to perform this General Service Contract shall cease except for the obligation to pay the General Service Contractor the sums due.

9.3 Security Clearance.

9.3.1 All employees of Contractors working on The School District of Philadelphia properties, **while children are at the School District of Philadelphia site**, are required to complete the "Pennsylvania Child

Abuse History Clearance CY 113 12/99" form and the "Pennsylvania State Police Request for Criminal Record Check SP-4-164 (12-99)" form. Attached is a copy of each of these forms. These forms may also be downloaded at the following website addresses:

<http://www.dpw.state.pa.us/findaform/childabusehistoryclearanceforms/> or
http://www.education.state.pa.us/portal/server.pt/gateway/PTARGS_6_2_39112_0_0_43/ (for the "Child Abuse History Clearance" form)

<http://www.portal.state.pa.us/portal/server.pt?open=512&objID=4451&PageID=458621&mode=2>
(for the "Criminal Record Check" form)

Contractors and Subcontractors can also request a supply of these forms by calling the Pennsylvania Department of Public Welfare (DPW) at telephone number 717-783-6211.

Contractors and Subcontractors can request a Criminal History Check online through the Pennsylvania Access to the Criminal History (PATCH) System at the following website address:

<https://epatch.state.pa.us/Home.jsp>

9.3.2 All employees of Contractors working on The School District of Philadelphia properties, **while children are at the School District of Philadelphia site**, are also required to submit a current report of the "Federal Bureau of Investigation (FBI) Federal Criminal History Record", obtained through Cogent Systems which is managing the program for the Commonwealth of Pennsylvania. Attached is a Pennsylvania Department of Education (PDE) memo concerning how to register with Cogent Systems at the website: <https://www.pa.cogentid.com/index.htm>, and how to obtain the FBI fingerprint-based background check from Cogent Systems. This PDE memo may also be downloaded at the following website address:

http://www.portal.state.pa.us/portal/server.pt/community/background_checks_%28act_114%29/7493/federal_background_checks/506849

9.3.3 The Contractor shall inform its Subcontractors that both "Pennsylvania Child Abuse History Clearance" and "Pennsylvania State Police Request for Criminal Record Check" forms, together with processing fees, must be submitted to DPW for each employee who will be working on-site, **while children are at the School District of Philadelphia site**. Employees of the Contractor and its Subcontractors shall **not** begin work at the Project site until these forms have been returned from DPW. It is not necessary to send copies of the request forms to the School District. However, copies of both forms (returned from DPW) for each employee of the Contractor and each employee of any Subcontractors working at the Project site, **while children are at the School District of Philadelphia site**, must be delivered to the office of the School District.

9.3.4 The Contractor shall inform its Subcontractors that registration for the FBI fingerprint-based background check with Cogent Systems, together with processing fees, must be submitted to Cogent Systems for each employee who will be working on-site, **while children are at the School District of Philadelphia site**. Employees of the Contractor and its Subcontractors shall not begin work at the Project site until the "FBI Federal Criminal History Record" report has been returned from PDE's School Services Unit. It is not necessary to send copies of the request for the FBI fingerprint-based background check to the School District. However, copies of the "FBI Federal Criminal History Record" report (returned from PDE's School Services Unit) for each employee of the Contractor and its Subcontractors working at the Project site, **while children are at the School District of Philadelphia site**, must be delivered to the office of the School District.

9.3.5 In the event that the School District of Philadelphia (or its agents) request a "Pennsylvania Child Abuse History Clearance" form, "Pennsylvania State Police Request for Criminal Record Check" form, and "FBI Federal Criminal History Record" report for any on-site employee of the Contractor or Subcontractors, and the Contractor is unable to produce the forms and report, the employee of the Contractor or

Subcontractors must leave the Project site immediately. The employee of the Contractor or Subcontractors may return to the Project site once the appropriate forms and record have been obtained and submitted to the School District of Philadelphia (or its agents). If any members of the Contractor's Project team are required to be in the existing School District of Philadelphia building, **while children are at the School District of Philadelphia site**, before mobilization for Project construction, the "Pennsylvania Child Abuse History Clearance" form, "Pennsylvania State Police Request for Criminal Record Check" form, and "FBI Federal Criminal History Record" report must be on-file in the School District's office.

9.3.6 Attached are the current Pennsylvania statutes containing the Background Checks requirements and the Affidavits required by these statutes.

9.4. School District Partnership Agreement.

9.4.1. Pursuant to SRC Resolution No. SRC-3 dated May 24, 2006, the School District's School Reform Commission ("SRC") has entered into a Partnership Agreement with the Philadelphia Building and Construction Trades Council ("Philadelphia Building Trades Council"), dated June 7, 2006, which will, among other things:

(a) cover all its construction, reconstruction, alteration and maintenance projects included in its approved Capital Improvement Program; and

(b) include a goal that Local residents as defined in the Partnership Agreement will perform twenty-five percent (25%) of all hours worked, on a craft-by-craft basis, on such School District projects; and

(c) include a goal that apprentices who are Local residents will perform twenty percent (20%) of all apprentices hours worked, on a craft-by-craft basis, on such School District projects; and

(d) permit minority-owned and women-owned Contractors who have not previously been signatory to collective bargaining agreements with unions participating in the Partnership Agreement, if awarded a contract within the scope of the Partnership Agreement, to utilize all of their employees on a covered project; and provide for referral of such employees for admission to the appropriate craft union for journeyman assignment or apprentice recruitment; and

(e) prohibit strikes, sympathy strikes, picketing, work stoppages, slowdowns, sickouts, handbilling, lockouts, or other disruptive activity on School District property, except with regard to the non-payment of fringe benefit payments or wages or the remission of monies withheld from such wages.

The Contractor agrees to become a signatory to the School District's Partnership Agreement with the Philadelphia Building Trades Council at the time of contract award, and to accept and to be bound by all the goals, terms and conditions contained in this Partnership Agreement, which goals in this Partnership Agreement do not override other commitments contained in the Contracts as awarded. The Contractor shall require each Subcontractor, to the extent of the work to be performed by the Subcontractor, to accept and to be bound by all the goals, terms and conditions contained in this Partnership Agreement, which goals in this Partnership Agreement do not override other commitments contained in the Contracts as awarded, and to evidence its acceptance by the execution of a written Agreement or a Letter of Assent prior to the commencement of work. The Partnership Agreement is attached to and hereby incorporated by reference into this Contract.

9.5 Collective Bargaining Requirement. Pursuant to SRC Resolution No. SRC-2 dated May 24, 2006, the School District's SRC has adopted the School District's Small Contractors Capital Maintenance Work Program in conjunction with the Partnership Agreement between the School District and the Philadelphia Building Trades Council. Pre-qualified small Contractors awarded contracts to perform School District Capital Maintenance Work pursuant to the SRC-approved Small Contractors Capital Maintenance Work Program are required at the time of contract award to be a signatory to the appropriate collective bargaining agreement(s) covering the work to be performed in accordance with the Partnership Agreement between the School District

and the Philadelphia Building Trades Council.

10. SAFETY REQUIREMENTS

10.1 **Safety of Persons and Property.** The Contractor and each Subcontractor shall be solely responsible for safety on the Project. The Contractor and each Subcontractor comply with all local, state and federal safety standards and any safety standards established by the School District for the Project, including the School District's health and safety program, guidelines, procedures, and requirements. The Contractor and all Subcontractors shall provide sufficient, safe, and proper facilities at all times for the installation of the Work, and shall make sure the same is available for inspection by the School District and its representatives.

10.2 **Safety Responsibility.** The General Service Contractor's and Subcontractors' employees, suppliers, and agents shall, when about the jobsite, observe and comply with the strictest of the applicable laws and any regulations prescribed by the School District or as set forth in the Contract Documents. The General Service Contractor and each Subcontractor shall be responsible for the payment of all fines and/or claims for damages levied against them for safety or environmental deficiencies related to the conduct of their employees or Work. In accordance with the Contract Documents, the General Service Contractor and all Subcontractors shall defend and indemnify the School District and School District's Representatives from and against any loss, damage or expense, including attorneys' fees, related to the failure of the General Service Contractor or any Subcontractor to comply with the School District's health and safety program, guidelines, procedures, and requirements and General Condition 10. **SAFETY REQUIREMENTS.** If directed by the School District, a School District Consultant will provide safety services on behalf of the School District on the Project. Either the School District itself, or the School District Consultant, after consultation with the School District, has final say on all safety related issues associated with the Project. Either the School District itself, or the School District Consultant, after consultation with the School District, shall have the authority to stop work if an imminent danger situation occurs. The General Service Contractor and all Subcontractors are expected to fully cooperate with the School District Consultant on the Project. The General Service Contractor and Subcontractors shall make certain that vendors, suppliers, material dealers, haulers, and/or independent haulers or others who merely transport, pick-up, deliver or carry materials, personnel, parts, or equipment, or other items or persons working under them, conform and adhere to all School District health and safety program, guidelines, procedures, and requirements, and General Condition 10. **SAFETY REQUIREMENTS.**

10.3 **General Safety Requirements.** The following safety provisions, to the extent they are stricter than applicable laws or any separate regulations prescribed by the School District, shall be complied with for all personnel on the jobsite and enforced by the General Service Contractor:

(1) Appropriate eye protection is required when there is a potential for a foreign object to enter an employee's eye. Eye protection must meet ANSI standards. The General Service Contractor shall have the option to require 100% eye protection at all times. This must be conveyed to all Subcontractors at the time of the Bid.

(2) Operations that require a Ground Fault Circuit Interrupter (GFCI) or an Assured Equipment Grounding Program in accordance with the OSHA 1926 Construction Safety and Health Standards shall use GFCI and not the Assured Equipment Grounding Program option.

(3) No flammable liquids shall be stored within the building overnight.

(4) Hot work permits shall be issued by the General Service Contractor. Fire watch shall be 2 hour in duration in active schools.

(5) Annual crane inspection certificate must be presented to the General Service Contractor prior to any mobile crane being brought onto the site. All mobile cranes must have an anti-two block device. Only qualified operators (CCO or equivalent training/experience) are permitted to operate cranes on site.

Operator qualifications must be submitted to the General Service Contractor prior to the use of the crane on site. The General Service Contractor shall forward the annual crane inspection certification and the operator qualification to the School District prior to crane usage on site.

(6) The General Service Contractor or Subcontractor shall submit a Crane Lift Plan to the School District for each phase of work on site if a crane is to be used.

(7) All confined spaces on site shall be designated "Permit Required Confined Spaces". The General Service Contractor is responsible for verifying that the Subcontractor has proper controls on all confined space entries.

(8) All trenches and excavations must meet OSHA Regulations.

(9) Each Contractor and Subcontractor must inspect work areas. Safety deficiencies must be corrected immediately. The General Service Contractor shall submit a Project Self-Inspection Report to the School District.

(10) Housekeeping shall be closely monitored. Work areas must be cleaned by the end of the workday and debris must be properly disposed of. The General Service Contractor shall strictly monitor and enforce this requirement.

(11) The General Service Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including barriers, fences, railings, and floor coverings. The General Contractor shall post and maintain danger signs and other warnings against hazards, promulgate safety regulations and notify owners and users of adjacent utilities of any dangerous or hazardous conditions.

(12) The General Service Contractor shall comply with the storm water discharge environmental regulations.

(13) Security on the jobsite shall be the responsibility of the General Service Contractor.

10.4 **Drug and Alcohol Policy.** The General Service Contractor and all Subcontractors are prohibited from use and possession of alcoholic beverages, drugs (other than prescription), carrying weapons or ammunition onto the jobsite. The General Service Contractor agrees to comply, and ensure that all Subcontractors comply with any postings or notices located at the jobsite regarding safety, security or weapons.

10.5 **Identification Badge.** All personnel who have access to the jobsite are required to wear the identification badge required by the School District on their outer garment. The identification badge will be issued and monitored by the General Service Contractor. The General Service Contractor shall be responsible for photographing the employee and for laminating the identification badge. The background for the identification badge will be supplied to the General Service Contractor by the School District of Philadelphia.

10.6 **Visitors.** All visitors to the site must report to the General Service Contractor and sign a "Visitor's Release". All visitors must be briefed by the General Service Contractor as to the site specific hazards present and must be escorted at all times while on site.

10.7 **Accident Reporting.** All Contractors and Subcontractors must report all known injuries, occupational-related illnesses, potential general liability incidents, or property damage immediately. Verbal notification shall be given immediately to the School District, General Service Contractor or Subcontractor of any bodily injury to persons not employed on the jobsite, e.g., visitors, invitees, or trespassers, as well as damage to property of others arising out of operations on the jobsite. Verbal notification shall be given immediately to the School District, General Service Contractor or Subcontractor of any pollution incident or any environmental hazard or incident that occurs on the jobsite. All known accidents and occurrences must

be reported within 24 hours.

10.8 **Accident Investigation.** Accident Investigation reports are required for all employee injuries (no matter how minor), occupational-related illnesses, property damage, general liability, and near miss incidents, pollution incidents, and environmental hazards or incidents. Accident Investigation Reports must be completed within 24 hours of the incident unless the General Service Contractor or Subcontractor notifies the Superintendent or Project Manager of the General Service Contractor or the foreman or superintendent or project manager of the Subcontractor that the circumstances surrounding the incident will require additional investigation.

10.9 **Safety Violations.** Penalties for non-compliance with the School District's health and safety program, guidelines, procedures, and requirements, Paragraph 2.4 (Use and Protection of Premises) and Paragraph 2.5 (Protection of Persons and Property) of these General Conditions, General Condition 10. **SAFETY REQUIREMENTS**, and OSHA Regulations are as follows:

(1) School District may withhold progress payments until such non-compliance has been corrected; and

(2) School District has the right to correct the safety infraction and charge back to the General Service Contractor the cost of such correction; and

(3) School District has the right to dismiss the General Service Contractor or Subcontractor from the jobsite, any employee of the General Service Contractor, or any Subcontractor for continued non-compliance or a serious safety infraction.

The General Service Contractor shall take all necessary precautions to protect the safety and health of its employees, Subcontractors' employees and others on the jobsite, including compliance with all applicable federal, state, county and municipal safety and health laws, regulations, and building codes, and shall adhere to and enforce the safety regulations set forth in Paragraph 2.5 (Protection of Persons and Property) and elsewhere in the Contract Documents, and the School District's health and safety program, guidelines, procedures, and requirements.

11. INDEMNIFICATION

11.1 Indemnification.

(a) The General Service Contractor and all of its Subcontractors shall, at their sole cost and expense, release, indemnify, defend, and satisfy all judgments, and hold harmless the School District and all its commission members, board members, officers, agents, representatives, and employees, as well as the Architect/Engineer, and any other School District Consultant(s), and their respective officers, agents, representatives, and employees, from and against all claims, demands, suits, actions, judgments, penalties, liabilities, costs, losses, delays, damages and expenses (including attorneys' fees, defense costs, court costs, and costs of suit), for or on account of actual or alleged death, injury, damage or loss to persons and/or property (including but not limited to employees of such General Service Contractor or any of its Subcontractors), or economic loss, damage or expense, or employment discrimination, in any way arising out of or resulting from the performance or non-performance of the work under this General Service Contract, or the subsequent completion of such work, by the General Service Contractor and/or its Subcontractors, or any of their respective officers, agents, representatives and employees, or through the negligence of the General Service Contractor or caused, in whole or in part, by any acts or omissions of the General Service Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable (including Sub-subcontractors and material suppliers), regardless of whether or not it is caused in part by a party indemnified hereunder, or from the use of facilities or equipment furnished to the General Service Contractor and/or any of its Subcontractors on behalf of the School District in connection with the performance of such work of such General Service Contractor and/or Subcontractors (including but not limited to all claims arising out of the operation of any law imposing liability out of the use

of scaffolds, hoists, cranes, stays, ladders, supports or other mechanical contrivances, or any site conditions or site use).

(b) In the event the School District receives notice of a claim based upon the General Contractor's and/or any of its Subcontractors' work, omission or breach, the School District shall promptly notify the General Service Contractor in writing of such claim and will require and permit the General Service Contractor to assume the defense of the School District, its officers, agents, and employees, whenever and wherever under the circumstances indicated in Paragraph 11.1(a), claims, suits or actions are brought against the School District, its officers, agents, and employees.

(c) This indemnity provision is intended, *inter alia*, to protect the School District, its officers, agents, representatives and employees from all claims of employees or workers of any Contractors or Subcontractors who are injured on School District real property or as a result of School District personal property, from the commencement to the completion of this General Service Contract, whether the death, injury, damage or loss to persons and/or property, or the economic loss, damage or expense, is due to School District negligence, in whole or in part, and is not limited to death, injury, damage or loss to persons or property, or economic loss, damage or expense, which occur in actual performance of this General Service Contract, nor is this indemnity provision limited by the Pennsylvania Worker's Compensation Act. This indemnity provision shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this General Service Contract, and is independent of whether or not the General Service Contractor and/or its Subcontractors has (have) insurance. The indemnification obligation under this General Condition 11. **INDEMNIFICATION** shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the General Service Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts, or other employee benefits acts. Obligations of the General Service Contractor arising under this General Condition 11. **INDEMNIFICATION** shall survive final payment under General Condition 5. **COMPENSATION AND PAYMENT** or termination under General Condition 16. **TERMINATION** of this General Service Contract.

(d) This General Condition 11. **INDEMNIFICATION** shall apply, particularly but not exclusively, to the claims of the General Service Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, against the School District and all its officers, agents, representatives and employees. Any violation of any of the provisions of this General Condition 11. **INDEMNIFICATION** by the General Service Contractor and/or its Subcontractors shall be deemed a material breach of this General Service Contract. The General Service Contractor and all of its Subcontractors, and all of their respective officers, agents, representatives and employees, shall have no claim against the School District, its officers, agents, representatives and employees for the acts, failures to act or negligence of the School District, directly or indirectly, or its officers and employees; and should this exculpatory clause be declared invalid by law, such invalidity shall in no manner affect or invalidate any or all other foregoing provisions in this General Condition 11. **INDEMNIFICATION**.

(e) By an appropriate agreement, the General Service Contractor shall require all of its Subcontractors performing work under this General Service Contract to be bound by all of the provisions of this General Condition 11. **INDEMNIFICATION**. The General Service Contractor shall include all of the provisions of this General Condition 11. **INDEMNIFICATION** in all Subcontracts entered into for performance of work under this General Service Contract. However, the General Service Contractor's failure(s) to do so shall not relieve the General Service Contractor or its Subcontractors from their respective indemnity obligations under this General Condition 11. **INDEMNIFICATION**.

12. INSURANCE

12.1 **Paint and Plaster Environmental Clean up work Contractor.** Unless otherwise approved by the School District's Office of Risk Management/Workers' Compensation in writing, prior to commencing Work under the Asbestos Abatement and Environmental Clean up General Services Contract, the Asbestos Abatement and Environmental Clean up General Services Contractor shall, at its sole cost

and expense, procure and maintain in full force and effect, covering the performance of the Work required under the Asbestos Abatement and Environmental Clean up General Services Contract, the types and minimum limits of insurance specified below. All insurance shall be procured from reputable insurers who are financially responsible and authorized to do business on an admitted basis in the Commonwealth of Pennsylvania or otherwise acceptable to the School District Office of Risk Management/Workers' Compensation. All insurance must be afforded by an insurance carrier with at least an A- (Excellent) rating from a reputable agency (e.g., A.M. Best). All insurance required herein, except the Professional Liability Insurance, shall be written on an "occurrence" basis and not a "claims-made" basis. In no event shall Services be performed until the required evidence of insurance has been furnished. The insurance shall provide for at least thirty (30) calendar days' prior written notice to be given to the School District in the event coverage is materially changed, cancelled, or non-renewed. The Asbestos Abatement and Environmental Clean up General Services Contractor shall advise the School District immediately upon receiving any notice of cancellation or nonrenewal of the required insurance. The School District of Philadelphia, its commission members, board directors, officers, employees and agents, shall be named as Additional Insureds on the General Liability Insurance and the Automobile Liability Insurance policies and the policies shall be so endorsed. An endorsement is required stating that the coverage afforded the School District and its commission members, board directors, officers, employees and agents, as additional insureds, will be primary to any other coverage available to them, and that no act or omission of the School District shall invalidate the coverage. The Asbestos Abatement and Environmental Clean up General Services Contractor will use its best efforts to obtain an endorsement from its insurance carrier that reflects that no act or omission of the School District shall invalidate the coverage. The Asbestos Abatement and Environmental Clean up General Services Contractor shall notify the School District within thirty (30) days as to the status of its efforts. If this endorsement is denied, said denial must be on the letterhead of the Asbestos Abatement and Environmental Clean up work Contractor carrier and not its broker. The Asbestos Abatement and Environmental Clean up General Services Contractor shall require its Subcontractors under this Asbestos Abatement and Environmental Clean up General Services Contract to maintain the required levels of insurance.

(A) WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

- (1) Workers' Compensation: Statutory Limits.
- (2) Employers' Liability: \$500,000 Each Accident - Bodily Injury by Accident; \$500,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit - Bodily Injury by Disease.

(B) COMMERCIAL GENERAL LIABILITY INSURANCE

- (1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 personal and advertising injury; \$2,000,000 general aggregate and \$2,000,000 aggregate for products and completed operations. The School District may require higher limits of liability if, in the School District's sole discretion, the potential risk so warrants.
- (2) Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors; employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

(C) AUTOMOBILE LIABILITY INSURANCE

- (1) Limit of Liability: \$1,000,000 per Accident for bodily injury (including death) and property damage liability.
- (2) Coverage: Owned, non-owned, and hired vehicles.

(D) EXCESS UMBRELLA INSURANCE

- (1) Limit of Liability: at least \$3,000,000.00 combined single limit and at least \$3,000,000.00 aggregate limit with an additional insured endorsement for the School District on the liability policy.
- (2) Coverage: Limits in excess of underlying limits in underlying primary insurance policies and broader coverage than combined scope of underlying primary insurance policies.

(E) PROFESSIONAL LIABILITY INSURANCE

- (1) Limit of Liability: \$2,000,000 with a deductible not to exceed \$100,000.
- (2) Coverage: Environmental contractors errors and omissions, including liability assumed under this Contract.
- (3) Professional Liability insurance may be written on a claims-made basis provided that coverage for occurrences arising out of the performance of the Services required under this Contract shall be maintained in full force and effect for a retroactive date prior to work and an extended reporting period of 36 months.

(F) ENVIRONMENTAL LIABILITY/CONTRACTOR'S POLLUTION INSURANCE

- (1) Limit of Liability: \$1,000,000 with a deductible not to exceed \$100,000.
- (2) Coverage: Pollution Liability.
 - (a) Remediation 5 Years Completed Operations.
 - (b) Pay on behalf of in lieu of indemnity.
 - (c) Occurrence form – Gradual and Sudden/Accidental Pollution.
 - (d) Covered operations – all those performed by or on behalf of the Named Insured.

12.3 **Evidence of Insurance Coverage.** The Asbestos Abatement and Environmental Clean up General Services Contractor shall deliver the required Certificate(s) of Insurance, together with the executed Contract Documents, to the School District within five (5) calendar days after the date of Notice of Contract Award and receipt of the Contract Documents. Certificates of Insurance evidencing the required coverages must specifically reference the School District Contract number for which they are being submitted, and the Asbestos Abatement and Environmental Clean up General Services Contractor shall attach a copy of each insurance certificate to this Asbestos Abatement and Environmental Clean up General Services Contract. The original of the Certificate(s) of Insurance shall be submitted to the School District at the following address:

Director of Insurance Risk Management
The School District of Philadelphia
Office of Risk Management
440 N. Broad Street – Suite 325
Philadelphia, PA 19130-4015
(Fax No.: 215-400-4591)

with a copy to:

The School District of Philadelphia
Office of Capital Programs
440 N. Broad Street, Suite 371
Philadelphia, PA 19130-4015
Attn.: Francine Locke, Director of Environmental Management and Services
(Fax No.: 215-400-4751)

Both submissions must be made at least ten (10) calendar days before Work is begun and again at least ten (10) calendar days before an additional Term of the Asbestos Abatement and Environmental Clean up General Services Contract. The ten (10) calendar day requirement for advance documentation of coverage may be waived in situations where such waiver will, in the sole judgment of the School District Risk Manager, benefit the School District; but under no circumstances shall the Asbestos Abatement and Environmental Clean up General Services Contractor actually begin Work (or continue Work, in the case of an additional Term of the Asbestos Abatement and Environmental Clean up General Services Contract) without providing the required evidence of insurance. The endorsement adding the School District of Philadelphia as an additional insured must specifically reference the School District Contract number and be submitted to the School District Risk Manager and School District's Director of Environmental Management and Services at the above addresses. The School District reserves the right to require the Asbestos Abatement and Environmental Clean up General Services Contractor to furnish certified copies of the original policies of all insurance required under the Asbestos Abatement and Environmental Clean up General Services Contract at any time upon (10) calendar days' written notice to the Asbestos Abatement and Environmental Clean up General Services Contractor.

12.4 **Notice of Claim or Lawsuit.** The Asbestos Abatement and Environmental Clean up General Services Contractor shall advise the School District in writing, within ten (10) calendar days upon notification of a claim or lawsuit based upon the Contractor's services, omission or breach, that it will abide fully by General Condition 11. **(INDEMNIFICATION)** and General Condition 12. **(INSURANCE)** of the Asbestos Abatement and Environmental Clean up General Services Contract, and that the applicable insurance carrier(s) has (have) been advised to defend, indemnify, and hold harmless the School District in accordance with the provisions of General Condition 11. **(INDEMNIFICATION)** and General Condition 12. **(INSURANCE)** of the Asbestos Abatement and Environmental Clean up General Services Contract. The Asbestos Abatement and Environmental Clean up General Services Contractor shall not decline to provide the School District with full protection and coverage under General Condition 11. **(INDEMNIFICATION)** and General Condition 12. **(INSURANCE)** of the Asbestos Abatement and Environmental Clean up General Services Contract because some other Contractor or consultant may, in whole or in part, be responsible for the occurrence, death, injury, damage, or loss to persons or property, or economic loss, damage, or expense, or because the School District may be a co-insured or an additional insured on some other Contractor's or consultant's policy of insurance. The Asbestos Abatement and Environmental Clean up General Services Contractor agrees that any violation of this Paragraph 12.4 of General Condition 12. **(INSURANCE)** shall be deemed a material breach of the Asbestos Abatement and Environmental Clean up General Services Contract.

12.5 **Self-Insurance.** The Asbestos Abatement and Environmental Clean up General Services Contractor may not self-insure any of the coverages required under the Asbestos Abatement and Environmental Clean up General Services Contract without the prior written approval of the School District Risk Manager. In the event that the Asbestos Abatement and Environmental Clean up General Services Contractor desires to self-insure any of the coverages listed above, it shall submit to the School District's Director of Environmental Management and Services and School District Risk Manager, prior to the commencement of Work hereunder, a certified copy of the Asbestos Abatement and Environmental Clean up General Services Contractor's most recent audited financial statement, and such other evidence of its qualifications to act as a self-insurer (e.g., State approval) as may be requested by the School District's Director of Environmental Management and Services or School District Risk Manager. In the event such approval is granted, it is understood and agreed that the School District, its commission members, board directors, officers, employees and agents shall be entitled to receive the same coverages and benefits under the Asbestos Abatement and Environmental Clean up General Services Contractor's self-insurance program that they would have received had the insurance requirements been satisfied by a reputable insurance carrier authorized to do business in the Commonwealth of Pennsylvania or otherwise acceptable to the School District Risk Manager. If at the time of commencement of the Asbestos Abatement and Environmental Clean up General Services Contract, the Asbestos Abatement and Environmental Clean up General Services Contractor self-insures its workers' compensation and employers' liability coverage, the Asbestos Abatement and Environmental Clean up General Services Contractor may, in lieu of the foregoing, furnish to the School District Risk Manager and School District a current copy of the State certification form for self-insurance or a current copy of the State Insurance Commissioner's letter of

approval, whichever is appropriate. The insurance (including self-insurance) requirements set forth herein are not intended and shall not be construed to modify, limit, or reduce the indemnifications made in the Asbestos Abatement and Environmental Clean up General Services Contract by the Asbestos Abatement and Environmental Clean up General Services Contractor to the School District, or to limit the Asbestos Abatement and Environmental Clean up General Services Contractor's liability under this Asbestos Abatement and Environmental Clean up General Services Contract to the limits of the policies of insurance (or self-insurance) required to be maintained by the Asbestos Abatement and Environmental Clean up General Services Contractor hereunder.

13. CLAIMS AND DAMAGES

13.1 **Written Notice of Any Claim Required.** It is an express condition of the General Service Contractor's right to make a claim or to receive any recovery or relief under or in connection with the General Service Contract, that the General Service Contractor submit a written notice of potential claim to the School District in accordance with the provisions of this General Condition 13; provided, however, that with respect to requests for relief within the scope of General Condition 14. (**MODIFICATION OF CONTRACT DOCUMENTS**), the General Service Contractor shall submit a Change Order Request in accordance with the provisions of General Condition 13 before initiating a claim under this General Condition 13. Failure to comply with the provisions hereof shall constitute a waiver by the General Service Contractor of any right, equitable or otherwise, to bring any such claim against the School District. Nothing in this General Condition 13 is intended to expand the rights of the General Service Contractor as they otherwise exist under the General Service Contract.

13.2 **Contents of Notice.** The written notice of potential claims shall set forth: (1) the reasons for which the General Service Contractor believes additional compensation will or may be due; (2) the nature of the costs involved; (3) the General Service Contractor's plan for mitigating such costs; and (4) the amount of the potential claim.

13.3 **Timing of Notice.** The Notice provided above shall be given within 10 calendar days after the happening of the event or occurrence giving rise to the potential claim; provided, however, if the event or occurrence is claimed to be an act or omission of the School District, notice shall be given prior to the time for performance of the portion of the Work to which such act or omission relates.

13.4 **Non-Exclusive Provision.** The notice requirements of this General Condition 13 are in addition to any other notice requirements set forth in the Contract Documents.

13.5 **Filing of Claims: Timing.** Claims, including but not limited to claims for adjustments in Contract time of completion, Contract compensation, price or cost, or for interpretation of the requirements of the Contract Documents shall be submitted to the School District in writing with a request for a formal decision in accordance with the provisions of this General Condition 13. Claims shall be submitted by the General Service Contractor to the School District, within 10 calendar days after the occurrence of the event or occurrence giving rise to the claim, in sufficient detail so that the basis and amount of said claims can be ascertained. The School District, in its sole discretion, may review such claims with the Architect/Engineer or other School District Consultant(s). It will be the responsibility of the General Service Contractor to furnish, when requested by the School District, such further information and details as may be required to determine the facts or contentions involved in his claims, including a detailed statement responding to the School District's, Architect/Engineer's, or other School District Consultant(s)' position. The General Service Contractor agrees that it shall give the School District, Architect/Engineer, or other School District Consultant(s) access to its books, records and other materials relating to the Work, and shall cause its Subcontractors to do the same, so that such claims can be investigated.

13.6 **Decision by the School District.** At the request of the School District, the Architect/Engineer or other School District Consultant(s) shall review such claims and, within seven (7) business days of such claim, shall make recommendations to the School District to either: (1) reject the claims in whole or in part, stating the reasons for rejection, (2) approve the claims, or (3) suggest and implement a compromise. The

School District shall review the recommendations of the Architect/Engineer or other School District Consultant(s) and render its decision on such claims. The rendering of such a decision by the School District pursuant to this Paragraph 13.6 herein shall be a condition precedent to any exercise of remedies that either party may have under the Contract Documents, at law, in equity or otherwise with respect to such claims.

13.7 **Waiver of Claims.** If a claim has not been resolved, unless the party making the claim has within five (5) business days after the decision of the School District either modified the initial claim or notified the School District that the initial claim stands, the decision of the School District with regard to such claim shall be final and binding upon the party making the claim and shall not be subject to further appeal or determination.

13.8 **No Claims After Final Payment.** In no event shall claims be made after Final Payment is made under General Condition 5. (**COMPENSATION AND PAYMENT**), and receipt and acceptance of Final Payment by the General Service Contractor shall be deemed a waiver of all claims by the General Service Contractor.

13.9 Should the General Service Contractor be of the opinion, at any time or times, that it is entitled to an equitable adjustment to the Contract compensation, price or cost for damages, losses, costs and/or expenses incurred by it in connection with the Work, it shall in each instance make a written claim therefore to the School District in accordance with the provisions of this General Condition 13. Unless such claim(s) and statement(s) shall be thus made and filed, the General Service Contractor's claim(s) for such additional compensation shall be held and taken to be absolutely invalidated, and it shall not be entitled to any compensation on account of such alleged damages, losses, costs and/or expenses.

13.10 The provisions of this General Condition 13 shall be held and taken to constitute a condition precedent to the right of the General Service Contractor to recover any additional compensation, damages, losses, costs or expenses from the School District, Architect/Engineer, or other School District Project Consultant(s).

13.11 During the process of review and ruling upon the claim(s) by the School District, Architect/Engineer, or other School District Consultant(s), the General Service Contractor shall prosecute the Work without delay.

13.12 It is understood and agreed, however, that nothing in this General Condition 13 shall be held or taken to enlarge in any way the rights of the General Service Contractor or the obligation of the School District under the Contract Documents.

14. MODIFICATION OF CONTRACT DOCUMENTS

14.1 The School District may, at any time, subject to the approval of the SRC and without notice to the sureties, make changes in the Project Specifications, Drawings or other Project documents or Contract Documents if within its general scope, such changes to be in writing. If such changes cause an increase or decrease in the General Service Contractor's compensation or cost of, or time required for, performance of the General Service Contract, an equitable adjustment (Change Order) shall be made, and the General Service Contractor notified in writing accordingly; provided, however, that all equitable adjustments (Change Orders) relating to price and/or time, and all adjustments as to changes that relate to price and/or time, and all increases or decreases in compensation or cost, are subject to prior acceptance or approval by resolution of the School Reform Commission of the School District of Philadelphia, or express ratification of changed or Change Order work already performed by resolution of the School Reform Commission for the School District of Philadelphia.

14.2 The originator of the request for an equitable adjustment (Change Order) shall state in detail both the reason for his recommending the execution of such equitable adjustment (Change Order) and the scope of Work to be performed. Except as provided in General Condition, Paragraph 14.9 (Change Directive and

Disputed Scope of Work), the General Service Contractor shall, within five (5) calendar days, submit to the School District, for approval, an itemized breakdown of the cost of additional or deleted Work. The request for an equitable adjustment (Change Order) shall include the following detailed backup that will allow the Architect/Engineer and the School District to properly evaluate the proposal: (a) man-hours and rates for each trade involved in the change; (b) material and equipment costs; (c) detailed proposals for all subcontracted Work; (d) detailed proposals from material suppliers; (e) written explanation justifying additional compensation; (f) inclusion of applicable credits; and (g) unit prices (if applicable) included in the General Service Contractor's proposal shall govern to the extent applicable. The School District reserves the right to accept or reject a proposal of the General Service Contractor, to obtain quotations from other sources and to employ other parties to perform such Work, if so desired.

14.3 The amount of the equitable adjustment (Change Order) shall be determined by one of the following methods in the School District's sole discretion: (1) the application of unit prices set forth in the Bid of the General Service Contractor, or (2) a lump sum mutually negotiated and agreed upon by the School District and the General Service Contractor, or (3) on a time-and-material basis calculated as follows: prevailing minimum wages for all trades, including benefits, plus 35% for all taxes and insurances, plus 15% of this total for profit and overhead, plus actual costs of materials, including all applicable taxes, plus 15% for profit and overhead. There shall be no allowance for small tool usage and/or miscellaneous expendables. All equitable adjustments (Change Orders) relating to price and/or time shall be subject to prior acceptance or approval by resolution of the School Reform Commission of the School District of Philadelphia, or express ratification of Change Order work already performed by resolution of the School Reform Commission for the School District of Philadelphia.

14.4 Verbal instruction given by any of the officers, agents or employees of the SRC or School District which depart from the Contract Documents shall not be binding on the SRC and School District.

14.5 The General Service Contractor shall proceed with such equitable adjustments (Change Orders) after receiving the written authority therefore, and such Work shall be controlled by all the terms and provisions of the General Service Contract, subject to such prices as are agreed upon or established by the School District in its written directives.

14.6 The School District, acting through the Architect/Engineer, shall have authority to order minor changes in the Work, not involving an adjustment in the General Service Contractor's cost, price or compensation, or an extension of the Contract time of completion, and not inconsistent with the intent of the Contract Documents. Such changes may be made through the RFI process or by mark-ups, comments or notations on shop drawings or submittals. Such changes shall be effected by written order, and shall be binding on the School District and General Service Contractor. The General Service Contractor shall carry out such written orders promptly.

14.7 If the General Service Contractor shall fail to perform such authorized Work by Change Order as aforescribed, the School District may then arrange for the performance of said Work in any manner it may see fit, and the General Service Contractor shall not interfere with such performance of said Work. The School District may withhold payments due the General Service Contractor until any loss which may be sustained by the School District, because of the General Service Contractor's refusal to perform, can be definitely determined by the School District, and the amount of such loss shall be deducted from the balance due the General Service Contractor. Nothing in this General Condition 14. **MODIFICATION OF CONTRACT DOCUMENTS** shall excuse the General Service Contractor from proceeding with the General Service Contract as changed.

14.8 **Architect/Engineer's Interpretations or Clarifications of Contract Documents**. As required, the Architect/Engineer shall render, within a reasonable time, interpretations and clarifications of requirements of the Contract Documents as are necessary for proper execution or progress of the Work. The Architect/Engineer shall make interpretations and clarifications consistent with the intent of and reasonably inferable from the Contract Documents. These interpretations and clarifications shall be in writing or in the form of drawings. These interpretations and clarifications include written documents issued by the Architect/Engineer through the RFI process and written comments or notations on shop drawings or submittals. Sketches or drawings may be issued by the Architect/Engineer, but are not required in each instance. The Architect/Engineer's decisions on matters relating to artistic effect shall be final, if consistent with the intent of

the Contract Documents, subject to the reasonable approval of the School District. The Architect/Engineer shall distribute this information to all Project participants.

14.9 Change Directive and Disputed Scope of Work. When the School District and the Contractor disagree on the terms of an equitable adjustment (Change Order), whether scope, cost, or time of performance, or the School District has determined that the Work must be performed immediately to avoid project delay, the School District may issue a Change Directive. The School District may also issue a Change Directive for the purposes of maintaining Work continuity, or meeting time deadlines in Project Work schedules, or addressing unforeseen, differing or changed site or field conditions or errors or omissions in the Project Drawings, Specifications or other documents that would cause interferences, delays or disruptions in the Work on the Project. The Change Directive instructs the General Service Contractor to proceed without delay with a change in the Work, (and to coordinate with other Contractors as required), for subsequent inclusion in a Change Order. The Change Directive shall contain a complete description of the change in the Work and shall designate the method to be followed to determine any change in the Contract cost, price or compensation, or an extension of the Contract time of completion. The General Service Contractor shall maintain detailed records of the Work required by the Change Directive, and shall submit these detailed records to the School District, together with other documents required for a Change Order. The General Service Contractor shall notify the School District of the complete schedule of the Work related to the Change Directive, prior to commencing the Work. After completion of the changed Work, the General Service Contractor shall submit an itemized account and supporting data necessary to substantiate the cost and time adjustments to the Contract. When the School District and the General Service Contractor or any of his Subcontractors disagree on whether Work is included in the Contract scope, the General Service Contractor shall proceed with the disputed Work without delay and coordinate such Work as necessary with other Contractors as required. The General Service Contractor shall maintain detailed records of all associated costs for the disputed Work and shall be guided by Contract procedures for recovery of disputed costs pursuant to this General Condition 14. **MODIFICATION OF CONTRACT DOCUMENTS.** In the event of any dispute between the Contractor or its Subcontractor and the School District or the Architect/Engineer concerning the scope of the Work, the Contractor or its Subcontractor shall, nevertheless, expeditiously proceed with the performance of the Work.

15. WORK OR PROJECT STOPPAGE, SUSPENSION OR ABANDONMENT

15.1 Stoppage or Abandonment. The School District may order the General Service Contractor, in writing, to stop or abandon all or any part of its Work, for the convenience of the School District, or for work stoppages beyond the control of the School District or the General Service Contractor. Any increased costs incurred as a result of the stoppage or abandonment of the Work shall be an equitable amount determined by the School District and the General Service Contractor in view of all the facts and circumstances. If, however, the Work is abandoned, the School District shall pay the General Service Contractor for all Work performed to the date of abandonment in accordance with Paragraph 16.1 (**Termination for Convenience**).

15.2 Suspension for Convenience. The School District shall have the right, at any time, during the term of the General Service Contract, to suspend all or any part of the Work, for the convenience of the School District, for the period of time that the School District, in its sole discretion, determines to be in the best interest of the School District, upon 3 calendar days' prior written notice to the General Service Contractor (except that in the event of a public emergency, as determined by the School District, no such period of notice shall be required.). The General Service Contractor shall be entitled to a 1-day extension of the time of performance provided in the General Service Contract for each day that it is suspended pursuant to this Paragraph 15.2 **Suspension for Convenience.** The School District shall have the right, during the period of any suspension pursuant to this Paragraph 15.2 **Suspension for Convenience** to terminate the General Service Contract as provided in General Condition 16. **TERMINATION**, Paragraph 16.1 **Termination for Convenience**, in General Condition 5. **COMPENSATION AND PAYMENT**, and elsewhere in the General Service Contract.

15.3 Suspension of Work due to Unfavorable Conditions. If, in the judgement of the Architect/Engineer or School District, the General Service Contractor is taking undue risk of damage to any part of the Work of the Project by proceeding with the Work during unfavorable weather or other conditions, then the Architect/Engineer or School District shall immediately verbally notify the General Service Contractor or its

representative, at the Project site, to suspend operations because of said condition or conditions. The School District shall thereupon, by letter or telegram, confirm the verbal order to suspend the Work, either wholly or in part, for such period of time as may be necessary. No extension of the Contract time of completion may be requested by the General Service Contractor due to such suspension of the Work, and no allowance or additional compensation shall be made to the General Service Contractor for any expense resulting from suspension of the Work. The School District shall not be liable to the General Service Contractor in any event for any expenses, damages, losses or profits, anticipated or otherwise, or any other charges whatsoever arising out of a suspension in the Work of the General Service Contractor or any Contractor engaged on this Project. It shall be clearly understood that the failure of the Architect/Engineer or School District to so advise the General Service Contractor regarding unfavorable conditions shall not relieve the General Service Contractor of its responsibility for compliance with all the terms of the General Service Contract.

16. TERMINATION

16.1 **Termination for Convenience.** Upon 5 working days' prior written notice to the General Service Contractor, the School District shall have the right to terminate the whole or any part of the General Service Contractor's Work under the General Service Contract, at the School District's sole discretion, and without penalty, cost, or liability to the School District, whenever it determines that such termination is in its own best interest. Upon such termination, the School District shall only be liable to the General Service Contractor for the actual costs of the Work satisfactorily performed prior to the date of termination, plus a total combined markup of ten percent (10%) of such costs of the General Service Contractor and its Subcontractors for profit on such Work. The School District shall not be liable to the General Service Contractor for its anticipated profits and/or losses on the Work terminated.

16.2 **Termination for Default.** The School District shall have the right to terminate the whole or any part of the General Service Contractor's Work under the General Service Contract, upon 5 working days' prior written notice, or a shorter period of time if required or necessary under the circumstances on the Project, to the General Service Contractor specifying in reasonable detail the nature of the default, upon any of the following events of default on the part of the General Service Contractor:

- (1) the General Service Contractor violates, or defaults in the performance of, or fails to comply with any of the provisions, terms, or conditions of the General Service Contract; or
- (2) the General Service Contractor abandons the Work, or refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure its completion within the time specified in the General Service Contract or any authorized extension thereof, or refuses or fails to complete the Work within such time; or
- (3) the General Service Contractor refuses or fails to supply a sufficient number of properly skilled workers or proper or necessary materials, supplies or equipment; or
- (4) the General Service Contractor refuses or fails to furnish suitable materials, supplies or equipment that comply with the Project Specifications or Contract requirements; or
- (5) the General Service Contractor refuses or fails to make prompt payment to Subcontractors or suppliers for labor, materials, supplies or equipment after receiving such payment from the School District; or
- (6) the General Service Contractor executes the Work improperly and refuses or fails to repair, remove or replace any of the Work found to be defective, unsuitable or not in accordance with the Project Specifications or Contract requirements; or
- (7) appointment of a receiver, trustee or custodian to take possession of all or substantially all the assets of the General Service Contractor for the benefit of creditors, or any action taken or suffered by the General Service Contractor under any federal or state insolvency,

bankruptcy, reorganization, moratorium or other debtor relief act or statute; or

(8) material falseness or inaccuracy of any representation or commitment of the General Service Contractor contained in the General Service Contract or in any other document submitted to the School District by the General Service Contractor in relation to the Work, the Advertisement or Invitation To Bid, or the Bid Proposal; or

(9) misappropriation by the General Service Contractor of any funds provided under the General Service Contract or failure by the General Service Contractor to notify the School District upon discovery of any misappropriation; or

(10) a violation of law which results in a guilty plea, a plea of nolo contendere, or conviction of a criminal offense by the General Service Contractor, its directors, employees, or agents (1) directly or indirectly relating to the General Service Contract or the Work required under the General Service Contract, whether or not such offense is ultimately adjudged to have occurred, or (2) which adversely affects the performance of the General Service Contract; or

(11) indictment of or issuance of charges against the General Service Contractor, its directors, employees or agents for any criminal offense or any other violation of law directly relating to the General Service Contract or the Work required under the General Service Contract or which adversely affects the performance of the General Service Contract, whether or not such offense or violation is ultimately adjudged to have occurred; or

(12) disregard of any laws, ordinances, codes, rules, regulations or orders of any public authority having jurisdiction over the Project or the Work or any instructions of the School District.

16.2.1 Cure of Default. Where such default arises from causes beyond the control of the General Service Contractor and without the fault or negligence of the General Service Contractor, the School District may, at its sole option, elect to notify the General Service Contractor in writing of such default and grant the General Service Contractor the opportunity to remedy same within a specified period of time provided in the written notice. The School District may extend such remedial time period, at its sole discretion, if there is evidence of the General Service Contractor's good faith effort to cure the default within such time period.

16.2.2 Termination Rights of the School District. Upon such termination, the School District may take over and complete the Work, by contract or otherwise, and may take possession of and use any materials, equipment, supplies, and plant on the Work site. After such termination, the General Service Contractor shall not be entitled to receive any further payments from the School District for the Work terminated under the General Service Contract. The General Service Contractor shall be liable to the School District for any losses, expenses, costs and damages resulting from such termination, including but not limited to, any increased costs incurred by the School District in remedying defects in the Work or completing the Work.

16.2.3 Conversion of Default to Convenience. If, after the General Service Contractor has been terminated for default, it is determined that none of the circumstances or grounds for default existed, then such termination for default shall be automatically considered, deemed or converted to a termination for convenience.

16.2.4 General Termination Provisions.

(1) Upon receipt of the Notice of Termination, the General Service Contractor shall promptly stop all Work terminated under the General Service Contract, terminate all orders and Subcontracts related to the performance of the Work terminated, and place no further orders or Subcontracts for labor, materials, supplies, equipment, services or facilities related to the Work terminated. The General Service Contractor shall take such actions as may be necessary, or as the School District may direct, to protect and preserve all completed Work under the General Service Contract.

(2) Within 5 working days after receipt of the Notice of Termination, or such shorter period of time if required by the School District in the Notice of Termination, the General Service Contractor shall deliver to the School District all completed or partially completed plans, drawings, information and other property related to the Work, and all fabricated or unfabricated parts, Work in progress, partially completed supplies, equipment, materials, parts, tools, and fixtures, and completed Work, supplies, equipment, and other material produced as part of or acquired in connection with the Work terminated by the Notice of Termination.

(3) The General Service Contractor shall complete performance of such part of the Work that has not been terminated by the Notice of Termination.

(4) The rights and remedies of the School District provided herein shall not be exclusive and are in addition to any other rights and remedies provided in the General Service Contract or otherwise available in law or equity.

17. MISCELLANEOUS PROVISIONS

17.1 **Governing Law.** Unless otherwise provided in the Contract Documents, this General Service Contract shall be governed by the laws of the Commonwealth of Pennsylvania and laws of the City of Philadelphia.

17.2 **Successors and Assigns.** The School District and the General Service Contractor each binds himself, his partners, heirs, executors, administrators, successors, permitted assigns, and legal representatives to the other party hereto and to the partners, heirs, executors, administrators, successors, permitted assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents.

17.3 **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person with receipt obtained to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by a national overnight express carrier (e.g., Federal Express, Express Mail), or by facsimile (with copy by registered or certified United States mail, return receipt requested, postage prepaid), or by registered or certified United States mail, return receipt requested, postage prepaid, to the last business address known to him who gives the notice.

17.4 **Rights and Remedies.** The duties and obligations of the General Service Contractor imposed by the Contract Documents and the rights and remedies of the School District available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available at law or in equity. The failure of the School District, Architect/Engineer, or other School District Consultant(s) to insist in any one or more instances upon the strict performance of any one or more of the provisions of this General Service Contract, or to exercise any right(s) herein contained or provided by law, shall not be construed as a waiver or relinquishment of such provision or right(s) or of the right to subsequently demand such strict performance or exercise such right(s), and the right(s) shall continue unchanged and remain in full force and effect. The General Service Contractor agrees that he can be adequately compensated by money damages for any breach of this Contract which may be committed by the School District and hereby agrees that no default, act, or omission of the School District, Architect/Engineer or other School District Consultant(s) shall constitute a material breach of the General Service Contract entitling the General Service Contractor to cancel or rescind the provisions of this General Service Contract or (unless the School District shall so consent or direct in writing) to delay, suspend or abandon performance of all or any part of the Work. The General Service Contractor hereby waives any and all rights and remedies to which he might otherwise be or become entitled, subject to the provisions of Paragraph 3.5 of General Condition 3. **SCHEDULE AND TIME OF COMPLETION.**

17.5 **Unenforceability of Any Clause.** If any clause of the Contract Documents is held as a matter of law to be invalid, unenforceable or unconscionable, the remainder of the Contract Documents shall be valid and enforceable without such clause.

17.6 **Forum: Consent to Jurisdiction.** The parties agree that when any dispute between the parties cannot be amicably resolved and resort is made to legal action, any lawsuit, action, claim, or legal proceeding involving, directly or indirectly, any matter arising out of or related to the General Service Contract, or the relationship created or evidenced thereby, shall be brought exclusively in a federal or state court of competent jurisdiction in and only in Philadelphia County, Pennsylvania. It is the express intent of the parties that jurisdiction over any lawsuit, action, claim, or legal proceeding shall lie exclusively in this forum. The parties further agree not to raise any objection, as to forum or venue, to any lawsuit, action, claim, or legal proceeding which is brought in this forum, and the parties expressly consent to the jurisdiction and venue of this forum.

17.7 **School District Liability, Responsibility or Risk of Loss.** Notwithstanding any other provisions of the General Service Contract or any Addenda or Modifications to the contrary or the School District's health and safety program, guidelines, procedures, and requirements, the School District retains its statutory immunity as provided pursuant to the laws of the Commonwealth of Pennsylvania, 42 Pa C.S.A. §§8501, 8541. The General Service Contractor acknowledges that the School District:

- (1) Is a local agency, as defined in 42 Pa. C.S.A. §8501, §8541, and,
- (2) Does not waive its defense of statutory immunity derived therefrom.

17.8 **Compliance with Laws and Regulations.** All Work performed on the Project by the General Service Contractor and his Subcontractors shall strictly conform to all federal, state, and local laws, statutes, codes, and ordinances and the applicable rules, regulations, policies, methods and procedures of the School District and all governmental bodies, boards, bureaus, offices, commissions, and other agencies, including but not limited to the School District's health and safety program, guidelines, procedures, and requirements and the School District's SRC and Board of Education SRC policies.

17.9 **Publicity.** Neither the School District nor the General Service Contractor and its Subcontractors shall publicize the General Service Contract or the Work, or attribute any comments or views about this General Service Contract or the Work to employees or agents or officials of the other party, by press conference, press release, advertising or public relations materials without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that nothing in this Paragraph 17.9 shall be construed to prohibit either party from making any disclosure relating to the General Service Contract or Work that is required under federal or state securities laws or state or local election laws, or to prohibit either party from publicizing, with reasonable prior notice to the other party, the fact that the General Service Contract has been entered into, the subject matter of the General Service Contract, or the amount of the General Service Contract. Except as may be required for its performance of the General Service Contract, or as mutually agreed by the School District and General Service Contractor, the General Service Contractor shall refer all press and public inquiries regarding the Project to the School District's Interim Senior Vice President of Capital Programs during the term of the General Service Contract. At any time thereafter, the General Service Contractor may respond to press and public inquiries regarding the Project following notice to the School District's Interim Senior Vice President of Capital Programs. During the term of the General Service Contract, the General Service Contractor shall provide reasonable assistance to the School District in public relations activities, and shall prepare appropriate information for, and when requested, attend public meetings regarding the Project.

17.10 **School District Officers and Employees Not to Benefit.** The General Service Contractor shall not share with any School District officer or employee, and no School District officer or employee shall accept, any portion of the compensation paid by the School District for Work, except in accordance with School District policy and applicable law. The General Service Contractor shall disclose to the School District with each application for payment submitted the name(s) of any School District officer(s) or employee(s) sharing in the compensation requested and the amount such officer or employee is to be paid. Any compensation shared by the General Service Contractor and School District officers or employees in violation of School District policy and applicable law shall be recoverable from the General Service Contractor as damages.

17.11 **Survival.** Any and all provisions set forth in the General Service Contract which, by its or their nature, would reasonably be expected to be performed after the termination of the General Service Contract shall survive and be enforceable after such termination, including, without limitation, the following:

- (1) Any and all liabilities, actual or contingent, which shall have arisen in connection with the General Service Contract;
- (2) The General Service Contractor's representations, certifications, warranties, guarantees and covenants set forth herein;
- (3) General Condition 5. **COMPENSATION AND PAYMENT;**
- (4) General Condition 11. **INDEMNIFICATION;**
- (5) General Condition 13. **CLAIMS AND DAMAGES;**
- (6) General Condition 14. **MODIFICATION OF CONTRACT DOCUMENTS;**
- (7) General Condition 16. **TERMINATION;**
- (8) General Condition 17. **MISCELLANEOUS PROVISIONS,** Paragraph 17.1 **Governing Law;** and
- (9) General Condition 17. **MISCELLANEOUS PROVISIONS,** Paragraph 17.6 **Forum: Consent To Jurisdiction.**

17.12 **No Waiver.** No delay or omission by either party hereto to exercise any right or power occurring upon any noncompliance or default by the other party with respect to any of the terms of the General Service Contract shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements to be observed by the other shall not be construed to be a waiver of any succeeding breach thereof, or of any other covenant, condition, or agreement herein contained. Unless stated otherwise, all remedies provided for in the General Service Contract shall be cumulative and in addition to, and not in lieu of, any other remedies available to either party at law, in equity, or otherwise. No term or provision hereof shall be deemed waived by the parties, unless such waiver or consent shall be in writing signed by both parties. No breach shall be excused, unless the agreement to excuse that breach is in writing signed by the non-breaching party.

17.13 **Severability and Partial Invalidity.** The provisions of the General Service Contract shall be severable. If any provision of the General Service Contract, or the application thereof, for any reason or circumstance, is to any extent held to be invalid or unenforceable, the remaining provisions of the General Service Contract (as well as the application of all provision(s) that were held to be invalid or unenforceable to persons or entities other than those as to which they were held invalid or unenforceable) shall not be affected or impaired thereby; and each provision of the General Service Contract shall be valid and enforceable to the fullest extent permitted by law. If any of the provisions of the General Service Contract are determined to be invalid, then such invalidity shall not affect or impair the validity of the other remaining provisions, which shall be considered severable, and shall remain in full force and effect.

17.14 **Statutes of Limitation and Statute of Repose.** The School District is a "political subdivision" and an "agency of the legislature" of the Commonwealth of Pennsylvania. Pursuant to the Constitution of the Commonwealth of Pennsylvania, Pa. Cons. Art. 3, §14, the Public School Code, 24 P.S. §7-701, and the Pennsylvania Code, 25 Pa. Admin. Code §171.13, the School District of Philadelphia has mandatory duties and obligations to provide necessary grounds and suitable school buildings to accommodate children attending school in its school district, and to construct, furnish, equip, and maintain its school buildings and grounds in a proper, safe and healthful manner. Therefore, the School District of Philadelphia has the right to invoke the doctrine of "nullum tempus occurrit regi", and the Pennsylvania statutes of limitation, 42 Pa.C.S.A. §§5523, 5524, 5525 & 5527, and Pennsylvania statute of repose, 42 Pa.C.S.A. §5536, do not apply to the School District of Philadelphia and its contracts for work or services for its school grounds and buildings and its school construction projects.

17.15 **Certification Regarding Debarment, Suspension and Ineligibility.** The General Service Contractor represents and warrants to the School District that neither the General Service Contractor nor any of its principals or Subcontractors are under suspension or debarment, have received a notice of

commencement of proceedings for debarment, or have been declared ineligible by the Commonwealth of Pennsylvania, the City of Philadelphia, any Federal agency or any school district. The General Service Contractor shall provide immediate written notice to the School District's Senior Vice President of Capital Programs if at any time during the term of the General Service Contract, the General Service Contractor learns that the certification made in this Paragraph 17.15 herein was erroneous when the General Service Contractor signed the General Service Contract or subsequently became erroneous by reason of changed circumstances.

17.16 **No Third Party Beneficiaries.** The General Service Contractor agrees that nothing contained in the Contract Documents or any contract(s) between the School District, on the one part, and the Architect/Engineer or other School District Consultant(s), on the other part, shall create any contractual relationship between the General Service Contractor, on the one part, and the School District or Architect/Engineer or other School District Consultant(s), on the other part, or between the School District or Architect/Engineer or other School District Consultant(s), on the one part, and any Subcontractor(s), on the other part. The General Service Contractor acknowledges and agrees that this General Service Contract is not intended to create, nor shall any provision be interpreted as creating, any contractual relationship between the School District or General Service Contractor, on the one part, and any third parties, on the other part, except as expressly provided in Subparagraph 5.13 and General Condition 7.

OTHER CONTRACTS AND CONTRACTORS.

17.17 **Conflicts within Contract Documents.** The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall be considered complementary.

17.18 **Examination of Records.** The General Service Contractor agrees, upon request and without expense to the School District, to make available its books and records concerning charges, fees and costs under this General Service Contract, in the administrative offices of the School District, for inspection by appropriate School District agents. The General Service Contractor agrees that the School District shall, until the expiration of 3 years after final payment under this General Service Contract or 5 years after termination of this General Service Contract, whichever is later, have access to and the right to examine and copy directly pertinent books, documents, papers and records of the General Service Contractor directly related to this General Service Contract which have not been previously delivered to the School District. The period of access and examination for records shall continue during any litigation and until the settlement of claims arising out of the performance of this General Service Contract.

17.19 Taxes.

17.19.1 **General.** Any Contractor or vendor of goods, wares and merchandise or purveyor of services who has been awarded a contract by the City and/or School District of Philadelphia will be liable for payment of one or more of the following taxes set forth in Paragraph 17.19 **Taxes.** The General Service Contractor, if not already paying the aforesaid taxes, shall promptly apply to the City of Philadelphia, Department of Revenue, Municipal Services Building, 1401 John F. Kennedy Boulevard, Philadelphia, PA 19107, for a tax account number and shall file the appropriate business tax returns as provided by law.

17.19.2 City Taxes and/or School District Taxes.

- (1) Mercantile License Tax
- (2) Net Profits Tax
- (3) Wage Tax
- (4) Business Privilege Tax

17.19.3 **Sales Tax (Commonwealth of Pennsylvania).** The General Service Contractor shall pay

all sales, consumer, use, and similar taxes for the Work or portions thereof provided by the General Service Contractor, which are legally enacted at the time bids are received, whether or not yet effective. The General Service Contractor who purchases and furnishes to the School District tangible personal property in furtherance of its contract is exempt from the Pennsylvania Sales Tax, provided such property is not affixed to the building or grounds. The General Service Contractor may obtain the form(s) for this sales and use tax exemption from the Pennsylvania Department of Revenue. The General Service Contractor shall refer to the Pennsylvania Department of Revenue Act 45 of 1998, which created an exemption called "Building Machinery and Equipment", for any sales and use tax exemptions relating to school construction projects, and shall complete the required exemption documents for its vendors. Information concerning the Pennsylvania Department of Revenue's Act 45 of 1998 and the "Building Machinery and Equipment" exemption can be found at the following website address:

http://www.portal.state.pa.us/portal/server.pt/community/laws_policies/11426/construction_contractors%27_guide_for_building_machinery_and_equipment/581083

17.19.4. **Sales and Use Tax Refunds.** The General Service Contractor agrees to execute all documents requested by the School District or its representative, and to provide prompt access to the School District or its representative, to all documents of the General Service Contractor and its Subcontractors and Sub-subcontractors related to the Work on the Project, to assist the School District in making a claim or filing a petition for a refund of sales and/or use tax. The General Service Contractor hereby assigns to the School District all of its right, title and interest in any sales or use tax paid or reimbursed by the School District that may be refunded as a result of any documentation, services, labor, supplies, tools, materials, or equipment purchased in connection with the General Service Contract. The General Service Contractor authorizes the School District, in its own name or the name of the General Service Contractor, to file a claim for a refund of any sales or use tax subject to this assignment. Likewise, the School District hereby assigns to the General Service Contractor all of its right, title and interest in any sales or use tax paid by the General Service Contractor and not reimbursed by the School District that may be refunded as a result of any documentation, services, labor, supplies, tools, materials, or equipment purchased in connection with the General Service Contract, and agrees to file, or at the School District's option, cooperate in the General Service Contractor's filing of, a claim for a refund of any sales or use tax subject to this assignment.

17.19.5 [Not Used]

17.19.6 **School District Tax-Exemption.** Notwithstanding any other provision of the General Service Contract to the contrary, the School District represents that it is a tax-exempt organization and is therefore not subject to taxes arising out of the General Service Contract or the General Service Contractor's performance under the General Service Contract. In the event, however, that the General Service Contractor is assessed or levied any taxes, fees, or similar charges related to the General Service Contract or the General Service Contractor's performance hereunder (except income or corporate taxes assessed against or levied on the General Service Contractor), the School District agrees to cooperate fully with the General Service Contractor, at School District expense, in any administrative actions or legal proceedings with the appropriate taxing authorities. If a final judgment is entered against the General Service Contractor relating to the payment of such taxes, fees, or charges, the School District agrees to indemnify the General Service Contractor for the amount thereof, including any penalties incurred in such review or contest. In no event shall the General Service Contractor be exposed to any liability for the payment or nonpayment of any such taxes, charges, or fees.

17.20 **Compliance with Davis-Bacon Act and Davis-Bacon Act Regulations.** The General Service Contractor shall comply with all terms and conditions of the Davis-Bacon Act, 40 USCS §§3141, *et seq.*, and the Davis-Bacon Act Regulations, 29 CFR Parts 1, 3, and 5, if applicable to the General Service Contractor or the Electrical Service Work on the Project. The contract requirements of the Davis-Bacon Act and Davis-Bacon Act Regulations are below.

Wage Rates.

The Project covered by this Contract is being financed, in whole or in part, by Qualified School Construction Bonds (the "Bonds") authorized pursuant to the provisions of the American Recovery and Reinvestment Act ("ARRA"). As required under ARRA and the Davis-Bacon Act, the Davis-Bacon Act Labor Standards set forth in the clauses below shall apply to the construction, alteration and/or repair work to be performed under this Contract utilizing the proceeds of the Bonds. All laborers and mechanics employed by Contractors and Subcontractors on construction, alteration or repair projects are required to be paid wages at not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with the Davis-Bacon Act, 40 USCS §§3141, et seq., and the Davis-Bacon Act Regulations ("Regulations"), 29 CFR Parts 1, 3, and 5.

17.20.1 Definitions.

(a) "Site of the work" shall mean the physical place(s) where the work called for in the Contract will remain when work is completed, and any other site where a significant portion of the work is constructed; provided that such site is established specifically for the performance of the Contract or Project.

(b) "Wage", "scale of wages", "wage rates", "minimum wages" and "prevailing wages" shall include: (i) the basic hourly rate of pay; (ii) fringe benefits, including medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability insurance, sickness insurance, or accident insurance, vacation and/or holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the Contractor or Subcontractor is not required by other federal, state or local law to provide any of those benefits; (iii) any contribution irrevocably made by a Contractor or Subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and (iv) the rate of costs to the Contractor or Subcontractor that may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

(c) "Laborers" and "Mechanics" shall include at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial, apprentices, trainees, helpers, and watchmen or guards if the Contract is subject to the Contract Work Hours and Safety Standards Act. "Laborers" and "Mechanics" shall not include workers whose duties are primarily administrative, executive, or clerical, rather than manual.

(d) "Construction, alteration or repair" shall mean all types of work done with proceeds of the Bonds on a particular building or work at the site of the work, including, without limitation, altering, remodeling, installation on the site of the work of items fabricated off-site, painting and decorating, the transportation of materials and supplies to or from the site of the work, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the work.

(e) "Wage determination" shall include the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision.

(f) "Contracting Officer" shall mean the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into contracts on behalf of the School District or his designee.

(g) "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

(h) "Secretary" shall include the Secretary of Labor, the Deputy Under Secretary for

Employment Standards, and their authorized representatives.

(i) "Apprentice" shall mean a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services ("OATELS"), or with a State Apprenticeship Agency recognized by the OATELS, or a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(j) "Trainee" shall mean a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which has been so certified by that Administration.

17.20.2 Minimum Wages. All laborers and mechanics employed or working upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determinations of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which maybe alleged to exist between the Contractor and such laborers and mechanics.

(a) Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b) (2) of the Davis-Bacon Act (40 USCS §3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Regulations, 29 CFR §5.5(a)(1)(iv), and Subparagraph (g) of Supplementary Conditions 17.20.2; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in Regulations, 29 CFR §5.5(a)(4), and Supplementary Conditions 17.20.5. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under Regulations, 29 CFR §5.5(a)(1)(ii) and Subparagraph (b) of Supplementary Conditions 17.20.2, and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The School District shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(c) If the Contractor and the laborers and mechanics to be employed in the classification (if known) or their representatives, and the School District agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the School District to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator of the Wage and Hour Division, or an authorized representative, will approve, modify or disapprove every additional classification action within 30 days of receipt and so advise the School District or will notify the School District within the 30-day period that additional time is necessary.

(d) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the School District do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the School District shall refer the questions, including the views of all interested parties and the recommendation of the School District, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the School District or will notify the School District with the 30-day period that additional time is necessary.

(e) The wage rate (including fringe benefits where appropriate) determined pursuant to §5.5(a)(1)(ii)(B) or (C) of the Regulations, 29 CFR Part 5, and Subparagraphs (c) and (d) of Supplementary Conditions 17.20.2 shall be paid to all workers performing in the classification under this Contract from the first day on which work is performed in the classification.

(f) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(g) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

17.20.3 Withholding. The School District shall, upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld from the Contractor under this Contract so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including any apprentices, trainees and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract and liquidated damages. If amounts withheld under the Contract are insufficient to satisfy Contractor or Subcontractor liabilities, the School District will withhold payments from other contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act and are funded, in whole or in part, with proceeds of the Bonds. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the School District may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

(a) The School District may withhold from the Contract so much of accrued payments as the School District considers necessary to pay to laborers and mechanics employed by the Contractor or any Subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Contractor or Subcontractor or their agents.

(b) Payment of Wages. The School District shall pay directly to laborers and mechanics, but only from any accrued payments withheld under the terms of the Contract, any wages found to be due laborers and mechanics under the Davis-Bacon Act and the Regulations upon request by the U.S. Department of Labor.

(c) Right of Action. If the accrued payments withheld under the terms of the Contract are insufficient to reimburse all of the laborers and mechanics who have not been paid the wages required under the Davis-Bacon Act and Regulations, the laborers and mechanics have the same right to bring a civil action and intervene against the Contractor and the Contractor's Sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

17.20.4 Payrolls and Basic Records.

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of work, and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address and Social Security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act (40 USCS §3141(2)(B)(ii)); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found, under Regulations, 29 CFR §5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(b) of the Davis-Bacon Act (40 USCS §3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b) The Contractor shall submit weekly for each week in which any contract work is performed, a copy of all payrolls to the School District utilizing U.S. Department of Labor Form WH347. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Regulations, 29 CFR §5.5(a)(3)(i), and Supplementary Conditions 17.20.4(a), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be obtained from the U.S. Department of Labor Wage and Hour Division Website at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The Prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current

address of each covered worker, and shall submit them to the School District, the Contractor, or the Wage and Hour Division of the U.S. Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of Regulations, 29 CFR §5.5, or Supplementary Conditions 17.20 to permit a Prime Contractor to require a Subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the School District.

(c) Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR Part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(d) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by §5.5(a)(3)(ii)(B) of Regulations, 29 CFR Part 5.

(e) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(f) The Contractor or Subcontractor shall make the records required under §5.5(a)(3)(i) of Regulations, 29 CFR Part 5, and Subparagraph (a) of Supplementary Conditions 17.20.4 available for inspection, copying or transcription by authorized representatives of the School District, or the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Contracting Officer, may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to Regulations, 29 CFR §5.12.

17.20.5 Apprentices and Trainees.

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services ("OATELS"), or with a State Apprenticeship Agency recognized by the OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not

individually registered in the program, but who has been certified by the OATELS, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated herein, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the OATELS, or a State Apprenticeship Agency recognized by the OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. Except as provided in Regulations, 29 CFR §5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services ("OATELS"). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the OATELS. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under Regulations, 29 CFR Part 5, shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

17.20.6 Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of Regulations, 29 CFR Part 3, which are hereby incorporated by reference into this Contract.

17.20.7 Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in Regulations, 29 CFR §5.5(a)(1) through (10), all of the provisions contained in Supplementary Conditions 17.20, and such other clauses as the School District, may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses and provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the contract clauses in Regulations, 29 CFR §5.5, and all of the contract provisions contained in Supplementary Conditions 17.20 or such other clauses as the School District, may by appropriate instructions, require. Within 14 days after award of the Contract (or if the Contract (or subcontract) has been previously awarded, within 14 days after incorporation of these Supplementary Conditions), the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction, including the subcontractor's signed and dated acknowledgment that all of the clauses set forth in Supplementary Conditions 17.20.4 have been included in the subcontract. Within 14 days after the award of any subsequently awarded subcontract (or if the Contract (or subcontract) has been previously awarded, within 14 days after incorporation of these Supplementary Conditions), the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for each additional subcontract. The Contractor shall insert the substance of this clause, including Supplementary Conditions 17.20.7, in all subcontracts for construction.

17.20.8 Contract Termination; Debarment. A breach of the contract clauses in Regulations, 29 CFR §5.5, or Supplementary Conditions 17.20.4 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in Regulations, 29 CFR §5.12.

(a) Termination of Work on Failure to Pay Agreed Wages. If the School District finds that any laborer or mechanic employed by the Contractor or any Subcontractor directly on the site of the work covered by the Contract has been or is being paid a rate of wages less than the rate of wages required by the Contract to be paid, the School District, by written notice to the Contractor, may terminate the Contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The School District may have the work completed, by contract or otherwise, and the Contractor's Sureties shall be liable to the School District for any excess costs the School District incurs.

17.20.9 Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in Regulations, 29 CFR Parts 1, 3, and 5, are hereby incorporated by reference into this Contract.

17.20.10 Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in Regulations, 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this Paragraph (Supplementary Conditions 17.20.10) include disputes between the Contractor (or any of its Subcontractors) and the School District, the U.S. Department of Labor, or the employees or their representatives.

17.20.11 Certification of Eligibility.

(a) By entering into this Contract, the Contractor certifies that neither it (nor he or she)

nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Federal Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or Regulations, 29 CFR §5.12(a)(1).

(b) No part of this Contract shall be subcontracted to any person or firm ineligible to be awarded Federal Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or Regulations, 29 CFR §5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.

17.20.12 Contract Work Hours and Safety Standards Act. All of the provisions of this Supplementary Conditions 17.20.12 are applicable when the amount of the Prime Contract exceeds \$100,000.00. As used in this Supplementary Conditions 17.20.12, the terms "laborers" and "mechanics" include watchmen and guards.

(a) Overtime Requirements. No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the provisions set forth in Subparagraph (a) of Supplementary Conditions 17.20.12, the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the School District, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in Subparagraph (a) of Supplementary Conditions 17.20.12, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by Subparagraph (a) of Supplementary Conditions 17.20.12.

(c) Withholding for Unpaid Wages and Liquidated Damages. The School District shall, upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under the Contract or any other contract with the same Contractor funded, in whole or in part, with proceeds of the Bonds, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in Subparagraph (b) of Supplementary Conditions 17.20.12. If amounts withheld under the Contract are insufficient to satisfy Contractor or Subcontractor liabilities, the School District will withhold payments from other contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act and are funded, in whole or in part, with proceeds of the Bonds.

(d) Payroll and Basic Records. The Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and the Contract, and shall preserve them for a period of three (3) years from the completion of the Contract, for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this Subparagraph (e) of Supplementary Conditions 17.20.12 shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by

authorized representatives of the School District or the U.S. Department of Labor, and the Contractor or Subcontractor shall permit such representatives to interview employees during working hours on the job. The records need not duplicate those required for construction, alteration or repair work by U.S. Department of Labor regulations at 29 CFR §5.5(a) (3) implementing the Davis-Bacon Act.

(e) Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the provisions set forth in Subparagraphs (a) through (d) of Supplementary Conditions 17.20.12, and also a clause requiring the Subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with the contract provisions set forth in Subparagraphs (a) through (d) of Supplementary Conditions 17.20.12.

17.21 **Pennsylvania Bond Law Not Applicable to General Service Work.** The Pennsylvania Public Works Contractors' Bond Law, 8 P.S. §191, et seq., requires performance and payment bonds **only** for construction, reconstruction, alteration or repair of school buildings or facilities. Therefore, the General Service Contractor does **not** have to furnish performance and payment bonds to the School District for the General Service Contract when performing General Service Work on the Project.

17.22 **Compliance with Pennsylvania Prompt Payment Acts.** The General Service Contractor shall comply with all terms and conditions of the Pennsylvania prompt payment provisions of the Commonwealth Procurement Code, General Procurement Provisions, 62 Pa.C.S.A. §3931 et seq., and the Contractor and Subcontractor Payment Act, 73 P.S. §501 et seq. with regard to its own payments to its Subcontractors, if applicable to the General Service Contractor or the General Service Work on the Project.

17.23 **Authority to Execute Contract.** The General Service Contractor and the School District each represents and warrants that it has caused this General Service Contract to be duly authorized, executed, and delivered by and through persons authorized to execute this General Service Contract on its behalf.

17.24 **Assignment of Contract.** The General Service Contractor shall not assign or otherwise transfer all or any part of its rights, duties or obligations under this General Service Contract, in whole or in part, except with the prior written consent of the School District; any assignment or transfer (including, but not limited to, assignment of any Subcontract) without such written consent shall be null and void. The absence of such provision or written consent shall void the attempted assignment or transfer, and the attempted assignment or transfer shall be of no effect as to the Work, the Project or this General Service Contract. In no event shall the School District's consent to any assignment or transfer by the General Service Contractor of any rights, duties or obligations under this General Service Contract relieve the General Service Contractor from its obligations hereunder or change the terms of this General Service Contract. The General Service Contractor accepts full responsibility for and guarantees the performance of any and all assignees and transferees (including Subcontractors and Sub-subcontractors) of the General Service Contractor. The General Service Contractor shall not transfer or assign any contract funds or monies or claims due or to become due hereunder, in whole or in part, without the School District's prior written approval. The attempted transfer or assignment of any contract funds or monies which are due or which become due to the General Service Contractor, in whole or in part, or any interest therein, without such prior written approval, shall have no effect upon the School District.

17.25 **Entire Contract.** The General Service Contract, which includes all Contract Documents referred to herein, contains the entire and integrated contract between the parties with respect to the subject matter hereof; supersedes all prior negotiations, representations, contracts, and undertakings, either written or oral, between the parties with respect to such subject matter; and cannot be changed, modified or amended except by contract in writing signed by both parties and approved by the School District's School Reform Commission (SRC), if required by the Public School Code, 24 P.S. §5-508, and applicable law. No amendment or modification changing its scope or terms shall have any force or effect, unless it is in writing and signed by both parties and approved by the School District's SRC, if required by the Public School Code, 24 P.S. §5-508, and applicable law.

END OF GENERAL CONDITIONS

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(Required Provisions Incorporated by Reference)

ANTI-DISCRIMINATION POLICY of the SCHOOL DISTRICT OF PHILADELPHIA ADOPTED NOVEMBER 14, 2007

SECTION 1. THE POLICY

It is the policy of the School District of Philadelphia (the "District") acting through and by the School Reform Commission (the "SRC") to ensure equal opportunity in all contracts let by the District (the "Contracts"). In light of this policy, the District has adopted this Anti-discrimination Policy (the "Policy") which is applicable to all Contracts, including but not limited to, Contracts for the design, development, construction, operation and maintenance of school buildings and other buildings and structures owned, leased or used by the District or its contractors, assignees, lessees and licensees (the "Facilities"); Contracts for professional services and Contracts for the purchase of goods, services, supplies and equipment for the District and the Facilities. The objective of the Policy is the promotion of prime contract and subcontract opportunities for minority and woman-owned business enterprises ("M/W/BEs") that are approved by the District or that are certified by the Minority Business Enterprise Council of the City of Philadelphia, Southeastern Pennsylvania Transportation Authority or any other certifying agency designated by the District in its discretion.

The fundamental requirement of the Policy is that all contractors, vendors and consultants that contract with the District (the "Contractors"), satisfy the District that they will: (1) not discriminate against any person in regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability; and (ii) provide a full and fair opportunity for the participation of M/W/BEs in Contracts. Contractors must demonstrate that the participation of M/W/BEs is "meaningful and substantial" in all phases of a Contract under criteria adopted by the District. "Meaningful and substantial" shall be interpreted by the District as meaning the range of participation that reflects the availability of bona fide M/W/BEs in the Philadelphia Metropolitan Statistical Area. Participation shall be measured in terms of the actual dollars received by M/W/BEs.

As used in this Policy, the word "Contractors" includes any person, firm, partnership, non-profit corporation, for-profit corporation, limited liability company or other legal entity that contracts with the District.

For purposes of this policy, "minority person" refers to the following: African American or Black (persons having origins in any of the Black racial groups of Africa); Hispanic American (persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Asian American (persons having origins from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka); and Native Americans (which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians).

SECTION 2. PROCEDURES FOR IMPLEMENTATION

1. Articulation of the Policy. Staffing and Reporting

The Office of General Counsel and Office of Small Business Development will develop language to be included in bid solicitations and requests for proposals that clearly sets forth the objective of the Policy (the "Solicitation Language"). District employees shall include the Solicitation Language in all bids, public solicitations, requests for proposals and all communications to potential Contractors, including those who wish to provide professional services to the District. The Policy shall be articulated to the public in general, and to each Contractor, assignee, lessee or licensee doing or seeking to do business with the District. The District may employ additional staff or contract with other public or private entities to assist in the implementation of the Policy. SBD shall provide the SRC with annual reports on the level of M/W/BE participation in all contracting activities.

2. Promotion of M/W/BEs

The District recognizes the importance of having meaningful and substantial M/W/BE participation in all Contracts. To that end, the District will take steps to ensure that M/W/BEs are afforded a fair and equal

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opportunity to participate. Those steps may include but are not limited to: (i) making public contracting opportunities; (ii) advertising in newspapers and periodicals published by community-based organizations and M/W/BEs; and (iii) designing bid packages in such a way as to promote rather than discourage M/W/BE participation.

3. Contracting Requirements

a. Bids, Request for Proposals and Public Solicitations

Prior to the dissemination of any bid, request for proposals or public solicitation (the "Solicitation"), the applicable contracting department of the District shall submit proposed ranges of M/W/BE participation in the area to be bid (the "Participation Range") to SBD for approval. The Participation Range, as approved by SBD, shall be included in each Solicitation and, if applicable, the Solicitation shall include the names and addresses of bona fide M/W/BEs that are available for contracting or joint-venture opportunities. Each bidder or respondent shall be required to submit: (i) a plan with its bid or proposal that meets the Participation Range set forth in the Solicitation and lists the names, addresses, dollar amounts and scope of work to be performed by M/W/BEs (the "Participation Plan"); or (ii) brief narrative explaining its reasons for not submitting a Plan that meets the Participation Range set forth in the Solicitation. Submission of the Participation Plan is an element of responsiveness. Failure to submit a completed Participation Plan or a narrative explaining the reasons that the Participation Ranges could not be met may result in the rejection of a bid or proposal. If the Participation Range in a bid or proposal meets or exceeds the level determined by the District to be meaningful and substantial, there shall be a presumption of compliance with the Policy. If, however, the proposed Participation Range falls below the level determined by the District to be meaningful and substantial, the bidder or respondent must prove to the satisfaction of the District that it did not discriminate in the solicitation of potential subcontractors and/or joint venture partners.

b. Contracts for Professional Services

Contracts for professional services that are not the subject of a Solicitation must also include approval Participation Plans. If a proposed Contract for professional services is subject to the approval of the Limited Contracts Authority Committee of the District (the "LCA"), the applicable contracting department shall submit a proposed Participation Plan for the written approval of SBD prior to the submission of the Contract to the LCA. In instances where proposed Contract for professional services must be approved by a Resolution adopted by the SRC, SBD's approval of the Participation Plan shall be incorporated into the on-line resolution process prior to the submission of Resolution to the SRC.

4. Sanctions

The Participation Plan shall be a part of each Contract between the District and a Contractor and shall be enforceable as any other contractual term or condition. Sanctions for breach of a Participation Plan may include suspension, cancellation of the Contract and/or disbarment from future contracting opportunities with the District.

EQUAL OPPORTUNITY

A. EQUAL OPPORTUNITY

The School District of Philadelphia (the "School District") is an Equal Opportunity Employer and demands no less of the companies with which it does business. The School District will not do business with companies or persons who unlawfully discriminate on the basis of race, color, national origin, sex, creed, disability, or any other impermissible ground in their hiring, promotion, subcontracting or procurement practices. By submitting any proposal to contract or entering into any contract with the School District, the Respondent (the "Respondent") represents and certifies that Respondent is an Equal Opportunity Employer; and conducts business affairs without improper regard to race, color, national origin, sex, creed, or disability, and has not been debarred, suspended, or declared ineligible to contract by any public or private agency or entity because of the Respondent's discriminatory

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practices. If the Respondent has been debarred or suspended, Respondent must submit a statement with the bid identifying the debarring or suspending entity and giving the date that the debarment or suspension was or is scheduled to be lifted. All certifications contained in a Respondent's proposal are material representations of fact upon which reliance will be placed if the School District awards a contract pursuant to this Request for Proposals. If it is later discovered or determined that the Respondent knowingly rendered an erroneous certification, then the School District may pursue available remedies, including termination of the contract.

B. NON-DISCRIMINATION

1. NON-DISCRIMINATION IN HIRING

The Respondent agrees that it will comply with provisions of the Philadelphia Fair Practices Ordinance administered by the Human Relations Commission of the City of Philadelphia, the Pennsylvania Human Relations Act. No. 222, October 27, 1955, as amended, 43 P.S. Section 951 et seq; Title 7 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 et seq., and all pertinent regulations adopted pursuant to the foregoing in providing equal employment opportunities in connection with all work performed by it pursuant to any contract awarded to Respondent, (the "Contract"). The Respondent, therefore agrees:

- (a) That it will not discriminate nor permit discrimination by its agents, servants or employees against any employee or applicant for employment with regard to hiring, tenure or employment, promotion, or any other terms, conditions or privileges of employment because of race, color, sex, religion, age, national origin, sex, ancestry, handicap or disability and will move aggressively as is hereinafter set forth to prevent same.
 - (i) In all publications or advertisements for employees to work at the job site covered by the Contract placed by or on behalf of the Respondent, the Respondent will state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability.
 - (ii) The Respondent will notify each labor union or workers' representative from whom it seeks workers of the Respondent's commitment as set forth in its proposal, and request that each union or workers' representative include minority group members and women among its referrals.
 - (iv) The Respondent will hire minority and female workers for the skilled and unskilled jobs required to perform the Contract in proportion to their availability in the relevant labor pools in the Philadelphia Metropolitan Statistical Area, or to their availability in its qualified applicant pool, whichever is greater.
 - (v) The Respondent will post in conspicuous places available to its employees and to applicants for employment, a notice of fair practices to be provided by the Philadelphia Human Relations Commission.
- (b) The Respondent will maintain a work environment free of harassment, intimidation and coercion, and will ensure that all on-site supervisory personnel are aware of and carry out Respondent's obligation to maintain such a working environment.
- (c) That it will identify on each certified payroll form submitted to the School District those of its employees who are minority group members and those who are female. As used here, "minority" means African American, Hispanic, Asian, or Native American. The School District shall at all times have access to work site and to the Respondent's employment records to assure compliance with this subsection.

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- (d) That it will maintain on forms to be supplied by the School District, the name, race, sex, national origin, skill or craft, address, telephone number, and source of referral of each applicant for employment, which record shall show which applicants were hired.
- (e) That in the event apprentices are hired in any skilled craft area, the Respondent will endeavor to hire equal numbers of culturally diverse male and female trainees in each skill area.

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2. NON-DISCRIMINATION IN CONTRACTING

It is the policy of the School District of Philadelphia, that business concerns owned and controlled by minority group members and women shall have full and fair opportunity to participate in performance of contracts let by the School District. A Respondent's plan to joint venture with or subcontract to minority and woman-owned firms (M/WBEs) and/or to utilize M/WBEs as sources of supplies, equipment, or services will be a significant part of the evaluation of the Respondent's responsibility.

- (a) The Respondent will consider all proposals from potential M/WBE firms and document on the forms supplied by the School District, the reasons for not entering into a joint venture or subcontract with a M/WBE.
- (b) Respondent will include Subcontractor participation with Minority-Owned Business Enterprise(s), Subcontractor participation with Women-Owned Enterprise(s), and participation with Minority/Women Owned Business Enterprise(s) on material and supplies in accordance with the participation goals set forth in the attached Notice to Bidders**
- (c) Where the Respondent proposes to perform the total contract with its own work force without any joint venture or subcontracting, before the contract is awarded, the Respondent will submit to the School District, information sufficient for the School District to determine that the Respondent has made a good faith effort to attain meaningful and substantial participation of M/WBEs.
- (d) The Respondent's agreement to meet the requirements of the Section is a material representation of fact upon which reliance will be placed if a contract is awarded. If it is later determined that the Respondent has not made a good faith effort to comply, within the School District's sole judgment, the School District may pursue available remedies, including suspension or debarment of the Respondent from future School District work as non-responsible.

C. LIABILITY OF SUBCONTRACTORS

Any subcontractor of the Respondent shall have the same responsibilities and obligations as the Respondent to comply with the provisions of this Section and shall be subject to the same penalties for failure to comply as set forth below.

D. PENALTIES FOR FAILURE TO COMPLY

- (1) It is hereby agreed that failure to comply and demonstrate a good faith effort to comply with the foregoing requirements shall constitute a substantial breach of the Contract.
- (2) In the event that the School District determines, after investigation, that the Respondent or subcontractor has failed to comply with any provision of this Section and to demonstrate a good faith effort to comply, the School District may in its sole discretion invoke the termination provisions of the Contract or move to disqualify, suspend, or debar the Respondent or subcontractor pursuant to Board Policy No. 621.
- (3) The Respondent or subcontractor, as the case may be, shall be given written notice of any determination of non-compliance and opportunity to achieve compliance within a time period to be specified in the notice.
- (4) In the event the School District, after a hearing, determines to terminate the Contract, entered

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into under this Contract, for non-compliance with and failure to demonstrate a good faith effort to comply with the requirements of this Section, all obligation on the School District's part to perform this Contract shall cease except for the obligation to pay the Respondent the sums due.

621. DISQUALIFICATION, SUSPENSION OR DEBARMENT OF BIDDERS

Date Adopted: June 16, 1986

Date Revised: June 26, 1989, April 25, 1994

1. Purpose

This policy sets forth standards to determine what bidders are not responsible and procedures to disqualify or suspend or debar non-responsible bidders from contracting or subcontracting with the School District. It applies to all contracts which the School District is required by law to award to the lowest responsible bidder.

2. Policy

The School District shall solicit or accept bids from and shall award contracts to or consent to subcontracting only with responsible bidders. Bidders, contractors, or affiliates may be disqualified, suspended or debarred as not responsible to protect the School District's and the public's interest in accordance with the standards and procedures adopted by the School District and any other applicable law.

3. Authority

The School District adopts this policy and procedure under its powers to make rules and regulations to manage school affairs and competitive bidding provisions of the Public School Code, 24 PA Sec. 5-510, 7-751(a), 8-807.1 (1985 Supp.).

4. Responsibility

The Superintendent of Schools is generally responsible to implement and enforce this policy and may designate subordinate officers or employees to perform any functions provided for in this policy.

5. Definitions

"Adequate evidence" means evidence sufficient to support a reasonable belief in the truth of the fact or conclusion it is offered to support and does not require proof in accordance with technical rules of evidence.

"Affiliates" means a person having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

"Bidders" means any person responding to an invitation for bids or otherwise seeking to contract with the School District or with contractors.

"Contractor" means any person independent of the School District who does or seeks to do business with the School District pursuant to mutual agreement and includes persons who subcontract with School District contractors.

"Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a plea of nolo contendere.

"Debarment" means exclusion as a contractor for a specified time; a contractor so excluded is "debarred."

"Disqualification" means exclusion as a contractor from award of any particular contract with the School

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District; a contractor so excluded is "disqualified."

"District" means the School District of Philadelphia.

"Hearing Officer" means the Superintendent or any officer or employee so designated by the Superintendent.

"Indictment" means a formal accusation of a criminal offense and includes information or other filing by a competent authority charging a criminal offense.

"Legal proceedings" means any civil or criminal judicial proceeding, including appeals.

"Person" means an individual, company, firm, association, corporation, partnership, or other legal entity.

"Public prosecutor" means an official having legal authority in any jurisdiction to file or to prosecute indictments.

"Superintendent" means the Superintendent of Schools of The School District of Philadelphia.

"Suspension" means exclusion as a contractor for an indefinite time determined by some stated future occurrence; a contractor so excluded is "suspended."

6. Debarment

A. Cause for Debarment

The District may debar a bidder or contractor or affiliate for any one or more of the following causes:

Conviction of or civil judgment for:

- a. Fraud or crime in connection with obtaining, attempting to obtain or performing a public contract or subcontract;
- b. Violation of any law showing a lack of business or personal integrity or honesty, including but not limited to bribery, embezzlement, extortion, forgery, falsification or destruction of records, false statements, theft or receiving stolen property;
- c. Violation of any federal or state antitrust laws;
- d. Violation of any laws governing labor or employment, including wages and hours, child labor, or discrimination; or
- e. Violation of any election or campaign finance laws.

Unsatisfactory performance or failure to perform in accordance with the terms of one or more contracts with any person, provided that such acts or failures to act occurred within a reasonable period of time before or during the District's decision;

Providing false or misleading information as part of any prequalification statement, bid or contract, including but not limited to financial statements, fair employment forms, or product descriptions;

Unauthorized payments, gifts or other valuable consideration to any person having any official duties, direct or indirect, in connection with bidding, awarding or performing District contracts;

Debarment from contracting by any other federal or state governmental body; or The use by employment, subcontract or other formal association of former School District of Philadelphia employees who have resigned or have been dismissed in accordance with administrative due process procedures for reasons of moral turpitude or breach of fiduciary duty, where the former employee holds a position which brings him/her into contact with students or has fiduciary responsibilities.

Any other lawful reason.

B. Period of Debarment

Debarment shall be imposed for a specified time not to exceed three years unless reasons for a longer period are stated in the notice of debarment.

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The District may extend debarment for an additional specified period at any time before a debarment expires upon adequate evidence in addition to that which supported the original debarment in accordance with the procedure for debarment.

The District may reduce the period of debarment upon the bidder's or contractor's written request supported by adequate evidence of good cause, such as:

- a. Reversal of the conviction or judgment upon which the debarment was based without a new trial within a reasonable time;
- b. Bona fide change in ownership or management of the bidder or contractor; or
- c. Elimination of other causes for which debarment was opposed.

C. Procedure for Debarment

The District official responsible for soliciting bids on the class or classes of contracts at issue shall begin debarment proceedings by giving notice of intent to debar to the bidder or contractor and any specified affiliates by certified mail, return receipt requested, stating:

- a. The intent to debar for a specified period;
- b. The causes for debarment with a summary of the information on which the findings of causes are based; and
- c. The debarment is effective immediately and the decision will become final within twenty (20) days unless the bidder or contractor or affiliate submits a written response within that time opposing the debarment, including information raising a genuine dispute as to the facts on which it is based or to the application of this policy.

The District shall make a copy of Board Policy No. 621 available to bidders, contractors, and affiliates with notice of debarment.

If a bidder or contractor timely opposes debarment, the District official who issued the notice of debarment shall promptly refer the notice of debarment and the bidder, contractor's or affiliate's response to the Hearing Officer, who shall:

- a. Schedule an informal hearing within fifteen (15) days, with written notice to the parties, at which the District and the bidder, contractor or affiliate may present evidence on issues raised by the notice of debarment and the response thereto;
- b. Issue a written decision within fifteen (15) days of the hearing, either sustaining or over-ruling the debarment, and stating (i) a summary of the evidence presented, (ii) conclusions applying this policy to the facts, serving this decision on the bidder, contractor or affiliate by certified mail, return receipted requested.

The Hearing Officer's decision shall be final.

7. Suspension

A. Cause for Suspension

The District may suspend a bidder, contractor or affiliate for any one or more of the following causes:

Indictment for any crimes covered in Section 6.A(1) or

Committing irregularities (a) of a serious nature in business dealings with the District or (b) seriously reflecting on the propriety of further business dealings with the District.

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B. Period of Suspension

Suspension shall be imposed for a period pending the outcome of criminal proceedings or the completion of an investigation and such legal proceedings as may ensue.

C. Procedure for Suspension

The District official responsible for soliciting bids on the class or classes of contracts at issue shall begin suspension proceedings by giving notice of intent to suspend to the bidder or contractor and any specified affiliates by certified mail, return receipt requested, stating:

- a. The intent to suspend and the period;
- b. The causes for suspension with a summary of the information on which the findings of causes are based; and
- c. The suspension is effective immediately and the decision will become final within twenty (20) days unless the bidder, contractor or affiliate submits a written response within that time opposing the suspension, including information raising a genuine dispute as to the facts on which it is based or to the application of this policy.

The District shall make a copy of Board Policy No. 621 available to bidders, contractors or affiliates with notice of suspension.

If a bidder, contractor or affiliate timely opposes suspension, the District official who issued the notice of suspension shall promptly refer the notice of suspension and the bidder's or contractor's or affiliate's response to the Hearing Officer who shall:

- a. Schedule an informal hearing within fifteen days, with written notice to the parties, at which the District and the bidder, contractor or affiliate may present evidence on issues raised by the notice of suspension and the response thereto;
- b. Issue a written decision within fifteen (15) days of the hearing, either sustaining or over-ruling the suspension, and stating (i) a summary of the evidence presented, (ii) finding of fact based on adequate evidence and (iii) conclusions applying this policy to the facts, serving this decision on the bidder or contractor by certified mail, return receipt requested.

The Hearing Officer's decision shall be final.

8. Disqualification

A. Cause for Disqualification

A bidder or contractor may be disqualified with respect to any particular bid or contract award for any one or more of the following causes:

Any cause set forth in Section 6.A or 7.A of this policy;

Inadequate financial resources to perform the contract;

Inadequate experience, organization, or technical resources to perform the contract; or

Any other facts or circumstances showing a reasonable likelihood of inability to perform the contract.

Discrimination in the bidder's or contractor's employment or business practices on the basis of race, color, sex or national origin.

B. Period of Disqualification

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Disqualification may be imposed for any particular bid or contract award and applies only to that bid or contract award.

C. Procedure for Disqualification

The District official responsible for soliciting bids on the class or classes of contracts at issue or the District's official responsible for minority and women's business development shall begin disqualification proceedings by giving notice of intent to disqualify to the bidder or contractor by regular mailing, stating:

- a. The intent to disqualify and the bid or contract involved;
- b. The causes for disqualification with a summary of the information on which the findings of causes are based;
- c. The date the contract award is expected to be considered by the Board of Education; and
- d. The disqualification shall be effective to render the bidder or contractor ineligible for the contract award at issue unless the bidder or contractor submits a written response before contract award by the Board of Education, including information raising a genuine dispute as to the facts on which it is based or to the application of this policy.

The District shall make a copy of Board Policy No. 621 available to bidders or contractors with notice of disqualification.

If a bidder or contractor timely opposes disqualification, the District official who issued the notice of disqualification shall promptly refer the notice of disqualification and the bidder's or contractor's response to the Board of Education which shall consider issues raised by the notice and response in making its decision on the contract award involved.

9. Responsibility for Agents

Bidders, contractors, and affiliates are deemed responsible for the acts of persons acting for or on their behalf, such that:

The fraudulent, criminal or other improper conduct of any officer, director, shareholder, partner, employee or other associate may be imputed to the bidder, contractor or affiliate when the conduct occurred in connection with the individual's performance of duties for or on behalf of the bidder, contractor or affiliate, or with his/her knowledge, approval or acquiescence. Acceptance of the benefits derived from such conduct shall be evidence of such knowledge, approval or acquiescence;

The fraudulent, criminal or other improper conduct of bidder, contractor or affiliate may be imputed to any officer, director, shareholder, partner, employee, or other associate who participated in, knew of or had reason to know of the conduct; and

The fraudulent, criminal or other improper conduct of one bidder, contractor or affiliate participating in a joint venture or similar arrangement may be imputed to other participating bidders, contractors or affiliates if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval or acquiescence of other participants. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

10. Effect on Executory Contracts

A. The District may continue in effect any contracts with debarred or suspended persons which have not been fully performed at the time of debarment or suspension in accordance with their terms.

B. The District shall not renew or extend contracts with debarred or suspended persons unless the Superintendent or a designee states in writing to the Board of Education the compelling reasons for

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renewal or extension.

11. Restrictions on Subcontracting

When a debarred or suspended contractor is proposed as a subcontractor for any subcontract subject to District approval, the District shall not approve such subcontractor unless the Superintendent or a designee states in writing the compelling reasons for such approval.

12. Contract Not Requiring Competitive Bidding

The District may exclude any debarred or suspended person from consideration for any contract award not requiring competitive bidding.

13. Records The Hearing Officer shall maintain records of all persons debarred, suspended, or disqualified for the purpose of enforcing this policy.

References:

Board Resolution: April 25, 1994

Pennsylvania Department of Education (PDE)
FBI Federal Criminal History Records of Prospective Employees
March 12, 2007

4. At the fingerprint site the Applicant Livescan Operators (ALO) manage the fingerprint collection process.
5. The fingerprint transaction begins when the ALO reviews the applicant's qualified State or Federal photo ID before processing the applicant's transaction. A list of approved ID types may be found on the Cogent Systems' website at www.pa.cogentid.com. Applicants will not be processed if they cannot produce an acceptable photo ID.
6. After the identity of the applicant has been established, all ten fingers are scanned to complete the process. The entire fingerprint capture process should take no more than three to five minutes.
7. The applicant's scanned fingerprints will be electronically transmitted to the Pennsylvania State Police, who in turn submits the fingerprints and demographic information to the FBI as required by federal statute.
8. PDE will receive the Federal Criminal History Record from the FBI. PDE's School Services Unit will return the Federal Criminal History Record to the applicant. The Record will be printed on standard 8.5" X 11" paper with the Commonwealth Seal imbedded on the paper. **This document constitutes an official Record.** If an applicant presents their Federal Criminal History Record and the Commonwealth Seal is not embedded on the paper, it should be considered as invalid and not an official Record. If the applicant does not receive the Criminal History Record from PDE within eight weeks after being fingerprinted, they should call (717) 783-3750 or email PDE at dwolfgang@state.pa.us.
9. The applicant will then provide the Federal Criminal History Record to their prospective employer.

** The Act allows that Administrators may employ any applicants on a provisional basis for a single period not to exceed ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970, known as the "Public Employee Relations Act", provided that all of the following conditions are met:

- The applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) or (c.1) and the applicant provides a copy of the appropriate completed request forms to the Administrator
- The Administrator has no knowledge of information pertaining to the applicant which would disqualify them from employment pursuant to subsection (e)
- The applicant swears or affirms in writing that they are not disqualified from employment pursuant to subsection (e)
- If the information obtained pursuant to subsection (b), (c), or (c1) reveals that the applicant is disqualified from employment pursuant to subsection (e), the applicant shall be suspended and subject to termination proceedings as provided for by law
- The Administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the vicinity of a permanent employee.

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**Pennsylvania Department of Education (PDE)
FBI Federal Criminal History Records of Prospective Employees
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Fingerprint Corrections and Resubmissions

In circumstances where a classifiable fingerprint record was not or cannot be obtained and immediately upon indication, Cogent Systems will take corrective action to re-submit, or re-print the applicant at no cost to the applicant. This corrective action will be completed at the earliest possible time, and when applicable, that is convenient for the applicant. Cogent Systems will contact the applicant directly should this occur. NOTE: Reprinting can be applied to each applicant one time only. If fingerprinting must take place a third time the applicant must pay the full fee.

Group Fingerprinting Support

If you have a requirement to fingerprint a large group of applicants (300 college education majors, a contractor's entire staff of 120 employees, 50 bus drivers, etc.) Cogent Systems and the fixed site providers will try to accommodate that request. Some fingerprint service sites have the ability to bring portable equipment to your site. If you are in need of Group Fingerprinting Support, visit www.pa.cogentid.com. Service sites in your area that have mobile equipment will be listed. NOTE: This mobile service requires the visited site to provide broadband internet access and access through any firewall. The sites that offer mobile services can provide you instructions, in advance of their visit, that would allow fingerprinting to occur at your site. You must however, plan ahead. Requirements for hosting a mobile Livescan operation can be found at www.pa.cogentid.com

We encourage you to utilize this service but you must plan ahead. Please do not overwhelm the service by sending large groups of applicants to the fixed site locations. If you must send your large group of applicants to a fixed site, please plan for their arrival to occur over days and weeks, not over hours.

Confidentiality (Security) of Applicant Information

On-site access to the Livescan equipment, and the data traveling from the equipment, is comprehensively secured and regulated by both Cogent Systems and the regulations governing the use of that data.

- **The Computer System** - The system will be housed within a secured network that is protected by firewall devices configured explicitly to allow only permissible protocols and traffic. Cogent Systems will ensure that all devices procured under this process continue to adhere to the Commonwealth's Security requirements. The proposed systems will be configured to provide a point of defense with controlled access from both inside and outside the network. The Livescan systems will be configured to support logging and audit capability. Furthermore, the Livescan solution will support 128 bit encryption.

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Pennsylvania Department of Education (PDE)
FBI Federal Criminal History Records of Prospective Employees
March 12, 2007

Inquiries or Questions

All information regarding process, policy, and fingerprinting locations may be found at
www.pa.cogentid.com

Fingerprint Services Sites should contact Blake Godard at bgodard@cogentsystems.com

Fingerprint applicants should contact Denise Wolfgang at (717) 783-3750 or
dwolfgang@state.pa.us

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LEXSTAT 24 P.S. 1-111

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

THIS DOCUMENT IS CURRENT THROUGH ACT 41 OF THE 2007 LEGISLATIVE SESSION

*** AUGUST 29, 2007 ANNOTATION SERVICE ***

PENNSYLVANIA STATUTES
TITLE 24. EDUCATION
CHAPTER 1. PUBLIC SCHOOL CODE OF 1949
ARTICLE I. PRELIMINARY PROVISIONS

Go to the Pennsylvania Code Archive Directory

24 P.S. § 1-111 (2007)

Legislative Alert: LEXSEE 2007 Pa. HB 842 -- See section 1.

§ 1-111. Background checks of prospective employees; conviction of employees of certain offenses

(a) This section shall apply to all prospective employees of public and private schools, intermediate units and area vocational-technical schools, including independent contractors and their employees, except those employees and independent contractors and their employees who have no direct contact with children. This subsection shall expire March 31, 2007.

(a.1) Beginning April 1, 2007, this section shall apply to all prospective employees of public and private schools, intermediate units and area vocational-technical schools, including, but not limited to, teachers, substitutes, janitors, cafeteria workers, independent contractors and their employees, except those employees and independent contractors and their employees who have no direct contact with children.

(1) Beginning April 1, 2007, this section shall apply to bus drivers offered employment by a school district, private school, nonpublic school, intermediate unit or area vocational-technical school or by an independent contractor.

(2) Beginning April 1, 2007, this section shall apply to student teacher candidates assigned to all public and private schools, intermediate units and area vocational-technical schools.

(3) For purposes of this section, "student teacher candidate" shall mean an individual participating in a classroom teaching, internship, clinical or field experience who, as part of a program for the initial or advanced preparation of professional educators, performs classroom teaching or assists in the education program in a public or private school, intermediate unit or area vocational-technical school under the supervision of educator preparation program faculty.

(4) Prior to a student teacher candidate's participation in any classroom teaching, internship, clinical or field experience, that candidate shall provide to the administrator of his or her educator preparation program all criminal history record information required of an employee or prospective employee who is subject to this section.

(5) The student teacher candidate may not participate in any classroom teaching, internship, clinical or field experience if this section would prohibit an employee or prospective employee subject to this section from being employed under those circumstances.

(6) During the course of a student teacher candidate's participation in an educator preparation program, the administrator of the student teacher candidate's educator preparation program shall maintain a copy of the criminal history record information that was provided by the student teacher candidate. The penalty provisions of subsection (g) shall be applicable to the administrator of a student teacher candidate's educator preparation program.

(7) If a student teacher candidate is continuously enrolled in an educator preparation program, the criminal history record information initially submitted by that candidate to that program shall remain valid during that period of enrollment. If a student teacher candidate's enrollment in an educator preparation program is interrupted or if that candidate transfers to another educator preparation program, the candidate shall provide to the administrator of his or her educator preparation program all criminal history record information required of an employee who is subject to this section.

(b) Administrators of public and private schools, intermediate units and area vocational-technical schools shall require prospective employees to submit with their employment application, pursuant to 18 Pa.C.S. Ch.91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. Such criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations) and shall be no more than one (1) year old. An applicant may submit a copy of the required information with the application for employment. Administrators shall maintain a copy of the required information and shall require each applicant to produce the original document prior to employment. Administrators shall require contractors to produce the original document for each prospective employee of such contractor prior to employment.

(c) Where the applicant has not been a resident of this Commonwealth for at least two (2) years immediately preceding the date of application for employment, administrators shall require the applicant to submit with the application for employment a set of fingerprints which may be submitted to the Federal Bureau of Investigation for Federal criminal history record information pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544, 86 Stat. 1115 or a copy of such Federal criminal history record. Administrators shall forward the set of fingerprints for the Federal criminal history record to the Department of Education. The Department of Education shall be the intermediary for the purposes of this section. The Department of Education shall return the Federal criminal history record to the applicant. When the applicant provides a copy of the Federal criminal history record, it shall be no more than one (1) year old. Administrators shall maintain a copy of the required information and shall require each applicant to produce a Federal criminal history record that may not be more than one (1) year old at the time of employment. The original Federal criminal history record shall be returned to the applicant. This subsection shall expire March 31, 2007.

(c.1) Beginning April 1, 2007, administrators shall require the applicant to submit with the application for employment a copy of the Federal criminal history record in a manner prescribed by the Department of Education. When the applicant provides a copy of the Federal criminal history record, it shall be no more than one (1) year old. Administrators shall maintain a copy of the required information and shall require each applicant to produce a Federal criminal history record that may not be more than one (1) year old at the time of employment. The original Federal criminal history record shall be returned to the applicant.

(d) The State Board of Education shall, in the manner provided by law, promulgate the regulations necessary to carry out this section. The regulations shall provide for the confidentiality of criminal history record information obtained pursuant to this act.

(e) No person subject to this act shall be employed in a public or private school, intermediate unit or area vocational-technical school where the report of criminal history record information indicates the applicant has been convicted, within five (5) years immediately preceding the date of the report, of any of the following offenses:

(1) An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Former section 2709(b) (relating to stalking).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(2) An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(3) An out-of-State or Federal offense similar in nature to those crimes listed in clauses (1) and (2).

(f) The requirements of this section shall not apply to employees of public and private schools, intermediate units and area vocational-technical schools who meet all the following requirements:

(1) The employees are under twenty-one (21) years of age.

(2) They are employed for periods of ninety (90) days or less.

(3) They are a part of a job development and/or job training program funded in whole or in part by public or private sources. Once employment of a person who meets these conditions extends beyond ninety (90) days, all requirements of this section shall take effect.

(g) An administrator, or other person responsible for employment decisions in a school or other institution under this section who wilfully fails to comply with the provisions of this section commits a violation of this act and shall be subject to civil penalty as provided in this section.

(1) The department shall have jurisdiction to determine violators of this section and may, following a hearing, assess a civil penalty not to exceed two thousand five hundred dollars (\$ 2,500).

(2) The civil penalty shall be payable to the Commonwealth.

(h) No person employed in a public or private school on the effective date of this section shall be required to obtain the information required herein as a condition of continued employment. Any person who has once obtained the information required under this section may transfer to another school in the same district or established and supervised by the same organization and shall not be required to obtain additional reports before making such transfer.

(i) Notwithstanding subsections (b), (c) and (c.1), administrators, before April 1, 2007, may employ in-State applicants on a provisional basis for a single period not to exceed thirty (30) days and may employ out-of-State applicants on a provisional basis for a single period not to exceed ninety (90) days and, after March 31, 2007, may employ any applicants on a provisional basis for a single period not to exceed ninety (90) days, except during a lawful strike proceeding under the provisions of the act of July 23, 1970 (P.L. 563, No. 195), known as the "Public Employee Relations Act," provided that all of the following conditions are met:

(1) the applicant has applied for the information required under subsection (b) and, where applicable, under subsection (c) or (c.1) and the applicant provides a copy of the appropriate completed request forms to the administrator;

(2) the administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (e);

(3) the applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (e);

(4) if the information obtained pursuant to subsection (b), (c) or (c.1) reveals that the applicant is disqualified from employment

pursuant to subsection (e), the applicant shall be suspended and subject to termination proceedings as provided for by law; and

(5) the administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.

HISTORY: Act 1990-211 (H.B. 1810), § 1, approved Dec. 19, 1990, eff. in 60 days; Act 1997-30 (H.B. 8), § 1, approved June 25, 1997, See section of this act for effective date information; Act 2002-153 (H.B. 204), § 1, approved Dec. 9, 2002, eff. immediately.; Act 2003-48 (S.B. 80), § 2, approved Dec. 23, 2003, eff. immediately.; Act 2004-70 (H.B. 564), § 1, approved July 4, 2004, eff. immediately.; Act 2006-114 (H.B. 185), § 1, approved July 11, 2006, eff. immediately.

LEXSTAT 23 PA. C.S. 6355

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

THIS DOCUMENT IS CURRENT THROUGH ACT 41 OF THE 2007 LEGISLATIVE SESSION

*** AUGUST 29, 2007 ANNOTATION SERVICE ***

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 23. DOMESTIC RELATIONS
PART VII. ABUSE OF FAMILY
CHAPTER 63. CHILD PROTECTIVE SERVICES
SUBCHAPTER C.2. BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS

Go to the Pennsylvania Code Archive Directory

23 Pa.C.S. § 6355 (2007)

§ 6355. Requirement

(a) INVESTIGATION.--

(1) Except as provided in paragraph (2), an administrator shall require each applicant to submit an official clearance statement obtained from the department within the immediately preceding year as to whether the applicant is named as the perpetrator of an indicated or a founded report or is named as the individual responsible for injury or abuse in an indicated report for school employee or a founded report for school employee.

(2) The official clearance statement under paragraph (1) shall not be required for an applicant who:

(i) transfers from one position as a school employee to another position as a school employee of the same school district or of the same organization; and

(ii) has, prior to the transfer, already obtained the official clearance statement under paragraph (1).

(b) GROUNDS FOR DENYING EMPLOYMENT.-- Except as provided in section 6356 (relating to exceptions), an administrator shall not hire an applicant if the department verifies that the applicant is named as the perpetrator of a founded report or is named as the individual responsible for injury or abuse in a founded report for school employee. No individual who is a school employee on the effective date of this subchapter shall be required to obtain an official clearance statement under subsection (a)(1) as a condition of continued employment.

(c) PENALTY.-- An administrator who willfully violates this section shall be subject to an administrative penalty of \$ 2,500. An action under this subsection is governed by 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

HISTORY: Act 1994-151 (H.B. 1001), § 4, approved Dec. 16, 1994, eff. July 1, 1996.

LEXSTAT 23 PA.C.S. § 6356

PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

THIS DOCUMENT IS CURRENT THROUGH ACT 41 OF THE 2007 LEGISLATIVE SESSION
*** AUGUST 29, 2007 ANNOTATION SERVICE ***

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 23. DOMESTIC RELATIONS
PART VII. ABUSE OF FAMILY
CHAPTER 63. CHILD PROTECTIVE SERVICES
SUBCHAPTER C.2. BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS

Go to the Pennsylvania Code Archive Directory

23 Pa.C.S. § 6356 (2007)

§ 6356. Exceptions

Section 6355 (relating to requirement) shall not apply to any of the following:

(1) A school employee who is:

- (i) under 21 years of age;
- (ii) participating in a job development or job training program; and
- (iii) employed for not more than 90 days.

(2) A school employee hired on a provisional basis pending receipt of information under section 6355(a) if all of the following apply:

- (i) The applicant demonstrates application for the official clearance statement under section 6355(a).
- (ii) The applicant attests in writing by oath or affirmation that the applicant is not disqualified under section 6355(b).
- (iii) The administrator has no knowledge of information which would disqualify the applicant under section 6355(b).
- (iv) The provisional period does not exceed:
 - (A) 90 days for an applicant from another state; and
 - (B) 30 days for all other applicants.
- (v) The hiring does not take place during a strike under the act of July 23, 1970 (P.L. 563, No. 195), known as the Public Employee Relations Act.

HISTORY: Act 1994-151 (H.B. 1001), § 4, approved Dec. 16, 1994, eff. July 1, 1996.

Affidavit
Pennsylvania State Police Criminal History Record Information
Federal Bureau of Investigation Criminal History Record Information
and
Pennsylvania Department of Public Welfare Child Abuse Official Clearance Statement
for Employees and Prospective Employees of Independent Contractors
24 P.S. § 1-111(i) and 23 Pa. C.S.A. § 6356(2)

STATE OF _____ :
COUNTY OF _____ : **SS**

I, _____
[print name of affiant],

duly affirm and verify the truth of the following statements.

1. I am an employee, or a prospective employee, of an independent contractor of The School District of Philadelphia (the "School District");

2. I have applied for the information required under subsections (b), Pennsylvania State Police criminal history record information, and (c.1), Federal Bureau of Investigation Federal criminal history record information, of Section 1-111 of the Pennsylvania Public School Code, 24 P.S. § 1-111 ("Section 111"), and have attached to this Affidavit true, correct and complete copies of these completed request forms;

3. I am not disqualified from employment pursuant to subsections (e) or (f.1) of Section 111, because I have not been convicted of any of the offenses listed in subsections (e) of Section 111, and, if I have been convicted of any of the offenses listed or described in subsection (f.1) of Section 111, all of the time period or periods mandated in subsection (f.1) have elapsed before the date of this Affidavit;

4. I hereby demonstrate application for the official clearance statement under 23 Pa. C.S.A. § 6355(a), and have attached to this Affidavit a true, correct and complete copy of my application;

5. I am not disqualified under 23 Pa. C.S.A. § 6355(b), because I am not named as the perpetrator of a founded report, or named as the individual responsible for injury or abuse in a founded report, under subsection 6355(b);

6. I understand and acknowledge that if any of the foregoing reports reveal that I am disqualified from employment, my employer shall suspend me and proceed to terminate my employment;

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7. I also understand and acknowledge that until the School District receives these reports and these reports verify that I am not disqualified from employment, my employer shall not permit me to work alone with any child or children and shall require that I work in the immediate vicinity of a permanent employee; and

8. I further understand and acknowledge that my employer may employ me on a provisional basis only for a single period not to exceed ninety (90) days, provided that I comply with the requirements set forth in this Affidavit.

My compliance with the requirements associated with this Affidavit does not entitle me to any job; my employer (or prospective employer) has and reserves the right, in its discretion, to set other terms, covenants, conditions and requirements in connection with any offer to hire or any job.

I shall submit the originals of the information and statement noted above to the School District for inspection and copying within five (5) business days after I receive each such document.

I make the statements set forth in this Affidavit subject to the penalties provided in 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Signature of Affiant

Date: _____

See attached instructions for guidance on how to use this Affidavit.

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***Instructions for the Affidavit as to
Criminal History Record Information and Child Abuse Clearances
for employees of Independent Contractors***

September 2013

A. *The Contractor's hiring authority.*

Employers have the right to set the terms and conditions on which they may hire and employ their own employees, including for instance, a requirement that applicants be of good character. *Compliance with the specific requirements of 24 P.S. § 1-111 or 23 Pa. C.S.A. §§ 6354 – 6358 does not ensure, or entitle you to, employment by anyone. Your employer has the right to impose, and may impose, additional conditions and requirements, beyond the requirements imposed by these statutes, if your employer offers you a job.*

B. *Criminal History – Commonwealth of Pennsylvania and FBI.*

1. Subsection 111(e) provides that no person shall be employed in a public or private school, intermediate unit or area vocational-technical school, or by an independent contractor thereof, where the report of criminal history record indicates the applicant has been convicted of any of the following offenses:

a. An offense under one or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

- | | |
|-----------------|--|
| Chapter 25 | – relating to criminal homicide |
| Section 2702 | – relating to aggravated assault |
| Section 2709.1 | – relating to stalking |
| Section 2901 | – relating to kidnapping |
| Section 2902 | – relating to unlawful restraint |
| Section 2910 | – relating to luring a child into a motor vehicle or structure |
| Section 3121 | – relating to rape |
| Section 3122.1 | – relating to statutory sexual assault |
| Section 3123 | – relating to involuntary deviate sexual intercourse |
| Section 3124.1 | – relating to sexual assault |
| Section 3125 | – relating to aggravated indecent assault |
| Section 3126 | – relating to indecent assault |
| Section 3127 | – relating to indecent exposure |
| Section 3129 | – relating to sexual intercourse with animal |
| Section 4302 | – relating to incest |
| Section 4303 | – relating to concealing the death of child |
| Section 4304 | – relating to endangering welfare of children |
| Section 4305 | – relating to dealing in infant children |
| Section 5902(b) | – a felony offense relating to prostitution and related offenses |

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Section 5903(c) or (d) – relating to obscene other sexual materials
and performances

Section 6301(a)(1) – relating to corruption of minors

Section 6312 – relating to sexual abuse of children.

Section 6318 – relating to unlawful contact with minor

Section 6319 – relating to solicitation of minors to traffic drugs

Section 6320 – relating to sexual exploitation of children

b. An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as “The Controlled Substance, Drug, Device and Cosmetic Act.”

c. An out-of-State or Federal offense similar in nature to those crimes listed in clauses B.1.a. and b. above.

2. *Other Offenses.*

a. Subsection 111(f.1) provides that if the report of criminal history record information indicates the person has been convicted of a felony offense of the first, second or third degree other than those enumerated under subsection 111(e) (listed above in subsection B.1)., the person shall be eligible for prospective employment only if a period of ten (10) years has elapsed from the date of expiration of the sentence for the offense.

b. If the conviction is for a misdemeanor of the first degree, the person shall be eligible for prospective employment only if a period of five (5) years has elapsed from the date of expiration of the sentence for the offense.

c. If the report of criminal history record information indicates the person has been convicted more than once for an offense under 75 Pa.C.S. § 3802(a), (b), (c) or (d) (relating to driving under influence of alcohol or controlled substance) and the offense is graded as a misdemeanor of the first degree under 75 Pa.C.S. § 3803 (relating to grading), the person shall be eligible for prospective employment only if a period of three years has elapsed from the date of expiration of the sentence for the most recent offense.

By signing the Affidavit, you affirm and verify that you have not been convicted of one of the crimes listed in B.1. above, and that if you have been convicted of an offense described in B.2., above, the stated period of ineligibility for employment after expiration of the sentence or sentences has elapsed before the date of your Affidavit.

3. All applicants, including all Pennsylvania residents, must procure the Federal Bureau of Investigation (FBI) criminal history record information, including applicants who reside in the Commonwealth of Pennsylvania.

4. You must attach to your Affidavit true, correct and complete copies of your applications to the Pennsylvania State Police and the FBI.

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C. *Child Abuse Official Clearance Statement.*

1. You must attach to your Affidavit a true, correct and complete copy of your application to the Pennsylvania Department of Public Welfare.

By signing the Affidavit, you affirm and verify that you have not been named as the perpetrator of a founded report or named as the individual responsible for injury or abuse in a founded report at any time.

D. *General Requirements.*

1. You must forward to your employer originals of the Pennsylvania State Police and FBI reports and your Child Abuse Official Clearance Statement within five (5) business days after you receive them.

2. You must insert the date you sign the Affidavit in the space provided below your signature.

ST-1 STEEL ORIGIN CERTIFICATION: PRIME CONTRACTOR

This form must be executed by the Prime Contractor and submitted to the CIS within 30 days from the date the Professional approves a GSC-23 listing a "steel product". No steel product may be delivered on-site unless DGS has received an ST form. A completed form is required for each type of steel product (e.g., beams, columns, stairways, etc.), from each supplier but not for each piece of steel product.

A. TO BE COMPLETED BY THE PRIME CONTRACTOR:

1. Name of Contractor's firm: _____
2. Firm's address: _____
3. Firm's phone number: _____ 4. Date submitted: _____
5. Contract No. _____ 6. Contract Title: _____
7. Steel Product Certified: _____ 8. GSC-23: _____
9. Name & Address of Supplier: _____

B. TYPE OF STEEL PRODUCT (Check and complete **one (1)** applicable category):

10. _____ **Identifiable steel product:** 100% of the steel in the product is identifiably marked as manufactured in the United States.
 - a. Other documentation required: **NONE**
 - b. Manner in which steel product is identifiable:
 - (1) _____ Stamped "Made in U.S.A."
 - (2) _____ Stamped "Made in _____."
 - (3) _____ Other. Explain: _____
11. _____ **Non-identifiable structural steel:** Less than 100% of the steel contained in the product is identifiable as provided above. Structural steel is defined as steel products used as a basic structural element of a project (i.e., steel beams, columns, decking, stairways, reinforcing bars, structural lintels, pipes, etc.)
 - a. Other documentation **required:** Bills of lading, invoices **and** mill certificates that certify that the steel contained in the product was melted and/or manufactured in the United States.
12. _____ **Non-identifiable non-structural steel:** all other steel products including door and window frames, machines, equipment, etc.
 - a. Other documentation **required:** Executed Form ST-2

CERTIFICATION: I, the undersigned officer of the Contractor, do certify that, to the best of my knowledge, the steel product listed above complies with the provisions of the Steel Products Procurement Act (73 P.S. § 1881, et seq., as amended). I understand that by signing this document I certify that the facts contained herein are true. I further understand that this document is subject to the provisions of the Unsworn Falsification to Authorities (18 P.S. § 4904) and the Steel Products Procurement Act, which provides penalties including, but not limited to, debarment from bidding on any Commonwealth of Pennsylvania public works project for a period of five years. I agree to provide documentation supporting these facts if requested by the Commonwealth. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

WITNESS:

Name:
Secretary or Treasurer

Name: _____ (Seal)
President or Vice President
(Rev. 6/1/99)

**ST-2 STEEL ORIGIN CERTIFICATION:
NON-IDENTIFIABLE, NON-STRUCTURAL STEEL**

This form must be executed by the Purchaser and the Fabricator of any item containing steel that is not structural steel. This form must be submitted to the CIS within 30 days from the date the Professional approves a GSC-23 listing a "steel product". No steel product may be delivered on-site unless DGS has received the ST form. Structural steel is defined as steel products used as a basic structural element of a project (i.e., steel beams, columns, decking stairways, reinforcing bars, pipes, etc.). Purchasers of structural steel products (contractors or subcontractors) must provide bills of lading, invoices and mill certifications that the steel was manufactured in the United States instead of this form. The Fabricator shall be herein defined as the firm that assembles the component parts of the product to be purchased. The Department of General Services will accept the certification of firms that are earlier in the chain of purchase (i.e., manufacturers of components, steel suppliers) in lieu of the Fabricator.

A. TO BE COMPLETED BY THE PURCHASER:

1. Name of purchasing firm: _____
 2. Firm's address: _____
 3. Firm's phone number: _____ 4. Date submitted to Fabricator: ____/____/____
 5. Contract No. DGS _____ 6. Contract title: _____
 7. Steel Product Certified: _____ 8. GSC-23# _____
- Model: _____

B. TO BE COMPLETED BY THE FABRICATOR/MANUFACTURER:

9. Name of firm: _____
10. Address of firm: _____
11. Firm's phone number: _____ 12. Date received: ____/____/____
13. Federal Employer ID. No.: _____

CERTIFICATION: I, the undersigned officer of the Fabricator/Manufacturer, do certify that our firm assembled/fabricated the components to the steel products listed in Section A, Item 7, and that all steel components therein are comprised of steel that is melted and/or manufactured in the United States. I understand that, by signing this document, I certify that I have received assurances from the suppliers/manufacturers of the components that said components do not contain foreign manufactured steel. I further understand that this document is subject to the provision of the Unsworn Falsification to Authorities Act (18 P.S. § 4904). I also understand that I am subject to the provisions of the Steel Products Procurement Act (73 P.S. § 1881, et seq.) which provides penalties including, but not limited to, debarment from supplying any products for Commonwealth of Pennsylvania public works projects for a period of five (5) years for violations therein. I agree to provide documentation supporting these facts if requested by the Commonwealth. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

WITNESS:

Name:
Secretary or Treasurer

Name: _____ (Seal)
President or Vice President

(Rev. 6/1/99)

ST-3 75% U.S. MANUFACTURE CERTIFICATION

The Steel Products Procurement Act (73 P.S. § 1881, et seq.) allows the use of steel products with both foreign and domestic steel if at least 75 percent of the cost of the materials (including steel, rubber, wood, plastic, etc.) in the product are manufactured or produced, as the case may be, in the United States.

This form must be executed by a Fabricator of any item containing BOTH U.S. AND FOREIGN STEEL. The Fabricator shall hereby be defined as the firm that assembles the component parts of the product to be purchased. The Department of General Services will accept the certification of firms that are earlier in the chain of purchase (i.e., manufacturers of components, steel suppliers) in lieu of the Fabricator.

This form must be submitted to the CIS within 30 days from the date the Professional approves a GSC-23 listing a "steel product". No steel product may be delivered on-site unless DGS has received an ST form.

A. TO BE COMPLETED BY THE PRIME CONTRACTOR (PURCHASER):

1. Name of Contractor: _____
2. Address of Contractor: _____
3. Phone Number: _____ 4. Date submitted to Fabricator: ____/____/____
5. Contract No. DGS _____ 6. Contract Title: _____
7. Steel Product Certified: _____ 8. GSC-23# _____
- Model: _____

B. TO BE COMPLETED BY THE FABRICATOR/MANUFACTURER:

9. Name of Firm: _____
10. Address of Firm: _____
11. Firm's Phone number: (____) _____ 12. Date Received: ____/____/____ 13. Fed. Employer ID. No.: _____
14. Percentage of the cost of the articles, materials and supplies which have been mined, produced or manufactured in the U. S. for the product listed above on Line 7: _____

CERTIFICATION: I, the undersigned Officer of the Fabricator/Manufacturer, do certify that our firm assembled/manufactured the components to the steel product listed in Section 7, that the steel in said product is both foreign and domestically manufactured, and that all the facts contained in this document are true. I agree to provide documentation supporting these facts if requested by the Commonwealth. I further understand that this document is subject to the provisions of the Unsworn Falsification to Authorities Act (18 P.S. § 4904) and the Steel Products Procurement Act (73 P.S. § 1881, et seq.) which provide penalties including, but not limited to, debarment from supplying any products for Commonwealth of Pennsylvania public works projects for a period of five (5) years for violations therein. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

Witness:

Name:
Secretary or Treasurer

_____(Seal)
Name:
President or Vice President

(Rev. 6/1/99)

ST-4 NOT DOMESTICALLY MANUFACTURED: PRIME CONTRACTOR

This form must be executed by the Prime Contractor and submitted to the CIS within 30 days from the date the Professional approves a GSC-23 listing a "steel product". No steel product may be delivered on-site unless DGS has received, reviewed and provided written approval of the ST-4 form. An ST-4 form can only be submitted for approval when a steel product is not domestically produced in sufficient quantities. DGS will verify the accuracy of the information on the ST-4 form and will contact additional suppliers/manufacturers to ascertain the availability of a domestic steel product.

1. Prime Contractor: _____ 2. Address: _____
3. Phone Number: _____ 4. Date Submitted: _____ 5. Contract No. DGS: _____
6. Contract Title: _____ 7. Steel Product: _____ 8. GSC-23: _____
9. Suppliers/Manufacturers contacted by the Prime Contractor that claimed that the above product is not produced/manufactured with U.S.-manufactured steel. **At least** four Suppliers/Manufacturers are needed. **Manufacturers listed in specifications must be contacted.**
 - a. Firm Name: _____ Phone Number: _____
 Address: _____ Date Contacted: ____/____/____
 Person Contacted: _____ Phone Number: _____
 - b. Firm Name: _____
 Address: _____
 Person Contacted: _____ Date Contacted: ____/____/____
 - c. Firm Name: _____ Phone Number: _____
 Address: _____ Date Contacted: ____/____/____
 Person Contacted: _____
 - d. Firm Name: _____ Phone Number: _____
 Address: _____ Date Contacted: ____/____/____
 Person Contacted: _____

CERTIFICATION: I, the undersigned Officer of the Contractor, do certify that I have contacted the firms listed in Section 9, and was informed that said firms do not produce/manufacture the steel product listed on Line 7 with U.S. Steel in sufficient quantities to complete the above-referenced project. I understand that this document is subject to the provisions of the Unsworn Falsification to Authorities Act (18 P.S. Sec. 4904) and the Steel Products Procurement Act, which provide penalties including, but not limited to, debarment from bidding on any Commonwealth of Pennsylvania public works project for a period of five years. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

WITNESS:

Name: _____
 Secretary or Treasurer

Name: _____
 President or Vice President

(Rev. 6/1/99)

(SEAL)

**PARTNERSHIP AGREEMENT
BETWEEN
THE SCHOOL DISTRICT OF PHILADELPHIA
AND
THE PHILADELPHIA BUILDING TRADES**

This Agreement (hereinafter, the "Agreement") is entered into this ____ day of _____, 2006 by and between the School District of Philadelphia ("School District") and its successors or assigns, and the Philadelphia Building and Construction Trades Council ("Council"), its member unions and/or the undersigned unions ("Unions") (listed in Appendix A), with respect to the work within the scope of this Agreement, which scope is defined below.

WHEREAS, the Parties to this Agreement acknowledge that the timely construction of School District projects is critical to the education that the School District can provide to the school children of Philadelphia, Pennsylvania; and

WHEREAS, School District and its Construction Managers, reflecting the objectives of the School District, desire to provide for the efficient, safe, quality, and timely completion of Projects in a manner designed to afford the lowest reasonable costs to the School District and the public it represents, and to achieve the advancement of public policy objectives; and

WHEREAS, this Agreement will foster the achievement of those goals by, among other things:

1. avoiding the costly delays of potential strikes, slowdowns, walkouts, picketing, handbilling, and any other disruptions or interference with work, and promoting labor harmony and peace for the duration of the Project;
2. permitting flexibility in the conditions of employment of individuals employed to complete those Projects;
3. furthering public policy objectives, to the extent lawful, so as to improve employment opportunities for minorities, women, Philadelphia residents and the economically disadvantaged in the construction industry; and
4. expediting the process for the completion of Projects covered by this Agreement;
5. committing the Parties to cooperation regarding the availability of needed labor from the construction and supporting crafts whose members possess the skills, experience, and qualifications that are vital to the Projects completion;

WHEREAS, the Parties are committed to providing open access to bidding opportunities for all contractors and to assuring an adequate supply of craft workers possessing the requisite skills and training in order to provide a Project of the highest quality.

AND WHEREAS, the signatory Unions desire the stability, security, and work opportunities made possible by this Agreement;

NOW THEREFORE, the Parties enter into this Agreement.

It is understood by the Parties to this Agreement that if this Agreement is ratified, it will become the policy of the School District that the work covered by this Agreement shall be contracted exclusively to Contractors who agree to execute and be bound by the terms of this Agreement. Therefore, the Council and Unions agree that other Contractors may execute the Agreement for purposes of covering such work.

The School District shall monitor the compliance with this Agreement by all Contractors.

The School District, the Council, the Unions, and all signatory Contractors agree to abide by the terms and conditions contained in this Agreement.

ARTICLE II - DEFINITION

As used herein:

A. "Construction Manager" shall mean the entity designated by the School District to oversee projects undertaken within the scope of this Agreement.

B. "Contractor" shall mean all contractors and subcontractors of whatever tier engaged in on-site construction work within the scope of this Agreement.

C. "Council" shall mean the Philadelphia Building and Construction Trades Council.

D. "Local residents" shall mean persons who have resided in the City and County of Philadelphia for a period of not less than thirty (30) days prior to the date of dispatch and/or referral at a place not established or subsidized by a Contractor covered by the Agreement.

E. "PSIT" shall mean the Philadelphia School Improvement Team of the School District of Philadelphia.

F. "School District" shall mean the School District of Philadelphia.

G. "Union" shall mean any of the unions listed in Appendix A. "Unions" shall mean all such unions.

ARTICLE III-SCOPE OF AGREEMENT

A. Covered Work. This Agreement shall apply to all work as defined in Section B of this Article required by the School District to be performed on or after the effective date of this Agreement where the entire cost, value or amount of such work, including materials, shall exceed the total aggregated value of Ten Thousand Dollars (\$10,000). In the event the Public School Code is amended and the public-bidding dollar threshold is modified, the amounts set forth in Sections A and B of this Article will be modified to reflect that change.

B. Basic Scope. This agreement shall be applicable to all work of any nature required by the School District for the construction, reconstruction, alteration, or maintenance of any School District facility or structure where the entire cost, value or amount of such work, including materials, shall exceed the total aggregated value of Ten Thousand Dollars (\$10,000) (hereinafter referred to as a "Project").

C. Exclusions From Scope. Items specifically excluded from the scope of this Agreement include the following:

1. Maintenance or renovation work under \$50,000 in total aggregate value, including materials, performed by employees of the School District in facilities owned by the School District. Emergency work performed by employees of the School District in facilities owned by the School District.
2. Work of non-manual employees, including but not limited to, superintendents, supervisors, staff engineers, inspectors quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers (including messengers, guards, safety personnel, and emergency medical and first aid technicians), and other professional, engineering (excluding layout and survey work), administrative, supervisory, and management employees.
3. Work on equipment and machinery owned or controlled and operated by the School District.
4. All employees of PSIT, construction management firms, design teams, or any other consultant not performing manual labor within the scope of this Agreement.
5. Any work performed on or near or leading to or onto the site of work covered by this Agreement and undertaken by state, county, city, or other governmental bodies, or their contractors; or by public utilities or their contractors; and/or by the School District or its contractors (for work which is not part of the scope of this Agreement).
6. Off-site maintenance of leased equipment and on-site supervision of such work.
7. Exploratory geophysical testing.

8. Laboratory or specialty testing or inspections not ordinarily done by the signatory unions.

9. Non-construction support services contracted by the School District or PSIT in connection with this Project.

10. All employees of the School District, or of any state agency, authority, or entity or employees of any municipality or other public employer who are performing work outside of the scope of this agreement.

11. All employees and entities engaged in ancillary work performed by third parties, such as electric utilities, gas utilities, and telephone companies.

D. Supremacy Clause. This Agreement represents the complete understanding of all signatories. The Unions agree to abide by the terms and conditions contained in this Agreement, including application to subcontractors of identified contractors on any given project provided they conform to the terms of this Agreement.

E. Contract Award-Consent to Agreement.

1. It is agreed that this Agreement will be included in contract specification bid documents for all work within the scope of the Agreement. It is further agreed that all subcontractors of a Contractor, of whatever tier, who have been awarded contracts of work covered by this Agreement on or after the effective date of this Agreement shall be required to accept and to be bound by the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Agreement or a Letter of Assent, prior to the commencement of work. A copy of the Agreement or Letter of Assent executed by the Contractor shall be available for review by the Council and Unions.

2. Prior to commencing work under this Agreement, employers shall be signatory to the Philadelphia Building and Construction Trades Agreement or appropriate Building Trades local union agreements, which any contractor assigned to perform work by the School District shall be permitted to execute. These local agreements are attached as Appendix B.

F. Craft Jurisdiction. This Agreement shall generally recognize the traditional craft jurisdiction of the signatory unions except as modified by agreement as necessary for the cost-effective completion of project covered by this Agreement and shall require signatory contractors to abide by said traditional craft jurisdiction. The School District will utilize the area collective bargaining agreements of signatory unions as reference to establish the signatory unions' basic jurisdiction.

G. Liability. It is understood that the liability of the Contractor and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the School District and/or PSIT and/or Construction Managers and/or any Contractor.

H. School District Employees Excluded. None of the provisions of this Agreement shall be construed to prohibit or restrict the School District or its employees from performing work not covered by this Agreement on or around the construction site. As work subject to this Agreement is accepted by the School District, the Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the School District to engage in repairs or punch list modifications.

I. Termination By School District. It is understood that the School District, at its sole option, may terminate, delay, and/or suspend any and all portions of the covered work at any time.

J. Employment from Other Sources. In the event the Unions either fail, or are unable, to refer qualified minority or female applicants in percentages equaling any Contractor's affirmative action goals, the Contractor may, consistent with the provisions of the appropriate underlying collective bargaining agreement, employ qualified minority or female applicants from any other available source. The Contractor shall inform the Union of the name of any applicants hired from other sources.

ARTICLE IV-UNION RECOGNITION AND EMPLOYMENT

A. Recognition. Contractors identified to perform work under this Agreement by the School District of Philadelphia shall, consistent with Article II, recognize each union as the collective bargaining agent for the construction craft employees who are represented by that union on projects undertaken by the contractor. Unions' signatory to this Agreement will have recognition on projects of the contractor within the scope of this Agreement.

B. Contractor's Right of Selection. Subject to the provisions of this Agreement, the Contractor shall have the right to determine the competency of all employees and the number of employees required, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section C of this Article.

C. Union Referral. For Unions now having a job referral system, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as it may be modified by this Article and only to the extent required by this Agreement. Such job referral system will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship and training, will be operated so as to facilitate the ability of the contractors to

meet any and all equal employment opportunity/affirmative action obligations. Consistent with the underlying collective bargaining agreement, the Contractor may reject any referral for any lawful reason.

D. No Cross-Referrals. The Unions shall not knowingly refer an employee currently employed by any Contractor working under this Agreement to any other Contractor, nor shall any Union engage in any activity which encourages workforce turnover or absenteeism.

E. Union Good Faith Efforts. The Unions will exert their good faith efforts to recruit sufficient numbers of skilled craft workers to fulfill the manpower requirements of the Contractor, including calls to local unions in other areas when its referral lists have been exhausted.

F. Local Workers and Apprentices.

1. The Parties to this Agreement support the development of increased numbers of skilled construction workers from City residents to meet the needs of the Project and the requirements of the industry generally. Toward that end, the Parties agree to a goal that local residents will perform twenty-five percent (25%) of all hours worked, on a craft-by-craft basis. The Parties further agree to a goal that apprentices who are local residents will perform twenty percent (20%) of all apprentice hours worked, on a craft-by-craft basis.

2. For the length of this Agreement, the Unions agree that they shall initiate and maintain recruitment programs and policies to recruit at least 250 new, apprentice candidates into the combined apprentice programs of signatory unions, who will be graduates of the School District. The Unions agree that the Apprentice commitment will be met in stages with 25% of the total commitment of apprentices in year 1, 25% of the total commitment of apprentices in year 2, 25% of the total commitment of apprentices in year 3 and 25% of the total commitment of apprentices in year 4. Apprentices will be apportioned among the signatory unions in accordance with Exhibit "A" as attached.

3. The Unions agree to cooperate with the Contractors in furnishing workers who are local residents, including apprentices who are local residents, as requested, and they shall be properly supervised and paid in accordance with this Agreement.

4. The Unions agree to work cooperatively with the School District to expand lists of referrals.

G. Employment of Minority, Women, Disadvantaged Workers. Minority-and women-owned Contractors who have not previously been signatory to collective bargaining agreements with unions participating in this Agreement shall, if awarded a contract within the scope of the Agreement, be permitted to utilize all of its employees on a covered project. These employees will be referred for admission to the appropriate craft union for journeyman

assignment or apprentice recruitment. In conjunction with the Contractor, the appropriate craft union will be responsible for developing evaluative tools and a process for placing such employees into the appropriate level of apprenticeship or into journeymen status.

H. Compliance. The Contractors and Unions shall reach the goals set forth in Section F through the utilization of normal hiring hall procedures described in this Article and, the identification of potentially qualified apprentices through community-based organizations working in collaboration with the apprentice programs. If the goals cannot be reached through normal hiring hall procedures, the Unions and Contractors will take additional steps to recruit qualified individuals from outside of the hiring hall process to meet these goals. In cases of alleged noncompliance, the issue may be referred by the School District to the Partnership Committee otherwise described herein. If a majority of the Committee can make no resolution, the issue may then be referred by the Committee to the dispute resolution procedure of Article XI(C) for submission to the Sitting Arbitrator for a final and binding determination. For purposes of resolution of any dispute arising under this Section, the School District shall be considered a party-in-interest with full right of participation in the arbitration proceeding.

ARTICLE V-DISPUTES AND GRIEVANCES

A. Intent of Parties.

1. This Agreement is intended to provide close cooperation between management and labor. The School District and the Council shall each assign a representative to this Project for the purpose of facilitating the completion of the construction of the Project economically, efficiently, continuously, and without interruption, delay, or work stoppage.

2. The School District, Contractors, Unions, and employees, collectively and individually, acknowledge the importance to all Parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the arbitration provisions set forth in this Article.

B. Procedure. Except as otherwise provided herein, any question arising out of and during the term of this Agreement involving its interpretation and application (other than alleged violation of Article VI), including the terms and conditions of employment as provided in Article VII, shall be considered a grievance and subject to resolution under the procedure contained in the respective collective bargaining agreement of the affected union. No Contractor shall be required to utilize the services of any employer organization which might be otherwise specified in the grievance and arbitration provisions of the relevant union's collective bargaining agreement as described in Article VIII of this Agreement.

ARTICLE VI-WORK STOPPAGES AND LOCKOUTS

A. No Strikes, Work Disruptions. Except with regard to the non-payment of fringe benefit payments or wages or the remission of monies withheld from such wages, there shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, sickouts, handbilling, or other disruptive activity for any reason, including disputes relating to negotiation or renegotiations of the local collective bargaining agreements of Unions signatory to this Agreement, or disputes directed at non-construction service companies on School District property, by the Union(s) or employees, or affecting any School District property, for any reason during the term of this Agreement, and there shall be no lockout by a Contractor. Failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to the Agreement, or by any other organization or individual at or in proximity to the Project construction site is a violation of this Article.

B. Union Responsibilities. Except with regard to the non-payment of fringe benefit payments or wages or the remission of monies withheld from such wages, the Union shall not sanction, aid or abet, encourage, or continue any work stoppage, strike, sympathy strike, slowdown, sickout, picketing, handbilling, or any interruption of work or any disruptive activity. No employee shall engage in activities which violate this Article, and the Union shall pursue all disciplinary action permitted by its Constitution and By-laws against any employee who engages in an activity which violates this Article. The signatory Union shall be responsible for any action of its members which violates this section.

ARTICLE VII-TERMS AND CONDITIONS OF EMPLOYMENT

A. Except to the extent specifically modified by this Agreement, all employees covered by this Agreement shall be employed on work performed under this Agreement pursuant to the terms and conditions of employment contained in the then-obtaining collective bargaining agreement between the union representing that employee's craft and the appropriate employer association whose contract covers the nature of the work being performed. In the event that the contract of two or more employer organizations might be applicable to that work, the union shall designate in writing the appropriate contract to serve as the basis of reference.

B. In the event that the terms and conditions of such agreements should be modified during the terms of this agreement, the affected union(s) shall be required to provide written notice of each such change to the School District and all affected contractors. Such changes shall become effective on the same date and in the same manner as provided in such agreements.

C. Contractors who are signatory to this agreement shall be bound by the written terms of any Trust Agreement specifying the detailed basis on which payments are to be paid into, and benefits paid out of, such Trust Funds, but only with regard to work done under this Agreement and only for employees to whom this Agreement requires such benefit payments.

ARTICLE VIII-NON-DISCRIMINATION

A. Compliance. The Contractors and Unions agree that they will not discriminate against any individual because of race, color, religion, sex, national origin, age, marital status, or physical or mental disability in any manner prohibited by law or regulation. Any complaints regarding the application of this provision shall be brought to the immediate attention of the involved Contractor and School District for consideration and resolution.

B. Training Programs. It is recognized that special procedures may be established by joint agreement of the Parties to this Agreement and governmental agencies for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The Parties agree that they will make all good faith efforts to assist in the proper implementation of such orders, regulations, or agreements for the general benefit of the residents of Pennsylvania. To the extent the School District establishes programs to prepare its students for entry into Apprenticeship programs of participating unions, graduates of such programs will be given preference for Apprentice opportunities.

C. Policies – Commitments. The School District is committed to the use of minority, small and disabled businesses. It is recognized that the School District may adopt certain policies and commitments for the utilization of business enterprises owned and/or controlled by minorities and/or women. The Parties shall jointly endeavor to assure that these commitments, and any amendments that may be adopted by the School District during the life of this Agreement, are fully met and that any provisions of this Agreement which may appear to interfere with any minority- or women-owned business enterprise successfully bidding for work within the scope of this Agreement shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the Parties, to assure full compliance with the spirit and the letter of the School District's policies and commitments and all applicable federal, state, and local rules and regulations relating to employment and utilization of minorities and minority- and/or women-owned businesses.

ARTICLE IX-SAVINGS AND SEPARABILITY

A. Intent of Parties. It is not the intention of either the Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractor and Union agree that if and when any provisions of this Agreement are finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will enter promptly into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the Parties hereto.

B. Force & Effect of Partnership Agreement. The Parties recognize the right of the School District to withdraw, at its absolute discretion, the utilization of this Agreement as part of any bid specification should a court of competent jurisdiction issue any order which could result, temporarily or permanently, in delay of the bidding, awarding, and/or construction work on the Project. Notwithstanding such an action by the School District, or such court order, the Parties agree that the Agreement shall remain in full force and effect on the Project, to the maximum extent legally possible.

C. Non-Waiver of Article VI. The occurrence of events covered by Sections A and/or B above shall not be construed to waive the prohibitions of Article VI.

ARTICLE X-APPRENTICES

A. Need For. The Parties recognize the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, and the Contractor(s) will employ apprentices in their respective crafts to perform work within their capabilities and customarily performed by the craft in which they are indentured.

B. Ratios. The Union agrees to cooperate with the Contractor in furnishing apprentices in accordance with the provisions of Article III, Section G. Except as provided by law, there shall be no restrictions on the utilization of apprentices in performing the work of their craft provided they are properly supervised. Each union will establish a goal that will allow for the achievement of the overall goal set forth in Article II, Section F. Each union will examine its internal processes including its application and testing procedures in order to facilitate availability of apprenticeship programs for School District of Philadelphia graduates.

C. Formation of Joint Vocational Initiatives. A core purpose of this Agreement shall be to establish joint partnership initiatives which further the interest and activities of the School District of Philadelphia, participating contractors and building trades unions collectively and individually. Upon execution of this Agreement, the School District of Philadelphia, participating Contractors, and the Council shall appoint a Joint Vocational Committee. Membership on this committee shall include appropriate School District representatives, participating contractors, and representatives from the Philadelphia Apprenticeship Coordinators Association identified through the Council. The Joint Vocational Committee shall be responsible for the following:

- The Unions collectively will hold four (4) apprenticeship seminars at which they will arrange for School District of Philadelphia students to fill out actual applications for union apprenticeship programs; all participating unions will inform the Office of Education to Careers of testing dates and application acceptance periods for apprenticeship programs;
- Establishing structured and regular presentations in School District schools by local apprenticeship schools regarding opportunities provided through trades

training;

- Developing direct links between the School District's educational activities and apprenticeship admission;
- Monitoring entrance of School District graduates into apprenticeship programs and tracking outcomes regarding involvement of graduates in local apprenticeship programs;
- Developing and implementing training programs utilizing apprenticeship school resources to train School District employees in specific craft activity;
- Reporting on the participation of School District's graduates in the Apprentice programs of signatory unions; and
- Linking the Council's existing Diversity Apprenticeship Program with School District activities to enhance entrance of graduates into apprenticeship activities.

D. Built-Rite. To ensure the effective flow of communication, resolve disputes, enhance safety, quality, productivity and schedule and to promote harmonious relations, the parties agree to participate in the BUILT-RITE Construction Labor Management Program administered by the Philadelphia Area Labor Management Committee. BUILT-RITE will be responsible for facilitating the activities of the Partnership Committee and acting as staff to the Committee and will develop necessary and structured communication processes including adherence to the BUILT-RITE pre-job process and the BUILT-RITE dispute resolution process.

ARTICLE XI-ADMINISTRATION OF AGREEMENT

A. Formation of Partnership Committee. The signatories to this Agreement shall agree to establish a Partnership Committee. The Partnership Committee shall be composed of twelve (12) members. Four (4) individuals shall be appointed by the School District of Philadelphia, four (4) individuals shall be appointed by the Philadelphia Building and Construction Trades Council, and four (4) members will be identified from contractors who have demonstrated success in performing on School District Projects, with consideration given to Industry Association participation. The Partnership Committee shall meet as required, but not less than once each quarter, to review performance and the operation of this partnership.

B. Purposes of Partnership Committee. The purposes of the Partnership Committee are as follows:

1. To improve communications between representatives of the various parties and engender cooperation and harmonious relations regarding performance of work at School District of Philadelphia locations.

2. To provide a forum for open and honest discussion of problems confronting the School District of Philadelphia, participating contractors and building trades unions.

3. To study and explore ways of increasing productivity at each site and system wide.

4. To eliminate potential disputes before they arise, and promptly assist in fairly resolving disputes when they do arise.

5. To oversee the development and implementation of initiatives described within this Agreement which promote the joint interests of the Philadelphia School District, its contractors and building trades unions.

6. The Partnership Committee established within this Agreement shall bear responsibility for ensuring that initiatives undertaken as a result of this Agreement are pursued vigorously and successfully. The failure of any party to comply with this Agreement in its entirety shall provide the basis for reconsideration of continuation of the Agreement.

C. Agreement Interpretation. Questions and/or disputes arising from the interpretation of this Agreement shall be administered by the Partnership Committee. The Partnership Committee will, upon its inception, establish guidelines by which this process will take place. Agreement of the School District of Philadelphia, its contractors and building trades unions signatory to this Agreement will be required for changes to this Agreement.

D. Grievances. Grievances arising from the interpretation of this Agreement will be adjudicated through the Partnership Committee as outlined in Section C above. In the event that the members of the Committee should deadlock, the issue may be submitted by any concerned party for final and binding resolution to Sitting Arbitrator, Ralph Colflesh. Grievances regarding employer/employee disputes will be adjudicated through existing collectively- bargained adjudication processes as otherwise provided herein.

ARTICLE XII-TERM OF AGREEMENT

A. This Agreement shall become effective upon execution by the undersigned and shall remain in full force and effect for a period of four years thereafter.

B. The Agreement shall remain in full force and effect for renewal periods of one year thereafter unless and until one party notifies the other at least ninety (90) days prior to such renewal of their desire to modify or terminate such agreement. In the event this Agreement renews pursuant to this Section, the Unions agree that Apprenticeship commitments of Article III, §G, will be expanded by continuing the year 4 commitment as a new year 5 commitment.

SCHOOL DISTRICT OF
PHILADELPHIA

By: 

June 7, 2006
Date

PHILADELPHIA BUILDING AND
CONSTRUCTION TRADES COUNCIL

By: 

6/7/06
Date

ADDENDUM "A"

APPRENTICESHIP COMMITMENT

SIGNATURES

ASBESTOS WORKERS LOCAL #14	<u>10</u>	<u>Martin Campbell</u> Martin Campbell
BOILERMAKERS LOCAL #13	<u>4</u>	<u>James Banford</u> James Banford
BRICKLAYERS & ALLIED CRAFT #1	<u>12</u>	<u>John Phillips</u> John Phillips
CARPENTERS REGIONAL COUNCIL	<u>100</u>	<u>Edward Coryell</u> Edward Coryell
CEMENT MASONS LOCAL #592	<u>10</u>	<u>Mike Fera</u> Mike Fera
I.B.E.W. LOCAL UNION #98	<u>80</u>	<u>John Dougherty</u> John Dougherty
ELEVATOR CONSTRUCTORS #5	<u>5</u>	<u>Joseph P. Rapine Jr.</u> Joseph Rapine Jr.
IRON WORKERS LOCAL #401	<u>20</u>	<u>Joseph Dougherty</u> Joseph Dougherty
LABORERS LOCAL #332	<u>12</u>	<u>Samuel Staten Sr.</u> Samuel Staten Sr.
INT'L UNION OF OPERATING ENGINEERS LOCAL #542	<u>8</u>	<u>Robert Heenan</u> Robert Heenan
INT'L UNION OF PAINTERS & ALLIED TRADES DISTRICT COUNCIL #21	<u>30</u>	<u>Harry Williams</u> Harry Williams
PLASTERERS LOCAL #8	<u>10</u>	<u>Thomas Kilkeny Jr.</u> Thomas Kilkeny Jr.
PLUMBERS UNION LOCAL #690	<u>10</u>	<u>Edward C. Keenan</u> Edward C. Keenan
REINFORCED IRON WORKERS RIGGERS & MACHINERY MOVERS LOCAL #405	<u>4</u>	<u>Al Frattini</u> Al Frattini


ADDENDUM "A"

**APPRENTICESHIP
COMMITMENT**

SIGNATURES

**ROOFERS & WATERPROOFERS
LOCAL #30**

40


Tom Pedrick

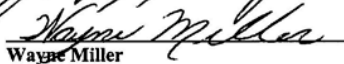
SHEET METAL WORKERS LOCAL #19

30


Joseph Sellers Jr.

SPRINKLER FITTERS #692

10


Wayne Miller

STEAMFITTERS LOCAL #420

30


Tom Gallo



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Date _____

Business or Organization Name (Employer) _____

Address _____

City _____ State _____ Zip Code _____

☐ Contractor ☐ Subcontractor (check one)

Contracting Public Body _____

Contract/Project No _____

Project Description _____

Project Location _____

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, _____, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

Authorized Representative Signature

SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

1. GENERAL STATEMENT


- 1.1 The following Supplementary Conditions act to modify, change, and/or add to the School District/Contractor Agreement and the documents incorporated or described therein. Where any article, paragraph or subparagraph of the said documents is modified, supplemented or voided by these Supplementary Conditions, the unaltered parts of said documents shall remain in effect. The General Conditions and the Supplementary Conditions are applicable to all of the Work under the Contract and shall apply to the Contractor and all Subcontractors and Sub-subcontractors.

2. DEFINITIONS

- 2.1 "Board" shall mean the Board of Education, School District of Philadelphia.
- 2.2 "School District" and "Owner" shall mean the School District of Philadelphia, Pennsylvania or the authorized representative thereof.
- 2.3 NOT USED
- 2.4 NOT USED
- 2.5 "Architect/Engineer" shall mean the firm or person or the authorized representative thereof, identified or designated as such elsewhere in the Contract Documents.
- 2.6 "Construction Manager" shall mean the firm or person or the authorized representative thereof, identified or designated as such elsewhere in the Contract Documents.
- 2.7 "Project" shall mean the entire construction work as indicated on the Drawings and described in the Specifications for the construction project on the site located in Philadelphia, Pennsylvania.
- 2.8 "Contractors" or "Prime Contractors" or "separate Contractors" shall mean the separate multiple construction contractors, or their authorized representatives thereof, and all their Subcontractors performing separate general construction work (which shall include civil, structural, roofing, architectural, utilities, paving and landscaping), heating, ventilating and air conditioning (HVAC) work, plumbing work, or electrical work, pursuant to separate multiple construction contracts ("Prime Contracts"), or construction contractors performing additional, different or other Project work pursuant to separate construction contracts with the School District under the multi-prime bidding and contracts requirements of the Public School Code, 24 P.S. §7-751, for the Project. "Contractor" shall also mean each separate Prime Contractor or the authorized representatives thereof, and their personnel, and all their Subcontractors, as the context requires.
- 2.9 "Approval" or "Approved" shall mean the written approval of the Board or its authorized representative. "Approve" or "Approval" where used in conjunction with the Architect/Engineer's responses to submittals, requests, applications, inquiries, reports and claims by the Contractor shall be limited by the Architect/Engineer's responsibilities and duties as specified in the General Conditions and Supplementary Conditions. In no case shall "approve" or "approval" by the Architect/Engineer be interpreted as a release of the Contractor from responsibilities to fulfill requirements of the Contract Documents.
- 2.10 "As Shown", "As Indicated", "As Detailed": These words, and words of like implication, refer to information contained by Drawings describing the Work, unless explicitly stated otherwise in other Contract Documents.
- 2.11 "Plans" or "Drawings": All Drawings or reproductions of Drawings pertaining to required Work.

- 2.12 "Provide": As a directive to the Contractor, meaning, "newly furnish and install completely ready for intended use" unless otherwise indicated elsewhere in the Contract Documents.
- 2.13 "Indicated": Shown on Drawings, noted on Drawings, specified, or a combination thereof.
- 2.14 "Furnish": Purchase and supply new and deliver to Project site, ready for operations at Project site, and for School District's ownership and intended usage.
- 2.15 "Install": Set in place and make usable that which is furnished.
- 2.16 "Necessary": Needed, as reasonably inferable from Contract or required, in order to make Work complete and available for use.
- 2.17 Descriptions, provisions and requirements pertaining to method and manner of performing Work, or to quantities and qualities of materials to be furnished under the terms of the Contract
- 2.18 NOT USED
- 2.19 Except as provided above, all of the defined terms in these Supplementary Conditions have the meanings set forth in the School District/Contractor Agreement and the General Conditions.
- 2.20 The term "day" as used in these Supplementary Conditions shall mean calendar day unless otherwise specifically designated. The terms "business day", "working days", and "work days" as used in these Supplementary Conditions shall mean Monday through Friday, excluding holidays observed by the School District.
- 2.21 The term "or" as used in these Supplementary Conditions shall mean "and/or".
- 2.22 Where required hereunder to effectuate the intent of these Supplementary Conditions, words used in the singular shall be construed to mean or include the plural and vice versa; and pronouns of any gender shall be deemed to include and designate the masculine, feminine and neuter genders.

3. WORK PREPARED UNDER SEPARATE CONTRACTS

- 3.1 NOT USED 
- 3.2 The SRC may perform Work related to the Project with its own forces, or may undertake or award other separate contracts or additional, other or different Work and may install equipment and furniture in the building or on the grounds, concurrently with this Contract. The other separate Contractors, along with their Subcontractors, will perform all construction work on the Project concurrently with this Contract. The Contractor shall fully cooperate with such other separate Contractors and School District employees, and carefully fit his own Work to such additional, other or different Work as may be directed by the School District. The Contractor shall coordinate and supervise the Work of this Contract with the Work performed by the other separate Contractors by mutual agreement and School District employees. The Contractor shall not commit or permit any act that will interfere with the performance of Work by any other separate Contractor or by School District employees. The School District shall finally resolve any unresolved disputes on the Project.

4. DETAILED COST BREAKDOWN

- 4.1 Before the first Application for Payment, the Contractor shall submit to the School District, on forms furnished by the School District, an Accurate and Detailed Cost Breakdown for the various portions of the Work, supported by such data as to substantiate its accuracy as the

School District may require, including, but not limited to, quantities of the respective items and the allowance for labor, materials and other costs entering into each item. The Cost Breakdown in conjunction with the coordinated CPM Construction schedule (as defined in Paragraph 23 of these Supplementary Conditions) shall be used as the basis for the Contractor's Application for Payment, and only for this purpose.

4.2 Coordination: Coordinate preparation of the Detailed Cost Breakdown with preparation of the Contractor's Construction Schedule in accordance with the General Conditions and Paragraph 4 of the Supplementary Conditions.

4.3 Format and Content: Use the Specifications Table of Contents as a guide to establish the format for the Detailed Cost Breakdown. Provide at least one line item for each Specification Section in Divisions 2 through 33 as applicable.

4.3.1 Identification: Include the following Project identification on the Detailed Cost Breakdown:

- (a) Project name and location.
- (b) Project number.
- (c) Contractor's name and address.
- (d) Date of submittal.

4.3.2 Arrange the Detailed Cost Breakdown in tabular form with separate columns to indicate the following for each item listed:

- (a) Related Specification Section or Division.
- (b) Description of Work.
- (c) Name of subcontractor.
- (d) Name of manufacturer or fabricator.
- (e) Name of supplier.
- (f) Change Orders (numbers) that affect value.
- (g) Dollar value.

- (i) Percentage of Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.

4.3.3 Provide a breakdown of the Contract Sum in sufficient detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Break principal subcontract amounts down into several line items.

4.3.4 Round amounts to nearest whole dollar; the total shall equal the Contract Sum.

4.3.5 Provide a separate line item in the Detailed Cost Breakdown for each part of the Work where Applications for Payment may include materials or equipment, purchased or fabricated and stored, but not yet installed.

- (a) Differentiate between items stored on-site and items stored off-site. Include requirements for insurance and bonded warehousing, if required.

4.3.6 Provide separate line items on the Detailed Cost Breakdown for initial cost of the materials, for each subsequent stage of completion, and for total installed value of that part of the Work.

4.3.7 Margins of Cost: Show line items for indirect costs and margins on actual costs only when such items are listed individually in Applications for Payment. Each item in the Detailed Cost Breakdown and Applications for Payment shall be complete. Include the total cost and proportionate share of general overhead and profit margin for each item.

- (a) Temporary facilities and other major cost items that are not direct cost of

actual work-in-place may be shown either as separate line items in the Detailed Cost Breakdown or distributed as general overhead expense, at the Contractor's option.

- 4.3.8 Schedule Updating: Update and resubmit the Detailed Cost Breakdown prior to the next Applications for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

5. PROGRESS PAYMENTS

- 5.1 Starting thirty (30) calendar days after the date of Notice to Proceed, the Contractor shall submit to the Architect/Engineer an itemized Application for Payment in the form prescribed in Paragraph 5.5 of these Supplementary Conditions, supported by such data substantiating the Contractor's right to payment as the School District may require.
- 5.2 Progress Payments shall be made for Work completed and material delivered and properly stored in accordance with the General Conditions.
- 5.3 The Contractor shall receive Progress Payments in accordance with Article GC-9 of the General Conditions.
- 5.4 Payments for off-site stored materials, supplies and equipment shall not be considered.
- 5.5 Applications for Payment shall be prepared by the Contractor on forms obtained from the School District. The Contractor shall indicate on these forms the quantity and value of the Work done and materials incorporated by the Contractor to the end of the application period. The Contractor shall also break down the total Work completed to date of submission on these forms. Applications for payment shall be submitted to the School District, in a penciled type format by the 20th day of each month, and may include projected costs to the 30th day of the month. The School District, shall review and adjust the invoice as required, and return it to the Contractor, who shall then make the indicated corrections to the values, and submit a final hard notarized original, along with five (5) copies to the School District, by the 25th day of each month.
- 5.5.1 Application for Payment at Substantial Completion: Following issuance of the Certificate of Substantial Completion, submit an Application for Payment.
- 5.5.2 Administrative actions and submittals that shall precede or coincide with this application include:
- (a) Warranties (guarantees) and maintenance agreements.
 - (b) Final cleaning.
 - (c) Application for reduction of retainage and consent of surety.
 - (d) List of incomplete Work, recognized as exceptions to Architect/Engineer's Certificate of Substantial Completion.
- 5.5.3 Final Payment Application: Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include the following:
- (a) Completion of Project closeout requirements.
 - (b) Completion of items specified for completion after Substantial Completion.
 - (c) Ensure that unsettled claims will be settled.
 - (d) Ensure that incomplete Work is not accepted and will be completed without undue delay.
 - (e) Transmittal of required Project construction records to the School District.
 - (f) Proof that taxes, fees, and similar obligations were paid.
 - (g) Removal of temporary facilities and services.
 - (h) Removal of surplus materials, rubbish, and similar elements.
- 5.6 Materials in reasonable quantities, which are delivered to the Project site, properly stored

either on the site, during the Project, or inside the building, and accepted for incorporation in the Work but not yet so used, may be included on Applications for Payment, only after prior approval has been granted by the School District. The Contractor shall submit with the Applications for Payment reflecting the unincorporated material, original and five (5) copies of itemized, receipted invoices showing payment of such material by the Contractor and delivery slips certifying to the delivery of the quantities set forth on the estimate to the Project site of the Work. Payment for materials stored on the Project site shall be based on actual cost for same as shown by the receipted invoices and shall not exceed the cost of materials as indicated on the approved Detailed Cost Breakdown for the particular items involved. The Contractor shall mark or identify such materials as being the property of the School District, and shall be solely responsible for such materials' safekeeping and usability at the time they are to be incorporated in the Work, and shall at his own expense care for, protect same, and take out insurance against theft, loss from any other cause, damage, destruction and/or such other risks as may be involved, which would render the aforesaid materials unfit or unavailable for incorporation into the Work. The Contractor shall not remove the materials from the Project site or any approved storage area, except for incorporation into the Work, without first requesting and receiving prior written consent of the School District.

- 5.7 Should a dispute arise between the School District and the Contractor, which dispute is based upon increased costs caused by, or claimed to be caused by, actions or inactions of another Contractor or Contractors, the School District may withhold additional retainage in the sum of one and one-half (1-1/2) times the amount of any possible liability arising from such dispute until such dispute is finally resolved by agreement of all parties involved or by a court order or judgment entered in a legal action, suit, or proceeding, unless the Contractor causing the additional claim furnishes a bond satisfactory to the School District to indemnify the School District against said claim.
- 5.8 Applications for payment shall not include requests for payment on account of changes in the Work that have not yet been included in a Change Order approved by the Board. Applications for payment shall not include "extra work", "additional work" or "changed work" of the Contractor, Subcontractors, or Sub-subcontractors that has not been approved by the School District and included in a Change Order approved by the Board. Applications for payment shall not include damages, costs, fees, and expenses of the Contractor, Subcontractors, or Sub-subcontractors that have not been approved by the School District for payment and included in a Change Order approved by the Board.

6. TRAFFIC MAINTENANCE, CONTROL, AND TEMPORARY WORK

- 6.1 Whenever the Contractor's operations affect vehicular or pedestrian traffic, the Contractor shall be responsible for the installation and maintenance of any and all traffic control devices as deemed necessary by the authority having jurisdiction.
- 6.2 The Contractor shall keep temporary Work from blocking access to completed Work. If, however, conflict with normal traffic access occurs, he shall provide temporary bypass routing until such temporary Work is completed.
- 6.3 The Contractor shall move all temporary Work previously installed from the premises after it is no longer needed, and before completion of the Contract, provided, however, that the Contractor shall maintain certain of the temporary Work on the Project site until the Project is Substantially Complete, as necessary, including but not limited to, construction fences, barricades and other protection.

7. APPROACHES AND WALKWAYS

- 7.1 The Contractor shall provide and maintain all necessary approaches, exits and walkways required to properly execute his Work, including traffic Flagman, barriers and signage, in such a manner so as to provide public pedestrian safety, and not to interfere with the access and the Work of the other separate Contractors.

- 7.2 Any damage to property not existing at the time of the Notice to Proceed shall be repaired by the Contractor who did the damage, at no additional cost to the School District.

8. EQUIPMENT OR WORK NOT IN CONTRACT (NIC)

- 8.1 When certain items of equipment and other work are indicated as "NIC" (Not in Contract), or to be furnished and installed under other contracts, any requirements needed for the preparation of openings, provision of backing, etc., for receipt of such "NIC" work shall be provided as shown or specified in the Contract Documents by the appropriate separate Contractor, upon written request of the Contractor. The Contractor shall then properly form and otherwise prepare his Work in a satisfactory manner to receive such "NIC" Work. All Work not identified as such shall be provided under the Contract where it is shown or specified.

9. SANITARY PROVISIONS

- 9.1 The General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, shall provide and maintain in a sufficient, neat and sanitary condition such sanitary conveniences and accommodations for the use of all workers on the Project as may be necessary to comply with the requirements and regulations of the City of Philadelphia Department of Health or of other bodies or tribunals having jurisdiction thereof.

10. TEMPORARY WATER SUPPLY

- 10.1 The Plumbing Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Plumbing Prime Contractor on a particular project, shall make all non-potable temporary water connections from existing hydrants as required for the execution of the Work.
- 10.2 The General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, shall provide, at his own expense, temporary potable water bottle service for use by all Contractors and Subcontractors for drinking for the duration of the Project.

11. TEMPORARY HEAT AND VENTILATION

- 11.1 Cold weather shall not be accepted as a reason for stopping or delaying the Work of any Contractor. The General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, shall be responsible for providing all temporary enclosures, including but not limited to those required to maintain the proper temperatures and shelter for all masonry construction.
- 11.2 The HVAC Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no HVAC Prime Contractor on a particular project, shall provide at his expense all temporary heat required to maintain a minimum temperature of 50 degrees F in the building interior around the clock whenever needed for construction purposes.
- 11.3 Equipment intended to provide the source of heat, either temporary or permanent type systems, must be in fully activated condition from October 1st of each calendar year until April 1 of the following calendar year (the heating season) for the entire duration of the project. In addition to maintaining a minimum temperature of 50 degrees F during the entire heating season, the temperature shall be maintained at a minimum of 70 degrees F. for ten (10) days prior to and during installation, and for four (4) days after installation in areas where finish carpentry, resilient flooring, glue-down carpeting, masonry and painting work are being performed. Other temperatures shall be maintained as required elsewhere in the Specifications.

- 11.4 Temporary heating devices that may produce soot, smudges, stains, and other deposits shall not be acceptable. The HVAC Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no HVAC Prime Contractor on a particular project, shall be responsible for removal of any such deposits that may occur.
- 11.5 Prior to final Project completion, The HVAC Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no HVAC Prime Contractor on a particular project, shall replace all filters and otherwise clean and recondition all HVAC equipment used to provide temporary heat to the satisfaction of the School District .
- 11.6 The School District's warranty on all HVAC equipment shall not begin until final Project completion.
- 11.7 Additional or special requirements for temporary heat for construction in occupied buildings are provided in the Division 1 Specifications, if applicable.

12. TEMPORARY LIGHTING AND POWER

- 12.1 The Electrical Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Electrical Prime Contractor on a particular project, shall provide and maintain electric service and shall pay for all electric consumption, including without limitation, consumption by equipment maintained and used at any time by the School District in trailers maintained by the School District at the site.
- 12.2 The Electrical Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Electrical Prime Contractor on a particular project, shall provide, at his own expense, all electrical connections, tie-ins, extensions, construction materials, etc., required for the temporary lighting, including site security lighting, and power requirements as well as the execution of his Work.
- 12.3 Power to be furnished by the Electrical Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Electrical Prime Contractor on a particular project, shall be for hand tools and equipment rated one horsepower (1 HP) or less. Electric power for any tools or equipment with larger power requirements shall be furnished by the Contractor requiring this power.
- 12.4 All wiring, material, devices, etc., installed as part of the construction light and power work shall be completely removed by the Electrical Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Electrical Prime Contractor on a particular project, as the permanent work is completed and the temporary services are no longer required.

13. TEMPORARY FIRE PROTECTION

- 13.1 The Electrical Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no Electrical Prime Contractor on a particular project, shall provide fire protection equipment as required by the authority having jurisdiction during the duration of the Work.

14. SIGN-NOT USED

15. SECURITY

- 15.1 The School District shall not be responsible for any Contractor's and his Subcontractors' tools, equipment, materials, supplies or labor. The General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, shall provide security services for the duration of the Project, including but not limited to:

- 15.1.1 Policing the entire Project site and restricting trespassers, including maintaining a worker and visitor sign-in sheet on a daily basis.
 - 15.1.2 Protecting tools, equipment, materials, supplies and work of the Contractors and all Subcontractors.
 - 15.1.3 Protecting field offices.
 - 15.1.4 Eliminating any conditions detrimental to the Project.
- 15.2 All Contractors and their Subcontractors may, at their own expense, keep additional security personnel on the premises to protect their property or Work, as they deem necessary, upon notification and approval by the School District.

16. PHOTOGRAPHS

- 16.1 Progress photographs shall be 8 inches by 10 inches color, and shall be taken by a professional photographer. On each photograph shall be noted the date and time the picture was taken, the name and location of the Project, and directional identification, e.g., room number. On the back of the print shall be stamped the photographer's name and address. The photographs shall be taken from locations determined by the School District. The School District shall be furnished with three (3) prints taken from each negative and all prints on a CD format. Photographs of students of the School District of Philadelphia are prohibited, in accordance with School District of Philadelphia Board Policy No. 907. "School Visitors", Paragraph 6. Photography, Filming, or Videotaping in School District Buildings.
- 16.2 Site Affidavits. Twelve (12) color photographs of the overall Project shall be provided by the General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, before Work begins on the Project site. The School District shall be furnished with three (3) prints taken from each negative and all prints on a CD format.
- 16.3 Twenty-four (24) color photographs, along with negatives, shall be provided on the twenty-fifth (25th) day of each month by the General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, for the duration of the Project. The School District shall be furnished with three (3) prints taken from each negative and all prints on a CD format.
- 16.4 Twenty-four (24) full-color photographs shall be provided by the General Construction Contractor, or the Lead Prime Contractor (as defined in GC-4.1.2), if there is no General Construction Prime Contractor on a particular project, at the completion of the Project. The School District shall be furnished with three (3) prints taken from each negative and all prints on a CD format.
- 16.5 A complete set of all photographs, negatives and CD formats taken during the Contract period shall be delivered to the School District at the completion of the Project.

17. PROJECT MEETINGS

- 17.1 All Prime Contractors and their Subcontractors or their authorized representatives shall attend all Project Meetings with the School District and the Architect/Engineer for the purpose of coordinating and/or expediting the Work. Should the Contractor elect to be represented at such meetings, it shall be understood and agreed that the School District and the Architect/Engineer in dealing with the Contractor's representative does so with full assurance that such representative's actions and commitments may be accepted as though the Contractor who signed and is bound by the Contract were himself present and personally made such agreements and commitments. The meetings will be held biweekly or as determined necessary by the School District. All Prime Contractors and their Subcontractors are required to submit two-week look ahead schedules at each meeting. Such schedules

are required to be current and to provide accurate projections of all intended work for the following ten (10) work days.

17.2 The Architect/Engineer shall prepare and distribute to all concerned the written minutes of the Project Meeting at or prior to the next regularly scheduled meeting. This report shall contain, but is not limited to, a complete listing of any and all clarifications of the Contract Documents, agreements or commitments made during the Project Meeting. If any Prime Contractor or any of his Subcontractors take exception to the statements in these minutes, or any omissions, they shall notify the Architect/Engineer, in writing, within three (3) days after receipt of the minutes, with a copy of the letter of exception to the School District, listing in detail the exceptions. Otherwise, the minutes shall stand as written.

17.3 Paragraph 17 specifies administrative and procedural requirements for project meetings, including, but not limited to, the following:

- (a) Preconstruction conferences (initial project meeting).
- (b) Preinstallation conferences.
- (c) Progress meetings.
- (d) Coordination meetings.

17.3.1 PRECONSTRUCTION CONFERENCE

(a) The School District shall schedule a Project preconstruction conference before starting construction, at a time convenient to the School District, Architect/Engineer, the Contractor, and other Prime Contractors after execution of the Contract, but not later than fifteen (15) calendar days after the School District issues a Notice to Proceed to the Contractor. The preconstruction conference shall be held at the Project Site. The meeting shall be conducted to review responsibilities and personnel assignments, among other things.

(b) Attendees: Authorized representatives of the School District, the Architect/Engineer, the Contractor and its superintendent; major subcontractors; manufacturers; suppliers; other Prime Contractors, and other concerned parties shall attend the preconstruction conference. All participants at the preconstruction conference shall be familiar with the Project and authorized to conclude matters relating to the Work.

(c) Agenda: The participants at the preconstruction conference shall discuss items of significance that could affect progress, including the following:

- (1) Tentative construction schedule.
- (2) Critical work sequencing.
- (3) Designation of responsible personnel.
- (4) Procedures for processing field decisions and Change Orders.
- (5) Procedures for processing Applications for Payment.
- (6) Distribution of Contract Documents.
- (7) Submittal procedures for submittal of Shop Drawings, Product Data, and Samples.
- (8) Preparation of record documents.
- (9) Use of the premises.
- (10) Parking availability.
- (11) Office, work, and storage areas.
- (12) Equipment deliveries and priorities.
- (13) Safety procedures.
- (14) First aid.
- (15) Security.
- (16) Housekeeping.
- (17) Working hours.
- (18) Phasing.
- (19) Responsibility for temporary facilities and controls.

(20) Progress cleaning.

17.3.2 PREINSTALLATION CONFERENCES

- (a) The construction Manager and the Architect/Engineer shall conduct, and the Contractor shall schedule, a Project preinstallation conference at the Project Site before each construction activity that requires coordination with other construction.
- (b) Attendees: The Installer and representatives of manufacturers and fabricators involved in or affected by the installation, and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the preinstallation conference. The Contractor shall advise the School District, Construction Manager, Architect/Engineer, and other Prime Contractors of scheduled meeting dates.
- (c) Agenda. The participants at the preinstallation conference shall review the progress of other construction activities and preparations for the particular activity under consideration at each preinstallation conference, including requirements for the following:
 - (1) Contract Documents.
 - (2) Options.
 - (3) Related Change Orders.
 - (4) Purchases.
 - (5) Deliveries.
 - (6) Submittals, Shop Drawings, Product Data, and quality-control samples.
 - (7) Review of mockups.
 - (8) Possible conflicts.
 - (9) Compatibility problems.
 - (10) Time schedules.
 - (11) Weather limitations.
 - (12) Manufacturer's recommendations.
 - (13) Warranty requirements.
 - (14) Compatibility of materials.
 - (15) Acceptability of substrates.
 - (16) Temporary facilities and controls.
 - (17) Space and access limitations.
 - (18) Regulations of authorities having jurisdiction and Governing regulations.
 - (19) Safety.
 - (20) Inspecting and testing requirements.
 - (21) Required performance results.
 - (22) Recording requirements.
 - (23) Protection of construction and personnel.
- (d) The Architect/Engineer shall record significant discussions and agreements and disagreements of each preinstallation conference, and the approved schedule. The Architect/Engineer shall promptly distribute the record of the preinstallation conference to everyone concerned, including the School District, the Contractor, and other Prime Contractors.
- (e) The Contractor shall not proceed with the installation if the preinstallation conference cannot be successfully concluded. The Contractor shall initiate whatever actions are necessary to resolve impediments to performance of Work and shall reconvene the preinstallation conference at the earliest feasible date.

17.3.3 PROGRESS MEETINGS



- (a) The Project Manager shall conduct, and the Contractor shall arrange, Project progress meetings at the Project Site at regular fourteen (14) day intervals. The Contractor shall notify the School District, the Architect/Engineer, and other Prime Contractors of scheduled meeting dates. The Contractor shall coordinate dates of meetings with preparation of the payment request.
- (b) Attendees: In addition to representatives of the School District, the Architect/Engineer, the Contractor, and other Prime Contractors, each subcontractor, supplier, or other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the progress meeting shall be familiar with the Project and authorized to conclude matters relating to the Work.
- (c) Agenda: The participants at the progress meeting shall review and correct or approve minutes of the previous progress meeting. The participants at the progress meeting shall also review other items of significance that could affect progress on the Project. The participants at the progress meeting shall include topics for discussion as appropriate to the status of the Project.
 - (c.1) Contractor's Construction Schedule: The participants at the progress meeting shall review progress on the Project since the last project meeting. The participants at the progress meeting shall determine where each activity is in relation to the Contractor's Construction Schedule, whether on time or ahead or behind schedule, and determine how construction behind schedule will be expedited; and secure commitments from parties involved to do so. The participants at the progress meeting shall discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 - (c.2) The participants at the progress meeting shall also review the present and future needs of each entity present, including the following:
 - (1) Interface requirements.
 - (2) Time.
 - (3) Sequences of operations.
 - (4) Status of submittals.
 - (5) Deliveries.
 - (6) Off-site fabrication problems.
 - (7) Access.
 - (8) Site utilization.
 - (9) Temporary facilities and services.
 - (10) Hours of work.
 - (11) Hazards and risks.
 - (12) Housekeeping.
 - (13) Quality and work standards.
 - (14) Change Orders.
 - (15) Documentation of information for payment requests.
 - (16) Progress cleaning.
- (d) Reporting: No later than three (3) days after each progress meeting, the Project Manager shall distribute minutes of the progress meeting to each party present and to parties who should have been present. The Project Manager shall include a brief summary, in narrative form, of progress since the previous progress meeting and report.

- (e) Schedule Updating: The Contractor shall revise the Contractor's Construction Schedule after each progress meeting where revisions to the Construction Schedule have been made or recognized. The Contractor shall issue the revised Construction Schedule concurrently with the report of each progress meeting.


17.3.4 COORDINATION MEETINGS


- (a) **The Lead Prime Contractor, as defined in GC-4.1.2 shall schedule and conduct** Project coordination meetings at regular intervals convenient for all parties involved. Project coordination meetings are in addition to specific meeting held for other purposes, such as regular progress meetings, preinstallation conferences and special preinstallation meetings.
- (b) The **Lead Prime Contractor** shall request representation at each meeting by every party currently involved in coordination or planning for the construction activities involved.
- (c) The **Lead Prime Contractor** shall record meeting results and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting not later than three (3) days after each meeting.


18. **HOURS OF WORK**

- 18.1  Normal workdays and work hours are five (5) days a week, Monday through Friday, eight (8) hours a day from 7:00 A.M. to 3:30 P.M.,. It is the sole responsibility of the Contractor to provide and include in the Base Bid Price, all labor resources necessary to satisfy time of completion requirements and meet the Substantial Completion Date. 

- 18.2 The Contractor shall perform Work at the Project site during hours which comply with The Philadelphia Code and Charter as enforced by City agencies, including but not limited to, the Department of Public Health, Air Management Services.

- 18.3  Except in case of emergency, no work shall be performed on Saturdays, Sundays or Holidays or during hours outside of the normal hours of work, without prior notice and approval of the School District. The Contractor shall notify the School District at least three (3) days in advance of the Work to be performed, or no later than Wednesday noon if any Work is planned for the following weekend. Holidays occurring on Friday or Monday shall be considered part of the adjacent weekend.

- 18.4  If the Contractor's operation requires that the Architect/Engineer, Inspectors, School District or School District's consultants or any other Contractors working at the Project site either work overtime or use additional man hours at the Project site, the Contractor shall reimburse the School District for all applicable costs incurred due to overtime spent or additional man hours spent at the Project site.

- 18.5  No work shall be performed on Sundays or Holidays or outside of normal hours of work, except in case of emergency, without the presence of an inspector or other representative of the School District.

19. **SHOP DRAWINGS/SAMPLES**

- 19.1  Shop Drawings and Samples shall be dated and shall bear the name of the Project; a description

or the names of equipment, materials, and items; and complete identification of locations at which materials or equipment are to be installed. The related Contract drawing number and the Contract specification section and paragraph number shall also be included in the identification of the submittal.

19.2 Submission of Shop Drawings and Samples shall be accompanied by a transmittal letter, in duplicate, containing the name of the Project, the Contractor's name, the number of Shop Drawings and Samples, and titles and other pertinent data.

19.3 The Architect/Engineer shall review and return with his comments the Contractor's Shop Drawing and Sample Submissions within fourteen (14) calendar days of receipt of this information. Where submittals cannot be adequately reviewed within fourteen (14) calendar days of receipt, due to their scope, complexity or volume, the Architect/Engineer shall notify the School District and the Contractor in writing and stipulate the time that will be required to complete its review.

19.4 All shop drawings, samples and/or material or equipment submittals shall bear the Contractor's stamp or seal stating that the Contractor has reviewed the submittals and they conform to the requirements of the Contract Documents. The Architect/Engineer will review all shop drawings, samples, and/or product data within fourteen (14) working days of their receipt from the Contractor. Where submittals cannot be adequately reviewed within fourteen (14) calendar days of receipt, due to their scope, complexity or volume, the Architect/Engineer shall notify the School District and the Contractor in writing and stipulate the time that will be required to complete its review.

19.4.1 By submitting shop drawings, product data, samples, and similar submittals, the Contractor represents that he has determined and verified:

- (a) Dimensions, quantities, field dimensions, and relationship to existing Work.
- (b) Coordination with Work to be installed later.
- (c) Work on shop drawings is accurate and clearly shown.
- (d) Work equipment will fit into assigned spaces with sufficient access for servicing and maintenance.
- (e) Coordination with information on previously accepted shop drawings, product data, samples, or similar submittals.
- (f) Full compliance with requirements of Contract Documents.

19.4.2 In reviewing shop drawings, product data, samples and similar submittals, the Architect/Engineer shall be entitled to rely upon the Contractor's representation that information in submittals is correct and accurate.

19.4.3 Submittals that are returned or rejected because of insufficient Contractor review or coordination shall not be justification for a claim for an extension of time.

19.5 Within fourteen (14) calendar days or less than within the time allowed in the coordinated CPM Construction schedule, after receiving the Architect/Engineer's comments on shop drawings or samples, the Contractor shall review and coordinate the shop drawings with the other separate Contractors. If any separate Contractor has coordination problems with the approved shop drawings, he shall notify the Architect/Engineer immediately.

19.6 The project will be utilizing electronic submittal software services known as Submittal Exchange. Each contractor submitting shop drawings will be responsible to upload their initial submittal information in .pdf format to the Submittal Exchange software. Following approval of the submission the contractor submitting is required to submit one record hard copy to the Construction Manager within twenty-four (24) hours after receipt back from the architect/engineer.

19.7 For all catalog cuts, product data and non-drawing type submissions the contractor will upload their submission to submittal exchange in .pdf format and shall submit only pages which

are pertinent. Following approval of the submission the contractor submitting is required to submit one record hard copy to the Construction Manager within five (5) days after receipt back from the architect/engineer.

19.8 Samples.

- (a) The Contractor shall provide to the Architect/Engineer full-size, fully fabricated samples, cured and finished as specified, and physically identical with material or product proposed.
- (b) For visual range samples, the Contractor shall submit three (3) sets of samples, with three (3) sample pieces in each set, showing full range of color and texture anticipated in final Work, to the Architect/Engineer.
- (c) For manufacturer's standard samples, the Contractor shall submit a full set of standard choices from manufacturer to the Architect/Engineer.
- (d) For color match samples, the Contractor shall submit to the Architect/Engineer three (3) samples of proposed final color to compare to the Architect/Engineer's sample.

19.9 The Contractor shall furnish additional copies of submittals required by authorities having jurisdiction over portions of the Work, by Subcontractors and suppliers for coordination of the Work, and by any other Contractors whose Work is related.

19.10 The Contractor shall submit all required submittals from each technical section of the Specifications at the same time to the Architect/Engineer.

19.11 The School District, at its discretion, may require that laboratory tests be made on any materials submitted for incorporation in the Project. When tests are so required, the Contractor shall deliver samples of sufficient size and quantity, to meet testing laboratory requirements, to the Architect/Engineer, and shall forward a letter to the School District advising of such delivery

19.12 The Contractor shall pay all expenses in connection with obtaining any laboratory testing of any material required to be tested. Reports of the testing laboratory shall be forwarded by the laboratory, original and one (1) copy to the Architect/Engineer, and one (1) copy each to the School District and Contractor.

19.13 Based upon the test report, the School District shall make the final determination as to whether or not the tested article meets the Contract requirements. Should the tested material fail to meet the Contract requirements, the Contractor shall then take immediate action to submit other materials for testing and approval which will meet the Contract requirements.

19.14 In the case of materials for which laboratory tests are not required, the Contractor shall deliver samples, properly labeled, to the job site and shall advise the Architect/Engineer by letter of such delivery, sending one (1) copy of the letter to the School District.

19.15 Promptly after receipt of the Contractor's letter, the Architect/Engineer shall examine the samples and shall note upon the aforementioned label, by affixing his signature and date, his recommendations as to whether or not the samples satisfy the Contract requirements. The Architect/Engineer's recommendations shall be noted in the weekly Job Conference minutes.

19.16 Approved samples shall remain on the Project site for use in checking the material or equipment incorporated in the Work.

19.17 Shop drawings and/or catalog data shall be submitted in a timely and orderly manner by the Contractor as required by the Contract Documents.

19.17.1 The Contractor shall identify each submittal and shall include the following information in each submittal:

- (a) Name of Project.
- (b) School District's Project number, if applicable.
- (c) Submittal number.
- (d) The Contractor.
- (e) The Subcontractor, supplier, or manufacturer.
- (f) Number and title of relevant Specification section.
- (g) Drawing number and detail references and applicable Specification section.
- (h) Location or locations where product is to be installed, as appropriate.
- (i) Where printed materials describe more than one (1) product or model, clearly identify item to be furnished.
- (j) Show previous applicable changes made in Project by Change Orders and other instructions or remarks.

19.17.2 The Contractor shall attach a transmittal letter to each submittal containing the following information:

- (a) The Contractor's signature.
- (b) Project name.
- (c) List of submittal titles and number of copies.
- (d) Date of submission.
- (e) Submission number. Number transmittals consecutively.

19.17.3 Re-submittals. The Contractor shall:

- (a) Make re-submittals in same form and number of copies as first submittal.
- (b) Note date and content of previous submittal made for this item of Work on re-submittals.
- (c) Note date and content of revision in title block and indicate extent of revision clearly.
- (d) For Submission number: Use same submission number as original submittal, with letter suffix to indicate first and subsequent re-submittals (i.e., A, B, C, etc.)

19.17.4 Shop Drawings and Product Data Content. The Contractor shall:

- (a) Illustrate fully requirements of the Contract Documents.
- (b) Identify products, materials and equipment.
- (c) Show methods of assembly, dimensions, connections and other data required for fabrication.
- (d) Clearly indicate relationship to adjoining Work.
- (e) Submit Product Data for materials prior to or with material samples.
- (f) Reproductions of Contract Drawings are not acceptable as Shop Drawings, unless specifically permitted by the Architect/Engineer.

19.17.5 Coordinated or Combined Submittals.

- (a) Coordinated or combined submittals are Shop Drawings, Product Data, and/or Samples that include Work of more than one (1) supplier or

Subcontractor.

- (b) Coordinated submittals show adjacent or related portions of Work completely.
- (c) When combined submittals are required, the Contractor shall coordinate and integrate submittals in manner specified.

19.17.6 Sample Requirement. The Contractor shall:

- (a) Provide samples physically identical with proposed material or product, unless otherwise authorized by the Architect/Engineer.
- (b) If color or pattern is specified to be selected from manufacturer's standard range, submit full range of manufacturer's standard finishes, including available colors, textures, and patterns for the Architect/Engineer's selection.
- (c) Submit samples to illustrate functional characteristics of products, including parts and attachments.
- (d) For natural materials, submit sample sets showing full range of color and texture anticipated in final Work.
- (e) Include the following information on label, tag or other identifying attachment:
 - (1) Name of Project.
 - (2) The Architect/Engineer's name and Project number.
 - (3) Name of Contractor, Subcontractor, manufacturer, fabricator, supplier or processor.
 - (4) Trade designation, grade and quality of material or product.
 - (5) Date of submittal.
 - (6) Specific identification of each sample and precise reference to Specification section where materials, product or element of Work is specified.
 - (7) Space for approval stamps of the Architect/Engineer and Contractor.

19.18 If the shop drawings or catalog information sheets show variations from the Contract requirements because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal and shall note such variations on his submittal in order that, if accepted, suitable action may be taken for proper adjustment in the Contract. Otherwise, the Contractor shall not be relieved of the responsibility for executing the Work in complete conformity with the Contract even though the shop drawings or catalog information has been approved. The Contractor shall not make changes on reproducible returned to the Contractor with the Architect/Engineer's stamp applied thereto.

19.19 Architect/Engineer's Review of Submittals.

19.19.1 After receipt of the Contractor's submittal, the Architect/Engineer will review it for conformance to the Contract Documents and will certify that this review has been performed by affixing the Architect/Engineer's stamp.

19.19.2 Limitations of Architect/Engineer's Review.

- (a) The Architect/Engineer's review and action upon submittals is only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
- (b) Review of 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 shall remain the responsibility of the Contractor.

- (c) The Architect/Engineer's review shall not constitute approval of safety precautions and programs, or of any construction means, methods, sequences, techniques or procedures.
- (d) The Architect/Engineer's review of a specific item shall not indicate review of an assembly of which the item is a component.
- (e) The Architect/Engineer's approval of submittals does not relieve the Contractor of responsibility for deviations from requirements of the Contract Documents, unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and the Architect/Engineer has given written approval to the specific deviation.

19.19.3 Action Following Architect/Engineer's Review. The Contractor shall process submittals according to notations placed on them by the Architect/Engineer.

- (a) "No Exception Taken" or "Make Corrections Noted" means: Proceed with fabrication, purchase, or both, of items included in submittal, subject to revisions, if any, included in the Architect/Engineer's review comments.
- (b) "Revise and Resubmit" means:
 - (1) A portion of submittal is unacceptable; and
 - (2) Correct and resubmit the part of submittal in question.
- (c) "Rejected" means: Fabrication of Work indicated cannot proceed. Correct submittal and resubmit.
- (d) The Contractor shall make corrections or changes in submittals required by the Architect/Engineer and shall resubmit the submittals until they are released for fabrication by the Architect/Engineer.
- (e) If the Contractor considers required revision to be a Change in Scope of Work, he shall notify the Architect/Engineer in writing immediately.

19.19.4 After the Architect/Engineer's review of the Contractor's submittal, re-submittal for substitution of materials or equipment shall not be considered, unless accompanied by explanation acceptable to the Architect/Engineer concerning reason for substitution.

19.19.5 Sample Installations.

- (a) Definition: A partial installation of selected materials for the Architect/Engineer's approval of workmanship and visual acceptance of materials.
- (b) The Contractor shall construct sample installations prior to pre-installation conferences.
- (c) The Contractor shall maintain sample installations during construction as a standard for the Work.
- (d) Properly finished and maintained sample installations may be incorporated into the Work.

19.19.6 Mock-ups.

- (a) Definition: A sample panel specially erected near the Project site or, upon the Architect/Engineer's approval or direction, at a remote location that incorporates several specified materials.
- (b) The Contractor shall construct mock-ups prior to ordering final materials.
- (c) Mock-ups shall display color range, texture, bond, mortar color and workmanship expected of materials incorporated in the Work.
- (d) Mock-ups will be used by the Architect/Engineer for final color selection.
- (e) The Contractor shall maintain approved mock-ups in good condition until completion of relevant Work and use as standard for the Work.
- (f) The Contractor shall remove mock-ups from Project site at completion of the Project.

19.19.7 Certificates.

- (a) Definition: Notarized certification of type specified.
- (b) The Contractor shall not construe certification as relieving him from furnishing satisfactory materials if, after tests are performed on selected samples, material does not meet specified requirements.
- (c) Professional Certification:
 - (1) When professional certifications of performance criteria of materials, systems or equipment is required by the Contract Documents, the School District and Architect/Engineer shall be entitled to rely on such certifications.
 - (2) Neither the School District nor Architect/Engineer shall be expected to make independent examination or verification of professional certifications.

20. WORKER IDENTIFICATION

- 20.1 It is mandatory that the Contractor's and his Subcontractors' personnel display the following form of identification, at all times, whenever on School District property.
- 20.2 The Contractor and his Subcontractors are to supply their workers with identification in the forms of OSHA approved hard hats and identification badges required by the School District. Each hard hat shall indicate the name of the Contractor, along with an identifying number not less than 1 1/2" high on each side of the hat. The Contractor is responsible for supplying the names and assigned number of each of his personnel to the Construction Manager on a daily basis. The identification badges shall contain the information required by the School District. The Contractor shall issue the identification badges to his personnel and the personnel of his Subcontractors, and shall monitor the wearing of the identification badges by his personnel and the personnel of his Subcontractors under GC-10.5 Safety Requirements, Subparagraph 10.5.7 (Identification Badge) of the General Conditions.
- 20.3 The Contractor shall be responsible for his employees as well as his Subcontractors' and Sub-subcontractors' employees. All employees must sign in with security personnel at the entrance to the site before gaining access to the Project site.
- 20.4 Any personnel not properly identified will be removed from the premises.

21. STORAGE OF MATERIALS AND EQUIPMENT

- 21.1 The Contractor shall provide and maintain storage facilities sufficient to keep materials and equipment from being damaged or stolen.
- 21.2 Materials and equipment may be stored at the Project site only with the approval of the School District. The Contractor must receive prior approval to the exact location of the intended storage space prior to placement of materials. If the Contractor stores materials and/or equipment at the Project site, he must provide all security he deems necessary to protect the materials and/or equipment. In addition, the Contractor shall take care to properly distribute materials and/or equipment in order not to overload the structure.
- 21.3 The School District shall not be obligated to accept for storage at the Project site any materials and/or equipment more than ten (10) days prior to the date scheduled for installation of such materials and/or equipment.
- 21.4 All materials intended to be stored on the site must receive prior authorization by the School District as to the location. All materials must be placed in a neat, contained and organized manner. No loose, spilled, unbundled or improperly laid material will be permitted on the site or to be invoiced.
- 21.5 The Contractor, in making or ordering shipments of materials, supplies, equipment, or any other item, shall not consign or have consigned materials, supplies, equipment, or any other item in the name of the School District. The School District shall not have any obligation to make payment for any charges, fees, costs, or expenses related to any shipments made by or to the Contractor.

22. GENERAL COORDINATION

- 22.1 All Contractors and their Subcontractors shall establish and maintain communication throughout the course of their Work to assure maximum coordination of the Work performed by each. In addition, all Contractors and their Subcontractors shall produce and maintain Coordination Drawings as required or as specified elsewhere in the Contract Documents. This includes the approvals of the Work of each Contractor and each Subcontractor as required for proper coordination.
- 22.2 Coordination Drawings shall be initiated by HVAC Contractor and all Work of the Subcontractors of the HVAC Contractor shall be added to his Coordination Drawings. All Work of the other Contractors and their Subcontractors shall be added to the Coordination Drawings in the following order of priority, whether or not all trades are involved in the Scope of Work:
 - (a) Plumbing Contractor
 - (b) Subcontractors of the Plumbing Contractor
 - (c) Electrical Contractor
 - (d) Subcontractors of the Electrical Contractor.
- 22.3 The Contractor shall coordinate construction operations included in various Sections of the Specifications and with those of other Prime Contractors and entities to ensure efficient and orderly installation of each part of the Work. The Contractor shall also coordinate construction operations included under different Sections of the Specifications that depend on each other for proper installation, connection, and operation.
 - 22.3.1 The Contractor shall schedule construction operations in the sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 22.3.2 The Contractor shall coordinate installation of different components and with other Prime Contractors to ensure maximum accessibility for required maintenance,

service, and repair.

- 22.3.3 The Contractor shall make adequate provisions to accommodate items scheduled for later installation.
- 22.4 Where necessary, prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and lists of attendees at meetings.
- 22.4.1 The Contractor shall prepare similar memoranda for the School District, the Architect/Engineer and separate Contractors where coordination of their work is required.
- 22.5 Staff Names: Within 15 days of commencement of construction operations, the Contractor shall submit a list of the Contractor's principal staff assignments, including the superintendent and other personnel in attendance at the Project Site. The Contractor shall identify individuals and their duties and responsibilities, list their addresses and telephone numbers, and provide names, addresses, and telephone numbers of individuals assigned as standbys in the absence of individuals assigned to the Project.
- 22.5.1 The Contractor shall post copies of the list in the Project meeting room, the temporary field office, and each temporary telephone. The Contractor shall keep the list current at all times.
- 22.6 Inspection of Conditions: The Contractor shall require the Installer of each major component to inspect both the substrate and conditions under which Work is to be performed. Do not proceed until unsatisfactory conditions have been corrected in an acceptable manner.
- 22.7 The Contractor shall coordinate temporary enclosures with required inspections and tests to minimize the necessity of uncovering completed construction for that purpose.
- 22.8 The Contractor shall clean and protect construction in progress and adjoining materials in place, during handling and installation. The Contractor shall apply protective covering where required to assure protection from damage or deterioration at Substantial Completion.
- 22.9 The Contractor shall clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. The Contractor shall adjust and lubricate operable components to assure operability without damaging effects.
- 22.10 Limiting Exposures: The Contractor shall supervise construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

23. SCHEDULE AND REPORTS

- 23.1 The Lead Prime Contractor, as defined in GC-4.1.2, shall provide a coordinated CPM Construction Cost and Manpower Loaded schedule developed by a professional scheduling organization or experienced individual scheduler (qualifications to be submitted for approval by the School District within five (5) working days after the Notice to Proceed) and subsequent monthly and biweekly updates.
- 23.2 The Lead Prime Contractor shall meet with the School District, the Architect/Engineer and all other Contractors performing work on the Project at a pre-construction conference within fifteen (15) calendar days after the School District issues a Notice to Proceed to the Contractor, and each Contractor shall furnish to the School District and the Lead Prime Contractor at that meeting a Preliminary coordinated CPM Construction schedule for his Work, in accordance with the provisions of Paragraph 23 of these Supplementary Conditions.
- 23.3 The Lead Prime Contractor, within fifteen (15) calendar days after the pre-construction conference and in accordance with Article GC-8 of the General Conditions, shall submit a fully coordinated CPM Construction schedule proposing the integration of his Work and the

Work of all his Subcontractors and the Work of all the other separate Contractors and their Subcontractors into his schedule.

23.4. Detailed Schedule. At a minimum, the Contractor's coordinated CPM Construction schedule shall meet the following requirements:

23.4.1 It must be sufficiently detailed to identify all significant activities with costs and manpower related to those activities, in a format and at a level of detail that is acceptable to the School District. Software used for the coordinated CPM Construction schedule shall be Microsoft Project Professional 13, or later version, unless other software is approved for this project.

- (a) The schedule must be cost-loaded. Each work activity must have a cost value assigned to it. The sum of the costs should equal the total contract price for the Contract. Code activities by a corresponding pay item on the Schedule of Values. The subtotal of all activities in a pay item should equal that item on the approved Schedule of Values.

23.4.2 The schedule must be resource-loaded. It must include an estimate of crew size, equipment, production rates and similar data used to arrive at adequate durations and sequences.

23.4.3 The Contractor shall base his schedule upon the Hours of Work as described in Paragraph 18 of these Supplementary Conditions, unless otherwise provided for in the Contract Documents. Should the Contractor at his sole option elect to work overtime or on a shift basis, the Contractor shall be responsible for all additional costs incurred by the School District as a result of such action.

23.4.4 It must include all constraints related to submission approvals of the Architect/Engineer and the School District.

23.4.5 It must be fully coordinated with all Contractors.

23.4.6 It must contain any necessary constraints dealing with the operations of the Project.

23.4.7 The coordinated CPM Construction schedule shall comply with the various time limits imposed by the scope of Work and by any contractually specified intermediate milestone dates and completion dates included in the Contract.

23.4.8 Activity Data. The activities identified in the detailed schedule shall be analyzed in detail to determine activity time durations in units of whole working days. Activities shown shall have a maximum duration of fifteen (15) working days, except in the case of non-construction activities such as procurement of materials and delivery of equipment. All durations shall be the result of definitive manpower and resource planning by the Contractor.

23.4.9 The activity data shall include activity codes to facilitate selection, sorting and preparation of summary reports and graphics. Activity codes shall be developed for:

- (a) Area - Subdivision of the building and site into logical modules or blocks and levels.
- (b) Responsibility – The Contractor or Subcontractor responsible for the Work.
- (c) Specification - 16 Division CSI format.
- (d) System - Division of the Work into building systems for summary purposes.
- (e) Milestones - Work associated with completion of interim completion dates or milestones, if any are described in Specifications Section 01300 (or 01

1300) Time of Completion, Milestones and Phasing or Sequencing Requirements.

23.4.10 Logic diagrams, bar charts and cost and resource graphics shall be prepared using Microsoft Project Professional 13, or later version, unless other scheduling software is approved by the School District for this project. Logic diagrams and bar charts shall be prepared on sheets sized appropriate for the data being displayed. The preferred sheet size is 24 inches by 36 inches. The Contractor shall use color for each plot to enhance the data being displayed. Sheet size, type size and font selected for each plot shall show data in clear and easily understood format.

23.4.11 Reports.

- (a) For initial submittal and each update, the Contractor shall prepare the following standard report:
 - (1) Tabular Predecessor/Successor Schedule Report sorted by Activity ID.
 - (2) Tabular Schedule Report sorted by Total Float/Early Start, Area/Early Start, and Responsibility/Early Start.
 - (3) Tabular Cost Report sorted by Responsibility and Responsibility/Cost Code showing budgeted costs and actual costs to date.
 - (4) Narrative discussing progress to-date, anticipated progress for upcoming update period and potential problem areas. The narrative should include a milestone listing showing planned and currently scheduled dates for each interim and completion milestone.
- (b) The Contractor shall prepare special reports as requested by the School District. Content, format, selections and order shall be limited to the capability of the Microsoft Project software.

23.4.12 Graphics.

- (a) For initial submittal, the Contractor shall prepare the following graphics using Microsoft Project Professional, or other approved software:
 - (1) Pure logic diagram (Precedence Format) of entire data, not time scaled, grouped by Activity Code and tracking Resources and Costs.
 - (2) Detailed Bar Chart sorted by Activity Code with Early Start and Early Finish.
 - (3) Summary Bar Chart summarizing by Activity Code with Early Start and Early Finish.
 - (4) Cash Flow Diagram.
- (b) For each update, the Contractor shall prepare the following graphics using Microsoft Project or other approved software:
 - (1) Two (2) month Look-ahead Bar Chart showing Work Activities with Early Start in the next forty (40) working days sorted by Activity Code and Early Start.
 - (2) Summary Bar Chart summarizing by Activity Code showing progress with Early Start and Early Finish.

(3) Resource and Cost Graphics.

- (c) For each Change Order involving an adjustment in the Contract time for performance, the Contractor shall prepare a pure logic diagram showing the changed Work with all predecessor and successor activities (Fragnet).
- (d) The School District may request special graphic presentations limited to the capability of Microsoft Project Professional.

23.4.13 Project Activity Data. The Contractor shall furnish a copy of the complete Project data with each initial submittal and each update. The data shall be copies on CD-R recordable compact disk.

23.4.14 Submittals. In no case shall first application for payment be approved prior to submission of acceptable preliminary schedule, detailed submittal schedule, and schedule of values.

23.4.15 Monthly updates, required schedules and graphics shall be submitted to the School District and Architect/Engineer within five (5) working days following the end of the preceding month. Monthly updates, schedules and graphics shall be submitted in three (3) copies to the School District and Architect/Engineer and one (1) copy to each Subcontractor. Submittals shall be in the form of a tabular schedule reports and graphics as noted herein and appropriate recovery schedule if any scheduled interim or completion milestone activity is found to be behind schedule. The Contractor shall bring a draft updated schedule to the Progress Meeting or to a Schedule Update Meeting as mutually agreed upon for review by all in attendance. Following agreement on the update, the Contractor shall prepare and formally submit the update within five (5) working days of the Meeting.

23.4.16 If any of the required submissions are returned to the Contractor for corrections or revisions, they shall be resubmitted within five (5) calendar days after the return mailing date. Re-submittals shall be in the same quantities as noted herein. Review and response by the School District or Architect/Engineer will be given within ten (10) working days after resubmission.

23.4.17 Schedule of Submittals.

- (a) The Contractor shall prepare a chronological schedule of submittals, including:
 - (1) Anticipated date of Architect/Engineer's receipt of submittal.
 - (2) Required date of Architect/Engineer's return of submittal.
 - (3) Specifications sections to which submittal relates.
 - (4) Subcontractor or material fabricator responsible for preparing the submittal.
 - (5) Decision dates for selection of finishes and products specified by allowances or specified to be selected during the sample review process.
- (b) The Contractor shall give the School District and Architect/Engineer two (2) weeks' notice of anticipated significant revisions to accepted schedule of submittals.

23.4.18 If submittals are made which do not conform to the Specification or design intent of the Contract Documents, any delay due to re-submittal and re-review shall be the Contractor's responsibility.

- 23.4.19 Payment Withheld. If the Contractor fails to submit the required material as indicated in Paragraph 23.4 of these Supplementary Conditions within the time prescribed or the revision thereof within the requested time, the School District may withhold approval of Progress Payment Estimates until such time as the Contractor submits the required information.
- 23.5 With each monthly pay request of the Contractor, the Contractor shall also submit to the School District and the Architect/Engineer a monthly report of progress, identifying problem areas and planned corrections ("Progress Schedule"). The School District and the Architect/Engineer shall review such Progress Schedule and, if necessary, shall determine and implement alternative courses of action that may be necessary to achieve contract compliance by the Contractor.
- 23.6 With each monthly progress report, the Contractor shall show the actual progress in the coordinated CPM Construction schedule, against the planned progress. Updates of the coordinated CPM Construction schedule shall also reflect and highlight all necessary changes including changes in logic, sequencing and duration for meeting milestones, and keeping the Project within established time frames. Copies of such charts shall be furnished to the School District, and maintained on the wall of the construction site office for continuous monitoring by all parties. The School District shall have the right to modify the coordinated CPM Construction schedule at any time and from time to time. Such updated or modified coordinated CPM Construction schedule shall be known as the "current coordinated CPM Construction schedule".
- 23.7 The School District, with the assistance of the Architect/Engineer, shall determine the adequacy of the superintendents, work crews, equipment, materials and supplies of the Contractor to ensure quality construction, and adherence to the milestones established in the coordinated CPM Construction schedule, or if adjusted, modified or updated, the current coordinated CPM Construction schedule.
- 23.8 The School District and the Architect/Engineer shall schedule and conduct pre-construction, construction and Project meetings, on a regular basis at the Project site, as needed, with the School District, the Architect/Engineer, and the Contractor and his Subcontractors to discuss jointly such matters as site rules, procedures, progress, problems, scheduling and report requirements and such other matters as the School District and Architect/Engineer shall determine.
- 23.9 The Contractor shall perform his Work in accordance with the milestones established in the approved coordinated CPM Construction schedule, or if adjusted, modified or updated, the current coordinated CPM Construction schedule. Sequential revision numbers shall be applied to each revision to the current coordinated CPM Construction schedule.
- 23.10 The coordinated CPM Construction schedule shall be updated by the Contractor at least monthly or more often as required by the School District, and the Contractor shall furnish to the School District and the Architect/Engineer for review, such reports and information as may be requested. Updates of the coordinated CPM Construction schedule shall be made at the end of each month reflecting actual or reasonably anticipated progress as of the last working day of the month. Monthly updates of the coordinated CPM Construction schedule shall be made each month until all work is substantially complete.
- 23.11 Each monthly submittal of the coordinated CPM Construction schedule shall show actual progress to the end of the previous month and the projected schedule for completion of remaining Work. Each update of the coordinated CPM Construction schedule shall be sequentially numbered and dated for identification. All schedule submittals shall be in the form and substance as requested by the School District and shall include without limitation as follows:
- (a) Project Summary Schedule summarizing progress on major areas of Work.
 - (b) Milestone summary sorted by Area, Early Start and Total Float.

- (c) Pre-construction Schedule submittal/Approval/Fabrication and Delivery.
 - (d) Construction Schedule-sorted by trade, Early Start and Total Float.
- 23.12 The Contractor shall meet with the School District and the Architect/Engineer at the end of the updating period to review information in draft form before preparation of the required schedules and graphics. The Contractor shall present data, prepared in advance, for review and approval of the School District and the Architect/Engineer, including:
- (a) Actual Start Dates.
 - (b) Actual Completion Dates.
 - (c) Activity Percent Complete and/or Remaining Duration.
 - (d) Revised logic, changes in activity durations or resource assignments.
 - (e) Narrative report discussing progress through the update period; changes, delays or other circumstances affecting progress; status of the Project with respect to completion schedule; and any efforts by the Contractor to improve progress.
 - (1) The update meeting shall establish the values to be submitted for payment and shall be directly related to the schedule of values in the application for payment.
 - (2) The Contractor shall prepare a report of the update meeting and shall make all changes, additions or corrections to the data resulting from the review. The Contractor shall promptly prepare the monthly submittal following the update meeting.
- 23.13 The Contractor shall cooperate with the School District and the Architect/Engineer by attending update meetings with the School District and the Architect/Engineer.
- 23.14 The Contractor shall submit proposed schedule revisions and obtain written approval of the School District and the Architect/Engineer before deviating from the milestones established in the coordinated CPM Construction schedule, or if adjusted, modified or updated, the current coordinated CPM Construction schedule. If during the progress of the Work, the Contractor determines that he will not be able to complete his work for a particular activity in the time allotted, he must notify the School District and the Architect/Engineer in writing immediately. Adjustments to the coordinated CPM Construction schedule prepared by the Contractor may be made to accommodate the Contractor; provided that such adjustments do not alter Contract Milestone dates or the Date of Substantial Completion and the School District and the Architect/Engineer approve the adjustment after reviewing its impact on any other Contractor or Work on the Project. Otherwise, complete adherence to the Contract Schedule shall remain a requirement for the Contractor.
- 23.15 The coordinated CPM Construction schedule, or if adjusted, modified or updated, the current coordinated CPM Construction schedule, must be matched by performance of the Work. If the Contractor is, at any time, behind in the Work or if in the opinion of the School District, the Contractor is delaying or failing to prevent delay by his Subcontractors in the progress of the Work necessary to complete the Project, the Contractor shall take such action as shall be necessary to bring the general progress of the Work into line with the milestones established in the coordinated CPM Construction schedule, or if adjusted, modified or updated, the current coordinated CPM Construction schedule. The cost and expense of overtime, or any additional measures, shall be borne entirely by the Contractor including the increased costs and damages to the School District, the Architect/Engineer, or any other separate Contractors resulting from such overtime work or additional measures.
- 23.16 Upon failure by the Contractor to perform the Work in accordance with the milestones established in the coordinated CPM Construction schedule, or if adjusted, modified or

updated, the current coordinated CPM Construction schedule, or to achieve any Contract Milestone at or before the specified date, the Contractor shall promptly submit to the School District and the Architect/Engineer a plan showing how the Contractor plans to mitigate impact upon other portions of the Work and the Project and how he plans to complete the late Work.

- 23.17 In addition to the foregoing responsibilities and liabilities of the Contractor, whenever the Contractor's performance of the Work has failed to meet the milestones established in the coordinated CPM Construction schedule, as adjusted in accordance with the provisions of this Paragraph, the Contractor shall be responsible for the costs of delay, if any, incurred by the School District, Architect/Engineer and any other Contractors as set forth in the General Conditions.
- 23.18 The School District may request the Contractor to work overtime to expedite the final completion of the Work at a time when the Contractor is not in default of any of the provisions of the Contract. The Contractor agrees to work said overtime, and the Contractor shall be reimbursed only for the Contractor's extra labor cost over the amount for regular time during the period of such overtime, including additional fringe benefit costs, insurance and taxes incurred by him with respect thereto and only those other actual costs of the Contractor directly related to said overtime, which have been approved in advance by the School District. Time slips covering said overtime must be submitted to the School District for checking and approval. No commission or fee is to be charged by or allowed to the Contractor on account of overtime or costs related thereto, nor shall the Contractor be compensated for any lost efficiency or production alleged to have resulted from said overtime work.

24. RECORD AND INFORMATION BINDER

- 24.1 General Notes. Thirty (30) days prior to Substantial Completion of the Project, the Contractor shall prepare and deliver to the School District five (5) copies of a Record and Information Binder. The Binder shall be as specified herein. The Binder shall meet the approval of the School District.
- 24.2 Make-up of Binder. Binder shall be bound in a three-ring loose-leaf binder similar to "National" No. 3881, with the following title lettered on the front: "Record and Information" as well as the title of the Contract. The Binder for each Contract shall be of a different color.
- 24.3 Contents. The Binder shall contain a complete description and maintenance instruction on each piece of equipment of any nature incorporated into the Work. In addition, it shall include a description of all finishing materials and specialties, such as floor tile, carpet, acoustical tile, roofing, etc. The Binder shall provide names and addresses of the manufacturers as well as those of the local representatives, distributors, Subcontractors, among other things.
- 24.4 The Binder shall contain the information set forth above, in addition to requirements set forth elsewhere in the Contract Documents.

25. GUARANTEE/WARRANTY

- 25.1 The Contractor shall provide a one (1) year guarantee/warranty for all Work unless otherwise noted elsewhere in the Contract Documents.
- 25.2 Eleven (11) months after Substantial Completion of the Project, the Contractor shall accompany the School District and the Architect/Engineer on a guarantee/warranty review of the Project. Subsequent to this review, the Contractor shall be given a list of items for which he is responsible to correct during the guarantee/warranty period. This guarantee/warranty review is in addition to any other requirements or responsibilities noted elsewhere in the Contract Documents.
- 25.3 Start of all warranties and guarantees shall be the date of Final Completion of the Project.

- 25.4 The Contractor shall forward warranty and guarantee registration cards to the manufacturers in the name of the School District of Philadelphia showing the date of Final Completion of the Project as the beginning date for warranty and guarantee periods.

26. CUTTING AND PATCHING

- 26.1 Cutting and Patching Proposal: The Contractor shall submit a proposal to the School District and the Architect/Engineer describing procedures well in advance of the time cutting and patching will be performed for approval of these procedures before proceeding.

- 26.2 The Contractor shall include the following information, as applicable, in the proposal:

- (a) Describe the extent of cutting and patching required. Show how it will be performed and indicate why it cannot be avoided.
- (b) Describe anticipated results in terms of changes to existing construction. Include changes to structural elements and operating components as well as changes in the building's appearance and other significant visual elements.
- (c) List products to be used and firms or entities that will perform Work.
- (d) Indicate dates when cutting and patching will be performed.
- (e) Utilities: List utilities that cutting and patching procedures will disturb, including HVAC units and other electrically operated equipment. List utilities that will be relocated and those that will be temporarily out-of-service. Indicate how long service will be disrupted.
- (f) Approval by the School District to proceed with cutting and patching does not waive the School District's right to later require complete removal and replacement of unsatisfactory work.

- 26.3 Requirements for Structural Work: The Contractor shall comply with all of the requirements set forth in this Supplementary Condition 26. Do not cut and patch structural elements in a manner that would change their load-carrying capacity or load-deflection ratio.

- 26.4 Unless explicitly detailed on Drawings, obtain approval of the cutting and patching proposal before cutting and patching the following structural elements:

- (a) Bearing walls.
- (b) Structural concrete.
- (c) Structural steel.
- (d) Lintels.
- (e) Miscellaneous structural metals.
- (f) Equipment supports.
- (g) Piping, ductwork, vessels, and equipment.

- 26.5 Operational Limitations: Do not cut and patch operating elements or related components in a manner that would result in reducing their capacity to perform as intended. Do not cut and patch operating elements or related components in a manner that would result in increased maintenance or decreased operational life or safety.

- 26.6 Obtain approval of the cutting and patching proposal before cutting and patching the following operating elements or safety related systems:

- (a) Fire protection systems.
- (b) Control systems.
- (c) Bells and alarms.
- (d) Communication systems.
- (e) Electrical wiring systems.

- 26.7 Visual Requirements: Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in the Architect/Engineer's opinion, reduce the building's aesthetic qualities. Do not cut and patch construction in a manner that would result

in visual evidence of cutting and patching. Remove and replace construction cut and patched in a visually unsatisfactory manner.

- 26.8 Retain experienced and specialized Installer or fabricator to cut and patch the exposed Work listed below.
- (a) Stonework and brick masonry.
 - (b) Ornamental metal.
 - (c) Preformed metal panels.
 - (d) Firestopping.
 - (e) Window wall system.
 - (f) Stucco and ornamental plaster.
 - (g) Acoustical ceilings.
- 26.9 Existing Warranties: Replace, patch, and repair material and surfaces cut or damaged by methods and with materials in such a manner as not to void any warranties required or existing.
- 26.10 Use materials identical to existing materials. For exposed surfaces, use materials that visually match existing adjacent surfaces to the fullest extent possible if identical materials are unavailable or cannot be used. Use materials whose installed performance will equal or surpass that of existing materials.
- 26.11 Examine surfaces to be cut and patched and conditions under which cutting and patching is to be performed before cutting. If unsafe or unsatisfactory conditions are encountered, take corrective action before proceeding.
- 26.12 Temporary Support: Provide temporary support of work to be cut.
- 26.13 Protection: Protect existing construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of the Project that might be exposed during cutting and patching operations.
- 26.14 Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.
- 26.15 Avoid cutting existing pipe, conduit, or ductwork serving the building but scheduled to be removed or relocated until provisions have been made to bypass them.
- 26.16 Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time and complete without delay.
- 26.17 Cut existing construction to provide for installation of other components or performance of other construction activities and the subsequent fitting and patching required to restore surfaces to their original condition.
- 26.18 Cut existing construction using methods least likely to damage elements retained or adjoining construction.
- (a) In general, where cutting, use hand or small power tools designed for sawing or grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 - (b) To avoid marring existing finished surfaces, cut or drill from the exposed or finished side into concealed surfaces.
 - (c) Cut through concrete and masonry using a cutting machine, such as a Carborundum saw or a diamond-core drill.
- 26.19 Patch with durable seams that are as invisible as possible. Comply with specified tolerances.
- (a) Where feasible, inspect and test patched areas to demonstrate integrity of the

- installation.
 - (b) Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
 - (c) Where patching occurs in a smooth painted surface, extend final paint coat over entire unbroken surface containing the patch after the area has received primer and second coat.
 - (d) Patch, repair, or rehang existing ceilings as necessary to provide an even-plane surface of uniform appearance.
- 26.20 Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar items. Thoroughly clean piping, conduit, and similar features before applying paint or other finishing materials. Restore damaged pipe covering to its original condition.

27. CHASES, OPENINGS AND ALTERATIONS, SLEEVES, THIMBLES AND INSERTS

- 27.1 Each separate Contractor shall furnish and install all sleeves, thimbles, and inserts necessary for the installation of his Work at the proper and exact location and in sufficient time so as not to impede the Work of any other Contractor or Work on the Project.

28. DAILY FIELD REPORTS

- 28.1 The Contractor shall submit to the School District daily field reports which shall contain, at a minimum, the following information:
- (a) Subcontractors working on the job site.
 - (b) Hours worked.
 - (c) Total number of workers by trade and minority head count.
 - (d) Specific locations where workers are working and what work was done by the workers.
 - (e) Deliveries.

29. SECURITY CLEARANCE

- 29.1 All employees of Contractors working on The School District of Philadelphia properties, **while children are present at the School District of Philadelphia site**, are required to complete the "Pennsylvania Child Abuse History Clearance CY 113 12/99" form and the "Pennsylvania State Police Request for Criminal Record Check SP-4-164 (12-99)" form. Attached is a copy of each of these forms. These forms may also be downloaded at the following website addresses:

<http://www.dpw.state.pa.us/findaform/childabusehistoryclearanceforms/> or
http://www.education.state.pa.us/portal/server.pt/gateway/PTARGS_6_2_39112_0_0_43/
(for the "Child Abuse History Clearance" form)

<http://www.portal.state.pa.us/portal/server.pt?open=512&objID=4451&PageID=458621&mode=2> (for the "Criminal Record Check" form)

Contractors and Subcontractors can also request a supply of these forms by calling the Pennsylvania Department of Public Welfare (DPW) at telephone number 717-783-6211.

Contractors and Subcontractors can request a Criminal History Check online through the Pennsylvania Access to the Criminal History (PATCH) System at the following website

address:

<https://epatch.state.pa.us/Home.jsp>

- 29.2 All employees of Contractors working on The School District of Philadelphia properties, **while children are present at the School District of Philadelphia site**, are also required to submit a current report of the "Federal Bureau of Investigation (FBI) Federal Criminal History Record", obtained through Cogent Systems which is managing the program for the Commonwealth of Pennsylvania. Attached is a Pennsylvania Department of Education (PDE) memo concerning how to register with Cogent Systems at the website: <https://www.pa.cogentid.com/index.htm> and how to obtain the FBI fingerprint-based background check from Cogent Systems. This PDE memo may also be downloaded at the following website address:

http://www.portal.state.pa.us/portal/server.pt/community/background_checks_%28act_114%29/7493/federal_background_checks/506849

- 29.3 The Contractor shall inform its Subcontractors that both "Pennsylvania Child Abuse History Clearance" and "Pennsylvania State Police Request for Criminal Record Check" forms, together with processing fees, must be submitted to DPW for each employee who will be working on-site, **while children are present at the School District of Philadelphia site**. Employees of the Contractor and its Subcontractors shall **not** begin work at the Project site until these forms have been returned from DPW. It is necessary to send copies of the request forms to the School District. However, copies of both forms (returned from DPW) for each employee of the Contractor and each employee of any Subcontractors working at the Project site, **while children are present at the School District of Philadelphia site**, must be delivered to the office of the School District.

- 29.4 The Contractor shall inform its Subcontractors that registration for the FBI fingerprint-based background check with Cogent Systems, together with processing fees, must be submitted to Cogent Systems for each employee who will be working on-site, **while children are present at the School District of Philadelphia site**. Employees of the Contractor and its Subcontractors shall **not** begin work at the Project site until the "FBI Federal Criminal History Record" report has been returned from PDE's School Services Unit. It is not necessary to send copies of the request for the FBI fingerprint-based background check to the School District. However, copies of the "FBI Federal Criminal History Record" report (returned from PDE's School Services Unit) for each employee of the Contractor and its Subcontractors working at the Project site, **while children are present at the School District of Philadelphia site**, must be delivered to the office of the School District.

- 29.5 In the event that the School District of Philadelphia (or its agents) request a "Pennsylvania Child Abuse History Clearance" form, "Pennsylvania State Police Request for Criminal Record Check" form, and "FBI Federal Criminal History Record" report for any on-site employee of the Contractor or Subcontractors, and the Contractor is unable to produce the forms and report, the employee of the Contractor or Subcontractors must leave the Project site immediately. The employee of the Contractor or Subcontractors may return to the Project site once the appropriate forms and record have been obtained and submitted to the School District of Philadelphia (or its agents). If any members of the Contractor's Project team are required to be in the existing School District of Philadelphia building site, **while children are present at the School District of Philadelphia site**, before mobilization for Project construction after Contract award, the "Pennsylvania Child Abuse History Clearance" form, "Pennsylvania State Police Request for Criminal Record Check" form, and "FBI Federal Criminal History Record" report must be on-file in the School District's office.

- 29.6 Attached are the current Pennsylvania statutes containing the Background Checks requirements and the Affidavits required by these statutes.

30. OPERATION AND MAINTENANCE DATA

30.1 This Supplementary Condition 30 includes administrative and procedural requirements for preparing operation and maintenance manuals, including the following:

- (a) Operation and maintenance documentation directory.
- (b) Emergency manuals.
- (c) Operation manuals for systems, subsystems, and equipment.
- (d) Maintenance manuals for the care and maintenance of systems and equipment.
- (e) Servicing information
- (f) Trouble shooting information.

The Contractor shall comply with all of the requirements set forth in this Supplementary Condition 30.

30.2 SUBMITTALS

30.2.1 Initial Submittal: Submit two (2) draft copies of each manual to Architect/Engineer at least ten (10) days before requesting inspection for Substantial Completion. Include a complete operation and maintenance, trouble shooting and servicing directory. The Architect/Engineer will return one (1) copy of draft and mark whether general scope and content of manual are acceptable.

30.2.2 Final Submittal: Submit two (2) copies of each manual in final form to the Architect/Engineer at least ten (10) days before final inspection. The Architect/Engineer will return one (1) copy with comments within ten (10) days after final inspection.

30.2.3 Correct or modify each manual to comply with the Architect/Engineer's comments. Submit five (5) copies of each corrected manual within ten (10) days of receipt of the Architect/Engineer's comments.

30.3 COORDINATION

30.3.1 Where operation and maintenance, servicing and troubleshooting documentation includes information on installations by more than one factory-authorized service representative, assemble and coordinate information furnished by representatives and prepare manuals.

30.4 OPERATION AND MAINTENANCE DOCUMENTATION DIRECTORY

30.4.1 Organization: Include a section in the directory for each of the following:

- (a) List of documents.
- (b) List of systems.
- (c) List of equipment.
- (d) Table of contents.

30.4.2 List of Systems and Subsystems: List systems alphabetically. Include references to operation, maintenance, servicing and troubleshooting manuals that contain information about each system.

30.4.3 List of Equipment: List equipment for each system, organized alphabetically by system. For pieces of equipment not part of system, list alphabetically in separate list.

30.4.4 Tables of Contents: Include a table of contents for each emergency, operation, and maintenance, servicing and troubleshooting manual.

30.4.5 Identification: In the documentation directory and in each manual, identify each system, subsystem, and piece of equipment with the same designation used in the Contract Documents. If no designation exists, assign a designation according to

ASHRAE Guideline 4, "Preparation of Operating and Maintenance Documentation for Building Systems".

30.5 MANUALS, GENERAL

30.5.1 Organization: Unless otherwise indicated, organize each manual into a separate section for each system and subsystem, and a separate section for each piece of equipment not part of a system. Each manual shall contain the following materials, in the order listed:

- (a) Title page.
- (b) Table of contents.
- (c) Manual contents.

30.5.2 Title Page: Enclose title page in transparent plastic sleeve. Include the following information:

- (a) Subject matter included in manual.
- (b) Name and address of Project.
- (c) Name and address of School District.
- (d) Date of submittal.
- (e) Name, address, and telephone number of Contractor.
- (f) Name and address of Architect/Engineer.
- (g) Cross-reference to related systems in manuals.

30.5.3 Table of Contents: List each product included in manual, identified by product name, indexed to the content of the volume, and cross-referenced to Specification Section number in Specifications. If operation, maintenance, servicing or troubleshooting documentation requires more than one volume to accommodate data, include comprehensive table of contents for all volumes in each volume of the set.

30.5.4 Manual Contents: Organize into sets of manageable size. Arrange contents alphabetically by system, subsystem, and equipment. If possible, assemble instructions for subsystems, equipment, and components of one system into a single binder.

30.5.5 Binders: Heavy-duty, 3-ring, vinyl-covered, loose-leaf binders not to exceed three (3) inches in thickness, sized to hold 8-1/2-by-11-inch paper; with clear plastic sleeve on front and spine to hold labels describing contents and with pockets inside covers to hold folded oversize sheets.

30.5.6 If two or more binders are necessary to accommodate data of a system, organize data in each binder into groupings by subsystem and related components. Cross-reference other binders, if necessary, to provide essential information for proper operation or maintenance of equipment or system

- (a) Identify each binder on front and spine, with printed title "OPERATION AND MAINTENANCE MANUAL", Project title or name, and subject matter of contents. Indicate volume number for multiple-volume sets.

30.5.7 Dividers: Heavy-paper dividers with plastic-covered tabs for each section. Mark each tab to indicate contents. Include typed list of products and major components of equipment included in the section on each divider, cross-referenced to Specifications Section number and Section title.

30.5.8 Protective Plastic Sleeves: Transparent plastic sleeves designed to enclose diagnostic software diskettes for computerized electronic equipment.

30.5.9 Supplementary Text: Prepared on 8-1/2-by-11-inch, 20-lb/sq. ft. white bond paper.

30.5.10 Drawings: Attach reinforced, punched binder tabs on drawings and bind with text.

- (a) If oversize drawings are necessary, fold drawings to same size as text pages and use as foldouts.
- (b) If drawings are too large to be used as foldouts, fold and place drawings in labeled envelopes and bind envelopes in rear of manual. At appropriate locations in manual, insert typewritten pages indicating drawing titles, descriptions of contents, and drawing locations.

30.6 EMERGENCY MANUALS

30.6.1 Content: Organize manual into a separate section for each of the following:

- (a) Type of emergency.
- (b) Emergency instructions.
- (c) Emergency procedures.

30.7 OPERATION MANUALS

30.7.1 Content: In addition to requirements in this Paragraph, include operation data required in individual Specification Sections and the following information:

- (a) System, subsystem, and equipment descriptions.
- (b) Performance and design criteria if Contractor is delegated design responsibility.
- (c) Operating standards.
- (d) Operating procedures.
- (e) Operating logs.
- (f) Wiring diagrams.
- (g) Control diagrams.
- (h) Piped system diagrams.
- (i) Precautions against improper use.
- (j) License requirements including inspection and renewal dates.

30.7.2 Descriptions: Include the following:

- (a) Product name and model number.
- (b) Manufacturer's name.
- (c) Equipment identification with serial number of each component.
- (d) Equipment function.
- (e) Operating characteristics.
- (f) Limiting conditions.
- (g) Performance curves.
- (h) Engineering data and tests.
- (i) Complete nomenclature and number of replacement parts.

30.7.3 Operating Procedures: Include the following, as applicable:

- (a) Startup procedures.
- (b) Equipment or system break-in procedures.
- (c) Routine and normal operating instructions.
- (d) Regulation and control procedures.
- (e) Instructions on stopping.
- (f) Normal shutdown instructions.
- (g) Seasonal and weekend operating instructions.
- (h) Required sequences for electric or electronic systems.
- (i) Special operating instructions and procedures.
- (j) Systems and Equipment Controls: Describe the sequence of operation, and diagram controls as installed.

30.7.4 Service and Troubleshooting: Include pertinent information in the operation and maintenance manuals required to service and troubleshoot installed equipment. Information should include routine maintenance procedures and guidance to perform in depth analysis in order to troubleshoot and resolve problems that may develop during operation of the equipment.

30.7.5 Piped Systems: Diagram piping as installed, and identify color-coding where required for identification.

30.8 SYSTEMS AND EQUIPMENT MAINTENANCE MANUAL

30.8.1 Content: For each system, subsystem, and piece of equipment not part of a system, include source information, manufacturers' maintenance documentation, maintenance procedures, maintenance and service schedules, spare parts list and source information, maintenance service contracts, and warranty and bond information, as described below.

30.8.2 Source Information: List each system, subsystem, and piece of equipment included in The manual, identified by product name and arranged to match manual's table of contents. For each product, list name, address, and telephone number of Installer or supplier and maintenance service agent, and cross-reference Specifications Section number and Section title.

30.8.3 Manufacturers' Maintenance Documentation: Manufacturers' maintenance documentation including the following information for each component part or piece of equipment:

- (a) Standard printed maintenance instructions and bulletins.
- (b) Drawings, diagrams, and instructions required for maintenance, including disassembly and component removal, replacement, and assembly.
- (c) Identification and nomenclature of parts and components.
- (d) List of items recommended to be stocked as spare parts.

30.8.4 Maintenance Procedures: Include the following information and items that detail essential maintenance procedures:

- (a) Test and inspection instructions.
- (b) Troubleshooting guide.
- (c) Precautions against improper maintenance.
- (d) Disassembly; component removal, repair, and replacement; and reassembly instructions.
- (e) Aligning, adjusting, and checking instructions.
- (f) Demonstration and training videotape, if available.
- (g) Information necessary to troubleshoot problems with equipment.

30.8.5 Maintenance and Service Schedules: Include service and lubrication requirements, list of required lubricants for equipment, and separate schedules for preventive and routine maintenance and service with standard time allotment.

- (a) Scheduled Maintenance and Service: Tabulate actions for daily, weekly, monthly, quarterly, semiannual, and annual frequencies.
- (b) Maintenance and Service Record: Include manufacturers' forms for recording maintenance.

30.8.6 Spare Parts List and Source Information: Include lists of replacement and repair parts, with parts identified and cross-referenced to manufacturers' maintenance documentation and local sources of maintenance materials and related services.

- 30.8.7 Maintenance Service Contracts: Include copies of maintenance agreements with name and telephone number of service agent.
- 30.8.8 Warranties and Bonds: Include copies of warranties and bonds and lists of circumstances and conditions that would affect validity of warranties or bonds.
- 30.8.9 Warranty Binder: In addition to including warranties and bonds in the Operating and Maintenance manuals, provide a separate binder to include all warranties for equipment provided by all prime and subcontractors. Include procedures to follow and required notifications for warranty claims.

30.9 MANUAL PREPARATION

- 30.9.1 Operation and Maintenance Documentation Directory: Prepare a separate manual that provides an organized reference to emergency, operation, and maintenance manuals.
- 30.9.2 Emergency Manual: Assemble a complete set of emergency information indicating procedures for use by emergency personnel and by School District's operating personnel for types of emergencies indicated.
- 30.9.3 Systems and Equipment Maintenance Manual: Assemble a complete set of maintenance data indicating care and maintenance of each product, material, and finish incorporated into the Work.
- 30.9.4 Operation and Maintenance Manuals: Assemble a complete set of operation and maintenance data indicating operation and maintenance of each system, subsystem, and piece of equipment not part of a system.
 - (a) Engage a factory-authorized service representative to assemble and prepare information for each system, subsystem, and piece of equipment not part of a system.
 - (b) Prepare a separate manual for each system and subsystem, in the form of an instructional manual for use by School District's operating personnel.
- 30.9.5 Manufacturers' Data: Where manuals contain manufacturers' standard printed data, include only sheets pertinent to product or component installed. Mark each sheet to identify each product or component incorporated into the Work. If data include more than one item in a tabular format, identify each item using appropriate references from the Contract Documents. Identify data applicable to the Work and delete references to information not applicable.
 - (a) Prepare supplementary text if manufacturers' standard printed data are not available and where the information is necessary for proper operation and maintenance of equipment or systems.
- 30.9.6 Drawings: Prepare drawings supplementing manufacturers' printed data to illustrate the relationship of component parts of equipment and systems and to illustrate control sequence and flow diagrams. Coordinate these drawings with information contained in Record Drawings to ensure correct illustration of completed installation.
 - (a) Do not use original Project Record Documents as part of operation and maintenance manuals.

31. DEMONSTRATION AND TRAINING

- 31.1 This Supplementary Condition 31 includes administrative and procedural requirements for instructing School District's personnel, including the following:

- (a) Demonstration of operation of systems, subsystems, and equipment.
- (b) Training in operation and maintenance of systems, subsystems, and equipment.

The Contractor shall comply with all of the requirements set forth in this Supplementary Condition 31.

31.2 SUBMITTALS

- (a) Instruction Program: Submit five (5) copies of outline of instructional program for demonstration and training, including a schedule of proposed dates, times, length of instruction time, and instructors' names for each training module. Include learning objective and outline for each training module.
- (b) At completion of training, submit five (5) complete training manuals for School District's use.
- (c) Qualification Data: Firms and persons specified in "Quality Assurance" paragraph must demonstrate their capabilities and experience by providing names and addresses of three (3) completed projects and the applicable school district or similar institution.
- (d) Attendance Record: For each training module, submit list of participants.
- (e) Demonstration and Training Video: Submit five (5) copies at end of each training module.

31.3 QUALITY ASSURANCE

- (a) Instructor Qualifications: A factory-authorized service representative, complying with requirements of Paragraph 31.2(c), including experience in operation and maintenance procedures and training.
- (b) Pre-demonstration and training Conference: Conduct conference at Project site to comply with specified requirements. Review methods and procedures related to demonstration and training, including, but not limited to, the following:
 - (1) Inspect and discuss facilities required for instruction.
 - (2) Review and finalize instruction schedule and verify availability of educational materials, instructors' personnel, audiovisual equipment, and facilities needed to avoid delays.
 - (3) Review required content of instruction.
 - (4) For instruction that must occur outside, review weather and forecasted weather conditions and procedures to follow if conditions are unfavorable.
- (c) The videographer used for the recording and production of the Training Videos must be a firm or sole-proprietor regularly engaged in the business of video documentation. The Videographer shall have at least 3 years experience with training and/or corporate video production. The qualifications of the proposed videographer shall be submitted for School District's approval upon request.

31.4 COORDINATION

- (a) Coordinate instruction schedule with School District's operations. Adjust schedule as required to minimize disrupting School District's operations.
- (b) Coordinate instructors, including providing notification of dates, times, length of instruction time, and course content.

- (c) Coordinate content of training modules with content of approved emergency, operation, and maintenance manuals. Do not submit instruction program until operation and maintenance data has been reviewed and approved by School District's representative unless directed otherwise.

31.5 DEMONSTRATION AND INSTRUCTION PROGRAM

- (a) Program Structure: Develop an instruction program that includes individual demonstration and training modules for each system and equipment not part of a system, as required by individual Specification Sections, and as follows:
 - (1) HVAC Equipment
 - 1. Piping and Valves.
 - 2. Boiler, Burner, and Auxiliaries.
 - 3. Oil Tank and Tank Monitoring System.
 - 4. Pumps, Fluid Transfer Units, and Gas Booster (if applicable).
 - 5. Combustion air/Fresh intake air louvers/dampers.
 - 6. Natural Gas Leak Gas Detection System.
 - (2) Plumbing Equipment
 - 1. Piping and Valves.
 - 2. Backflow Preventers.
 - 3. Ejector Pumps & Alternator System.
 - (3) Water Treatment Equipment
 - 1. Tanks.
 - 2. Chemical Feed Pumps and Feeders.
 - 3. Water Purifiers/Softeners.
 - 4. Testing Kits.
 - (4) Controls Equipment
 - 1. Building Automation System.
 - 2. Controller Units.
 - 3. Control Devices and Actuators.
 - 4. Sensors, Transmitters, and Switches.
 - (5) Other Equipment and Systems
 - 1. Use the contents of the Operational and Maintenance manual to develop the demonstration and training material. Training should cover all operational requirements, maintenance procedures as well as safety and emergency situations. References should be made to the specific sections of the Operation and Maintenance Manual(s) that apply.
- (b) Training Modules: Develop a learning objective and teaching outline for each module where demonstration and training is specified. Include a description of specific skills and knowledge that participant is expected to master. For each module, include instruction for the following:
 - (1) Operational Requirements, and Criteria: Include the following:
 - 1. System, subsystem, and equipment descriptions.
 - 2. Performance and design criteria if the Contractor is delegated design responsibility.
 - 3. Operating standards.
 - 4. Regulatory requirements.
 - 5. Equipment function.
 - 6. Operating characteristics.
 - 7. Limiting conditions.

8. Performance curves.
- (2) Documentation: Review the following items in detail:
 1. Emergency manuals.
 2. Operations manuals.
 3. Maintenance manuals.
 4. Project Record Documents.
 5. Identification systems.
 6. Warranties and bonds.
 7. Maintenance service agreements and similar continuing commitments.
- (3) Emergencies: Include the following, as applicable:
 1. Instructions on meaning of warnings, trouble indications, and error messages.
 2. Instructions on stopping.
 3. Shutdown instructions for each type of emergency.
 4. Operating instructions for conditions outside of normal operating limits.
 5. Sequences for electric or electronic systems.
 6. Special operating instructions and procedures.
- (4) Operations: Include the following, as applicable:
 1. Startup procedures.
 2. Equipment or system break-in procedures.
 3. Routine and normal operating instructions.
 4. Regulation and control procedures.
 5. Control sequences.
 6. Safety procedures.
 7. Instructions on stopping.
 8. Normal shutdown instructions.
 9. Operating procedures for emergencies.
 10. Operating procedures for system, subsystem, or equipment failure.
 11. Seasonal and weekend operating instructions.
 12. Required sequences for electric or electronic systems.
 13. Special operating instructions and procedures.
- (5) Adjustments: Include the following:
 1. Alignments.
 2. Checking adjustments.
 3. Noise and vibration adjustments.
 4. Economy and efficiency adjustments.
- (6) Troubleshooting: Include the following:
 1. Diagnostic instructions.
 2. Test and inspection procedures.
- (7) Maintenance: Include the following:
 1. Inspection procedures.
 2. Types of cleaning agents to be used and methods of cleaning.
 3. List of cleaning agents and methods of cleaning detrimental to product.
 4. Procedures for routine cleaning
 5. Procedures for preventive maintenance.
 6. Procedures for routine maintenance.
 7. Instruction on use of special tools.
- (8) Repairs: Include the following:
 1. Diagnosis instructions.
 2. Repair instructions.

3. Disassembly; component removal, repair, and replacement; and reassembly instructions.
4. Instructions for identifying parts and components.
5. Review of spare parts needed for operation and maintenance.

(c) Demonstration of Equipment

- (1) Following completion of training, the equipment/system must be started up and shown to be fully functional at all operating conditions.
- (2) The Architect/Engineer should approve that the equipment/system is operating as designed.

31.6 PREPARATION

- (a) Assemble educational materials necessary for instruction, including documentation and training module. Assemble training modules into a combined training manual.
- (b) Set up instructional equipment at instruction location.
- (c) Prior to conducting demonstration and training, the Contractor is required to:
 - (1) Insure check-out and start-up of equipment is completed by authorized factory representative.
 - (2) Check-out and start-up reports are submitted to the School District's Project Manager.
 - (3) Operation and Maintenance manuals are submitted and approved.
 - (4) Equipment is fully functional.
 - (5) Preliminary testing, adjusting and balancing is complete.
- (d) The Contractor will not be allowed to conduct demonstration and training prior to meeting the conditions set forth herein unless approved by the School District's Project Manager. Any attempt to conduct demonstration and training on equipment that is not fully functional will result in cancellation of the training session until such time that the Contractor complies. All cost associated with cancellation of demonstration and training because the equipment is not fully functional will be borne by the Contractor.

31.7 INSTRUCTION

- (a) Engage qualified instructors to instruct School District's personnel to adjust, operate, and maintain systems, subsystems, and equipment not part of a system.
 - (1) Instructor shall describe operational requirements, criteria, and regulatory requirements.
 - (2) School District Project Manager or Commissioning Manager will furnish Contractor with names and positions of participants if available.
- (b) Scheduling: Provide instruction at mutually agreed on times. For equipment that requires seasonal operation, provide similar instruction at start of each season.
 - (1) Schedule training with School District personnel with the School District's Project Manager with at least seven (7) days advance notice or as specified in the technical provisions of the Contract.
- (c) Demonstration and Training Videos: Training videos are to be provided on DVD discs in a standard video format that can be played by Windows Media Center or compatible windows player. All DVDs must be labeled directly on the video. Label shall include the Contract title, school name, School District Contract number, detailed listing of the content, the date of each training session, and the Contractor's name.

- (1) Record and produce each training session module separately. Consolidate individual disciplines, i.e., General Contract, HVAC, Plumbing and Electrical, onto a minimum number of indexed discs.
 - (2) The videos will include classroom instructions, if appropriate, demonstrations, board diagrams, and other visual aids when used, but not the student practice.
 - (3) Engage a professional videographer to record and produce the required videos.
 - (4) Include at beginning of each training video introductory chapters of the specific demonstration and training, a verbal description of the lesson outline, learning objectives and a description of specific skills and knowledge that participant is expected to master.
 - (5) Provide all DVDs in a durable 3-ring binder with protection sleeves to facilitate storage and organization of the videos. Protection sleeves shall be designed for CD/DVD long-term storage, archival-safe and acid-free. Hard cases, with the same information that is printed directly on the DVD may be used and must provide long term storage, archival-safe and be acid free.
- (d) Cleanup: Collect used and leftover educational materials and remove from Project site. Restore systems and equipment to condition existing before initial training use.

32. SURVEYS

- 32.1 Prior to the commencement of any Work on the Project site, the Contractor shall make a complete survey of existing conditions, and any discrepancies from the Contract Documents shall immediately be reported to the Architect/Engineer.
- 32.2 The Contractor shall employ a registered professional engineer and surveyor, registered in the Commonwealth of Pennsylvania, to verify the location of the new building to be placed on the Project site by establishing corner locations and center line of buildings, and to provide horizontal and vertical control. Such Survey shall be immediately delivered to the Architect/Engineer.
- 32.3 After the work of the Contract is complete, the same registered professional engineer shall immediately furnish to the Architect/Engineer a post-construction, as-built survey confirming the building corners, center lines, sub-grade building pad elevations, sub-grade elevations of roads, and parking lot. As-built survey shall be drawn at a minimum 1-inch equal 40 feet scale with one-foot contour intervals on a 30 by 42 inch mylar sheet. As-built survey shall show spot grade elevations at minimum 50 foot intervals and at building corners, points of center line intersections, along property lines and grates of underground structures.
- 32.4 The Contractor shall employ a licensed engineer and surveyor, registered in the Commonwealth of Pennsylvania, to perform all surveying and control work as provided in the Contract Documents for the completion of the Work.
- 32.5 This Supplementary Condition applies for new construction only unless instructed otherwise.

33. CRANE LIFTING REQUIREMENTS.

- 33.1. Annual crane inspection certificate and crane operator certification (NCCCO or equivalent) must be submitted to the Project Manager before a crane is used at the site.

33.2. All mobile cranes must be equipped with an anti-two block device.

33.3. A Crane Lift Plan must be submitted to the Project Manager for approval at least five (5) days prior to each planned crane lift, except for a plan covering a period of continuous lifting.

33.4. Lifting over occupied spaces in school buildings is **not** permitted; lifts must be scheduled for times when the space is unoccupied.

END OF SUPPLEMENTARY CONDITIONS