



Todd County Water District

email address: tcwd00@gmail.com

January 22, 2015

RECEIVED

JAN 27 2015

PUBLIC SERVICE
COMMISSION

Public Service Commission of Kentucky
P O Box 615
Frankfort, KY 40601

RE: Case No. 2014-00086

Enclosed you will find our completed construction contract with the accompanying exhibits and the latest Contractor's Application for Payment.

The office building on this project is substantially completed and the maintenance shop is approximately three weeks away from being substantially completed.

The project has progressed according to plans with no additional construction undertaken.

Todd County Water District

Kathy Conyea
Office Manager

kc
Phone (270)265-2229
Fax (270)265-2035

Post Office Box 520
Elkton, KY 42220

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702

PAGE ONE OF 2 PAGES

TO (OWNER): **Todd County Water District**
617 West Main Street
Elkton, KY 42240

PROJECT: **New Office and Shop Complex**

APPLICATION NO: **4**
PERIOD TO: **12/29/2014**
INVOICE DATE: **12/29/2014**
INVOICE NUMBER: **111014**
DB PROJECT NO: **14-325**

Distribution To:
___ OWNER
___ ARCHITECT
___ CONTRACTOR

FROM (CONTRACTOR):
Denham-Blythe Company, Inc.
PO Box 11636
Lexington, KY 40576

VIA (ARCHITECT):

PURCHASE
ORDER NO:
CONTRACT DATE:

CONTRACT FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703, is attached.

CHANGE ORDER SUMMARY		ADDITIONS	DEDUCTIONS
Change Orders approved in previous months by Owner	TOTAL		
Approved this Month			
Number	Date Approved		
TOTALS			
Net change by Change Orders			

1. ORIGINAL CONTRACT SUM	998,116.00
2. Net change by Change Orders	_____
3. CONTRACT SUM TO DATE (Line 1 + 2)	998,116.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	905,315.00
5. RETAINAGE:	
a. _____ of Completed Work (Column D + E on G703)	_____
b. _____ of Stored Materials (Column F on G703)	_____
Total Retainage (Line 5a + 5b or Total in Column I of G703)	
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	905,315.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	820,483.00
8. CURRENT PAYMENT DUE	Net 15 Days 84,832.00
9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6)	92,801.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: **Denham-Blythe Company, Inc.**

State of: Kentucky County of: Fayette
Subscribed and sworn to before me this 29th day of Dec, 2014
Notary Public: Lewis L. Brown #502789
My Commission expires: 1-14-18

By: Beth Hiler Date: 12-29-14

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED 84,832.00
(Attach explanation if amount certified differs from the amount applied for.)
OWNER: **Todd County Water District**

By: _____ Date: _____
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE TWO OF 2 PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.
 In tabulations below, amounts are stated to the nearest dollar.
 Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 4
 APPLICATION DATE: 12/29/14
 PERIOD TO: 12/29/14
 INVOICE NO: 111014

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)		H BALANCE TO FINISH (C - G)	I RETAINAGE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		% (G / C)			
1.0	General Requirements	124,780.00	74,868.00	12,478.00		87,346.00	70%	37,434.00	
2.0	Sitework	269,622.00	269,622.00			269,622.00	100%		
3.0	Concrete	72,676.00	65,408.00			65,408.00	90%	7,268.00	
4.0	Masonry	33,881.00	33,881.00			33,881.00	100%		
5.0	Metals	4,134.00						4,134.00	
6.0	Wood & Plastics	59,727.00	59,727.00			59,727.00	100%		
7.0	Thermal & Moisture Protection	31,353.00	23,515.00			23,515.00	75%	7,838.00	
8.0	Doors & Windows	41,677.00	20,838.00	10,420.00		31,258.00	75%	10,419.00	
9.0	Finishes	50,870.00	38,153.00			38,153.00	75%	12,717.00	
10.0	Specialties	3,407.00		3,066.00		3,066.00	90%	341.00	
11.0	Equipment	12,650.00						12,650.00	
12.0	Special Construction	74,404.00	74,404.00			74,404.00	100%		
13.0	Mechanical	100,320.00	75,240.00	25,080.00		100,320.00	100%		
14.0	Electrical	110,347.00	82,760.00	27,587.00		110,347.00	100%		
15.0	Process Systems	8,268.00	2,067.00	6,201.00		8,268.00	100%		
TOTAL		998,116.00	820,483.00	84,832.00		905,315.00	91%	92,801.00	

Construction Contract Documents For
Todd County Water District

New Office and Shop Complex

Denham-Blythe Job #14-257

July 15, 2014

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ConsensusDocs 410 Standard Agreement dated 7/9/14

Exhibit A: Todd County Water District Request for Proposal

Exhibit B: Kentucky prevailing Wage Determination

Exhibit C: Proposal Letter dated 7/8/14

Exhibit D: Outline Specifications dated 7/8/14

Exhibit E: Preliminary Schedule dated 7/8/14

Exhibit F: Drawing List – DCRN #1 dated 7/8/14

Exhibit G: Consensus Docs 400-signed, Design Contract dated 5/23/14

ConsensusDocs 410

STANDARD DESIGN-BUILD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND DESIGN-BUILDER (Cost of the Work Plus a Fee with a GMP)



TABLE OF ARTICLES

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AMENDMENT 1

ARTICLE 1 AGREEMENT

Job Number: 14-257

This Agreement is made this 9th day of July in the year 2014, by

and between the OWNER Todd County Water District

and the DESIGN-BUILDER Denham-Blythe Company, Inc.

Tax identification number (TIN) 61-0902693

Contractor Licensing No., if applicable N/A

Design Professional Licensing No. in the state of the Project: Derek Brooks, AIA #4159;

Adam Jones, PE #27342 for services in connection with the following

PROJECT: New Office and Shop Complex

Notice to the Parties shall be given at the above addresses.

ARTICLE 2 GENERAL PROVISIONS

2.1 TEAM RELATIONSHIP The Parties each agree to proceed with the Project on the basis of trust, good faith and fair dealing and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner, including consideration of design modifications and alternative materials or equipment that will permit the Work to be constructed within the Guaranteed Maximum Price (GMP) and by the Dates of Substantial Completion and Final Completion if they are established by Amendment 1. The Design-Builder agrees to procure or furnish, as permitted by the Law, the design phase services and construction phase services as set forth below.

2.1.1 The Design-Builder represents that it is an independent contractor and that it is familiar with the type of work it is undertaking.

2.1.2 Neither the Design-Builder nor any of its agents or employees shall act on behalf of or in the name of the Owner unless authorized in writing by the Owner's Representative.

2.1.3 The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoid conflicts of interest and discloses promptly any to the other Party, and (b) warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

2.2 DESIGN-PROFESSIONAL Architectural and engineering services shall be procured from licensed, independent design professionals retained by the Design-Builder or furnished by licensed employees of the Design-Builder, as permitted by the Law. The person or entity providing architectural and engineering services shall be referred to as the Design-Professional. If the Design-Professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate



agreement between the Design-Builder and the Design-Professional. The Design-Professionals for the Project are Derek Brooks, AIA and Adam Jones, PE, employees of Denham-Blythe Company Inc.

2.3 DEFINITIONS

2.3.1 "Agreement" means this ConsensusDocs 410 Standard Design-Build Agreement and General Conditions Between Owner and Design-Builder (Cost of the Work Plus a Fee with a GMP), as modified, amendments, exhibits, addenda, and attachments made part of this agreement upon its execution.

2.3.2 The following exhibits are a part of this Agreement:

Exhibit A: Basis of Design/Owner Program – Owners RFP, dated 1/9/14.

Exhibit B: Labor Relations – Prevailing Wages Attachment

Exhibit C: Proposal Letter dated 7/8/14.

Exhibit D: Outline Specifications dated 7/8/14.

Exhibit E: Preliminary Schedule dated 7/8/14.

Exhibit F: Drawing List - DCRN #1 dated 7/8/14.

2.3.3 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.3.4 A "Change Order" is a written order signed by the Owner and the Design-Builder after execution of this Agreement, indicating changes in the scope of the Work, Cost of the Work or Contract Time, including substitutions proposed by the Design-Builder and accepted by the Owner.

2.3.5 The "Contract Documents" consist of those documents identified in section 15.1.

2.3.6 The "Contract Time" is the period between the Date of Commencement and Final Completion.

2.3.7 "Cost of the Work" means the costs and discounts specified in ARTICLE 8.

2.3.8 "Day" means calendar day.

2.3.9 "Date of Commencement" is as provided for in section 6.1

2.3.10 "Design-Builder's Fee" means the compensation paid to the Design-Builder for salaries and other mandatory or customary compensation of the Design-Builder's employees at its principal and branch offices except employees listed in subsection 8.2.2, general and administrative expenses of the Design-Builder's principal and branch offices other than the field office, and the Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work, and profit.

2.3.11 "Defective Work" is any portion of the Work not in conformance to the requirements of the Contract Documents.

2.3.12 "Final Completion" occurs on the date when the Design-Builder's obligations under this Agreement are complete and accepted by the Owner and final payment becomes due and payable.



2.3.13 "Laws" mean federal, state and local laws, ordinances, codes, rules, and regulations applicable to the Work with which the Design-Builder must comply that are enacted as of the Agreement date.

2.3.14 "Material Supplier" is a person or entity retained by the Design-Builder to provide material and equipment for the Work.

2.3.15 "Others" means other contractors and all persons at the Worksite who are not employed by Design-Builder, its Subcontractors or Material Suppliers.

2.3.16 "Overhead" shall mean (a) payroll costs and other compensation of Design-Builder's employees in the Design-Builder's principal and branch offices; (b) general and administrative expenses of the Design-Builder's principal and branch offices including charges against the Design-Builder for delinquent payments; and (c) the Design-Builder's capital expenses, including interest on capital used for the Work.

2.3.17 The "Owner" is the person or entity identified in ARTICLE 1, and includes the Owner's Representative.

2.3.18 The "Owner's Program" is an initial description of the Owner's objectives that may include budget and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

2.3.19 The "Parties" are collectively the Owner and the Design-Builder.

2.3.20 The "Project," as identified in ARTICLE 1, is the building, facility or other improvements for which the Design-Builder is to perform the Work under this Agreement. It may also include improvements to be undertaken by the Owner or Others.

2.3.21 A "Subcontractor" is a person or entity retained by the Design-Builder as an independent contractor to provide the labor, materials, equipment or services necessary to complete a specific portion of the Work. The term Subcontractor does not include the Design-Professional or any separate contractor employed by the Owner or any separate contractor's subcontractors.

2.3.22 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Design-Builder's obligations are sufficiently complete in accordance with the Contract Documents so that the Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unscheduled disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond the Design-Builder's control. This date shall be confirmed by a certificate of Substantial Completion signed by the Owner and the Design-Builder. The certificate shall state the respective responsibilities of the Owner and the Design-Builder for security, maintenance, heat, utilities, or damage to the Work, and insurance. The certificate shall also list the items to be completed or corrected, and establish the time for their completion and correction, within the timeframe, if any, established in Amendment 1 for the date of Final Completion.

2.3.23 "Subsubcontractor" is a party or entity who has an agreement with a Subcontractor or another Subsubcontractor to perform any portion of the Subcontractor's work.



2.3.24 "Terrorism" means a violent act, or an act that is dangerous to human life, property or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States Secretary of Treasury as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.3.25 The "Work" is the Design Phase services procured or furnished in accordance with section 3.1, the GMP Proposal provided in accordance with section 3.2, the Construction Phase services provided in accordance with section 3.3, Additional services that may be provided in section 3.9, and other services which are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents.

2.3.26 "Worksite" means the geographical area of the Project location mentioned in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 DESIGN-BUILDER'S RESPONSIBILITIES

The Design-Builder shall be responsible for procuring or furnishing the design and for the construction of the Work consistent with the Owner's Program, as such Program may be modified by the Owner during the course of the Work. The Design-Builder shall exercise reasonable skill and judgment in the performance of its services consistent with the team relationship described in section 2.1, but does not warrant nor guarantee schedules and estimates other than those that are part of the GMP proposal.

The Design-Builder and the Owner may establish a fast-track approach to the design and construction services necessary to complete the Project. Such agreement establishing a fast-track approach and the Schedule of the Work shall be included as an exhibit to this Agreement. In the absence of such agreement, the Parties shall proceed in accordance with sections 3.1 and 3.3 below.

3.1 DESIGN PHASE SERVICES

3.1.1 PRELIMINARY EVALUATION The Design-Builder shall review the Owner's Program to ascertain the requirements of the Project and shall verify such requirements with the Owner. The Design-Builder's review shall also provide to the Owner a preliminary evaluation of the site with regard to access, traffic, drainage, parking, building placement and other considerations affecting the building, the environment and energy use, as well as information regarding Laws and requirements. The Design-Builder shall also propose alternative architectural, civil, structural, mechanical, electrical and other systems for review by the Owner, to determine the most desirable approach on the basis of cost, technology, quality and speed of delivery. The Design-Builder will also review existing test reports but will not undertake any independent testing nor be required to furnish types of information derived from such testing in its Preliminary Evaluation. Based upon its review and verification of the Owner's Program and other relevant information the Design-Builder shall provide a Preliminary Evaluation of the Projects feasibility for the Owner's acceptance. The Design-Builder's Preliminary Evaluation shall specifically identify any deviations from the Owner's Program.

3.1.2 PRELIMINARY SCHEDULE The Design-Builder shall prepare a preliminary schedule of the Work. The Owner shall provide written approval of milestone dates established in the preliminary schedule of the Work. The schedule shall show the activities of the Owner, the Design-Professional



and the Design-Builder necessary to meet the Owner's completion requirements. The schedule shall be updated periodically with the level of detail for each schedule update reflecting the information then available. If an update indicates that a previously approved schedule will not be met, the Design-Builder shall recommend corrective action to the Owner in writing.

3.1.3 PRELIMINARY ESTIMATE When sufficient Project information has been identified, the Design-Builder shall prepare for the Owner's acceptance a preliminary estimate utilizing area, volume or similar conceptual estimating techniques. The estimate shall be updated periodically with the level of detail for each estimate update reflecting the information then available. If the preliminary estimate or any update exceeds the Owner's budget, the Design-Builder shall make recommendations to the Owner.

3.1.4 SCHEMATIC DESIGN DOCUMENTS The Design-Builder shall submit for the Owner's written approval Schematic Design Documents, based on the agreed upon Preliminary Evaluation. Schematic Design Documents shall include drawings, outline specifications and other conceptual documents illustrating the Projects basic elements, scale, and their relationship to the Worksite. One set of these documents shall be furnished to the Owner. When the Design-Builder submits the Schematic Design Documents the Design-Builder shall identify in writing all material changes and deviations that have taken place from the Design-Builder's Preliminary Evaluation, schedule and estimate. The Design-Builder shall update the preliminary schedule and estimate based on the Schematic Design Documents.

3.1.5 PLANNING PERMITS The Design-Builder shall obtain and the Owner shall pay for all planning permits necessary for the construction of the Project.

3.1.6 DESIGN DEVELOPMENT DOCUMENTS The Design-Builder shall submit for the Owner's written approval Design Development Documents based on the approved Schematic Design Documents. The Design Development Documents shall further define the Project including drawings and outline specifications fixing and describing the Project size and character as to site utilization, and other appropriate elements incorporating the structural, architectural, mechanical and electrical systems. One set of these documents shall be furnished to the Owner. When the Design-Builder submits the Design Development Documents, the Design-Builder shall identify in writing all material changes and deviations that have taken place from the Schematic Design Documents. The Design-Builder shall update the schedule and estimate based on the Design Development Documents.

3.1.7 CONSTRUCTION DOCUMENTS The Design-Builder shall submit for the Owner's written approval Construction Documents based on the approved Design Development Documents. The Construction Documents shall set forth in detail the requirements for construction of the Work, and shall consist of drawings and specifications based upon Laws enacted at the time of their preparation. When the Design-Builder submits the Construction Documents, the Design-Builder shall identify in writing all material changes and deviations that have taken place from the Design Development Documents. Construction shall be in accordance with these approved Construction Documents. One set of these documents shall be furnished to the Owner prior to commencement of construction. If a GMP has not been established, the Design-Builder shall prepare a further update of the schedule and estimate based on the Construction Documents.

3.1.8 OWNERSHIP OF DOCUMENTS



3.1.8.1 OWNERSHIP OF TANGIBLE DOCUMENTS The Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data and information (hereinafter "Documents") prepared, provided or procured by the Design-Builder, its Design-Professional, Subcontractors or consultants and distributed to the Owner for this Project, upon the making of final payment to the Design-Builder or, in the event of termination under ARTICLE 12, upon payment for all sums due to Design-Builder pursuant to ARTICLE 12.

3.1.8.2 COPYRIGHT The Parties agree that the Owner shall obtain ownership of the copyright of all Documents. The Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by the subsection above and the payment of the fee reflecting the agreed value of the copyright set forth below:

If the Parties have not made a selection to transfer copyright interests in the Documents, the copyright shall remain with the Design-Builder.

3.1.8.3 USE OF DOCUMENTS IN EVENT OF TERMINATION In the event of a termination of this Agreement pursuant to ARTICLE 12, the Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project, regardless of whether there has been a transfer of copyright under this section, provided payment has been made pursuant to subsection 3.1.8.1.

3.1.8.4 OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF PROJECT After completion of the Project, the Owner may reuse, reproduce or make derivative works from the Documents solely for the purposes of maintaining, renovating, remodeling or expanding the Project at the Worksite. The Owner's use of the Documents without the Design-Builder's involvement or on other projects is at the Owner's sole risk, except for the Design-Builder's indemnification obligations, and the Owner shall indemnify and hold harmless the Design-Builder, its Design-Professional, Subcontractors and consultants, and the agents, officers, directors and employees of each of them, from and against any and all claims, damages, losses, costs and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from such any prohibited use.

3.1.8.5 DESIGN-BUILDER'S USE OF DOCUMENTS Where the Design-Builder has transferred its copyright interest in the Documents under subsection 3.1.8.1, the Design-Builder may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.

3.1.8.6 The Design-Builder shall obtain from its Design-Professional, Subcontractors and consultants rights and rights of use that correspond to the rights given by the Design-Builder to the Owner in this Agreement, and the Design-Builder shall provide evidence that such rights have been secured.

3.2 GUARANTEED MAXIMUM PRICE (GMP)

3.2.1 GMP PROPOSAL At such time as the Owner and the Design-Builder jointly agree, the Design-Builder shall submit a GMP Proposal in a format acceptable to the Owner. Unless the Parties mutually agree otherwise, the GMP shall be the sum of the estimated Cost of the Work as defined in ARTICLE 8 and the Design-Builder's Fee as defined in ARTICLE 7. The GMP is subject



to modification as provided in ARTICLE 9. The Design-Builder does not guarantee any specific line item provided as part of the GMP, but agrees that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with this Agreement.

3.2.1.1 If the Design-Build Documents are not complete at the time the GMP Proposal is submitted to the Owner, the Design-Builder shall provide in the GMP for further development of the Design-Build Documents consistent with the Owner's Program. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which if required, shall be incorporated by Change Order.

3.2.2 BASIS OF GUARANTEED MAXIMUM PRICE The Design-Builder shall include with the GMP Proposal a written statement of its basis, which shall include:

3.2.2.1 a list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

3.2.2.2 a list of allowances and a statement of their basis;

3.2.2.3 a list of the assumptions and clarifications made by the Design-Builder in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

3.2.2.4 the Date of Substantial Completion and the Date of Final Completion upon which the proposed GMP is based, and the Schedule of Work upon which the Date of Substantial Completion and the Date of Final Completion is based;

3.2.2.5 a schedule of applicable alternate prices;

3.2.2.6 a schedule of applicable unit prices;

3.2.2.7 a statement of Additional services included, if any;

3.2.2.8 the time limit for acceptance of the GMP proposal;

3.2.2.9 the Design-Builder's contingency as provided in subsection 3.2.7;

3.2.2.10 a statement of any work to be self-performed by the Design-Builder; and

3.2.2.11 a statement identifying all patented or copyrighted materials, methods or systems selected by the Design-Builder and incorporated in the Work that are likely to require the payment of royalties or license fees.

3.2.3 REVIEW AND ADJUSTMENT TO GMP PROPOSAL The Design-Builder shall meet with the Owner to review the GMP Proposal. If the Owner has any comments relative to the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall give prompt written notice of such comments or findings to the Design-Builder, who shall make appropriate adjustments to the GMP, its basis or both.



3.2.4 ACCEPTANCE OF GMP PROPOSAL Upon acceptance by the Owner of the GMP Proposal, the GMP and its basis shall be set forth in Amendment 1.

3.2.5 FAILURE TO ACCEPT THE GMP PROPOSAL Unless the Owner accepts the GMP Proposal in writing on or before the date specified in the GMP Proposal for such acceptance and so notifies the Design-Builder, the GMP Proposal shall not be effective. If the Owner fails to accept the GMP Proposal, or rejects the GMP Proposal, the Owner shall have the right to:

3.2.5.1 suggest modifications to the GMP Proposal. If such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted in accordance with subsection 3.2.4;

3.2.5.2 direct the Design-Builder to proceed on the basis of reimbursement as provided in ARTICLE 7 and ARTICLE 8 without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or

3.2.5.3 terminate the Agreement for convenience. In the absence of a GMP the Parties may establish a Date of Substantial Completion and a Date of Final Completion.

3.2.6 PRE-GMP WORK Prior to the Owner's acceptance of the GMP Proposal, the Design-Builder shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as the Owner may specifically authorize in writing.

3.2.7 DESIGN-BUILDER'S CONTINGENCY The GMP Proposal will contain, as part of the estimated Cost of the Work, the Design-Builder's Contingency, a sum mutually agreed upon and monitored by the Design-Builder and the Owner to cover costs which are properly reimbursable as a Cost of the Work but are not the basis for a Change Order. The Design-Builder's Contingency shall not be used for changes in scope or for any item that would be the basis for an increase in the GMP. The Design-Builder shall provide the Owner with a contemporaneous accounting of charges against the Design-Builder's Contingency, if applicable, with each application for payment.

3.2.8 COST REPORTING The Design-Builder shall keep such full and detailed accounts as are necessary for proper financial management under this Agreement. The Design-Builder shall maintain a complete set of all books and records prepared or used by the Design-Builder with respect to the Project. The Design-Builder's records supporting its performance and billings under this Agreement shall be current, complete and accurate and maintained according to Generally Accepted Accounting Principles. The Owner shall be afforded reasonable access during normal business hours to all the Design-Builder's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement. The Design-Builder shall preserve all such records for a period of three years after the final payment or longer where required by law.

3.2.8.1 The Design-Builder agrees to use reasonable skill and judgment in the preparation of cost estimates and Schedule of the Work, but does not warrant or guarantee them.

3.3 CONSTRUCTION PHASE SERVICES

3.3.1 The Construction Phase will commence upon the issuance by the Owner of a written notice to proceed with construction. If construction commences prior to execution of Amendment No. 1, the



Design-Builder shall prepare for the Owner's written approval a list of the documents that are applicable to the part of the Work which the Owner has authorized, which list shall be included in the Owner's written notice to proceed.

3.3.2 In order to complete the Work, the Design-Builder shall provide all necessary construction supervision, inspection, construction equipment, labor, materials, tools, and subcontracted items.

3.3.3 COMPLIANCE WITH LAWS The Design-Builder shall give all notices and comply with all Laws at its own costs. The Design-Builder shall be liable to the Owner for all loss, cost and expense, attributable to any acts or omissions by the Design-Builder, its employees, subcontractors, and agents resulting from the failure to comply with Laws, including, fines, penalties or corrective measures. However, liability under this subsection shall not apply if notice to the Owner was given, and advance approval by appropriate authorities, including the Owner, is received.

3.3.3.1 CHANGES IN LAW In the event any changes in Laws, including taxes, which were not reasonably anticipated and then enacted after either the date of this Agreement or the date a GMP Proposal is accepted by the Owner and set forth in Amendment No. 1 to this Agreement, whichever occurs later, the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, shall be equitably adjusted by Change Order.

3.3.4 The Design-Builder shall obtain and the Design-Builder shall pay for the building permits necessary for the construction of the Project.

3.3.5 The Design-Builder shall provide periodic written reports to the Owner on the progress of the Work in such detail as is required by the Owner and as agreed to by the Owner and the Design-Builder.

3.3.6 The Design-Builder shall develop a system of cost reporting for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes in the Work. The reports shall be presented to the Owner at mutually agreeable intervals.

3.3.7 The Design-Builder shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing Work in an area, the Design-Builder shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste and surplus materials. The Design-Builder shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, the Design-Builder shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials and debris.

3.3.8 The Design-Builder shall prepare and submit to the Owner either:

- X updated electronic data

that generally document how the various elements of the Work including changes were actually constructed or installed, or as defined by the Parties by attachment to this Agreement.



3.4 SCHEDULE OF THE WORK The Design-Builder shall prepare and submit a schedule of work for the Owner's acceptance and written approval as to milestone dates. This schedule shall indicate the commencement and completion dates of the various stages of the Work, including the dates when information and approvals are required from the Owner. The schedule shall be revised as required by the conditions of the Work.

3.5 SAFETY OF PERSONS AND PROPERTY

3.5.1 SAFETY PRECAUTIONS AND PROGRAMS The Design-Builder shall have overall responsibility for safety precautions and programs in the performance of the Work. However, such obligation does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with the provisions of Laws.

3.5.2 The Design-Builder shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect:

3.5.2.1 its employees and other persons at the Worksite;

3.5.2.2 materials, supplies and equipment stored at the Worksite for use in performance of the Work; and

3.5.2.3 the Project and all property located at the Worksite and adjacent to work areas, whether or not said property or structures are part of the Project or involved in the Work.

3.5.3 DESIGN-BUILDER'S SAFETY REPRESENTATIVE The Design-Builder shall designate an individual at the Worksite in the employ of the Design-Builder who shall act as the Design-Builder's designated safety representative with a duty to prevent accidents. Unless otherwise identified by the Design-Builder in writing to the Owner, the designated safety representative shall be the Design-Builder's project superintendent. The Design-Builder will report promptly in writing all recordable accidents and injuries occurring at the Worksite to the Owner. When the Design-Builder is required to file an accident report with a public authority, the Design-Builder shall furnish a copy of the report to the Owner. Our Safety Director is Sam Boley (859-255-7405).

3.5.4 The Design-Builder shall provide the Owner with copies of all notices required of the Design-Builder by Law. The Design-Builder's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction over the Work.

3.5.5 Damage or loss not insured under property insurance that arises from the performance of the Work, to the extent of the negligence attributed to such acts or omissions of the Design-Builder, or anyone for whose acts the Design-Builder may be liable, shall be promptly remedied by the Design-Builder. Damage or loss attributable to the acts or omissions of the Owner or Others and not to the Design-Builder shall be promptly remedied by the Owner.

3.5.6 If the Owner deems any part of the Work or Worksite unsafe, the Owner, without assuming responsibility for the Design-Builder's safety program, may require the Design-Builder to stop performance of the Work or take corrective measures satisfactory to the Owner, or both. If the Design-Builder does not adopt corrective measures, the Owner may perform them and reduce by the costs of the corrective measures the amount of the GMP, or in the absence of a GMP, the Cost of the Work as provided in ARTICLE 8. The Design-Builder agrees to make no claim for damages,



for an increase in the GMP, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion based on the Design-Builder's compliance with the Owner's reasonable request.

3.6 EMERGENCIES In any emergency affecting the safety of persons or property, the Design-Builder shall act in a reasonable manner to prevent threatened damage, injury or loss. Any change in the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, on account of emergency work shall be determined as provided for in ARTICLE 9.

3.7 HAZARDOUS MATERIALS

3.7.1 A Hazardous Material is any substance or material identified now or in the future as hazardous under any Laws or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal or clean-up. The Design-Builder shall not be obligated to commence or continue work until any Hazardous Material discovered at the Worksite has been removed, rendered or determined to be harmless by the Owner as certified by an independent testing laboratory and approved by the appropriate governmental agency.

3.7.2 After commencing the Work, if Hazardous Material is discovered at the Project, the Design-Builder shall be entitled to immediately stop Work in the affected area. The Design-Builder shall promptly report the condition to the Owner and, if required, the governmental agency with jurisdiction.

3.7.3 The Design-Builder shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement.

3.7.4 The Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures or remedial action. Such measures shall be the sole responsibility of the Owner, and shall be performed in a manner minimizing any adverse effect upon the Work of the Design-Builder. The Design-Builder shall resume Work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency or agencies with jurisdiction.

3.7.5 If the Design-Builder incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, the Design-Builder shall be entitled to an equitable adjustment in the GMP, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion.

3.7.6 To the extent permitted under section 6.5 and to the extent not caused by the negligent acts or omissions of the Design-Builder, its Subcontractors, Material Suppliers and Sub-subcontractors, and the agents, officers, directors and employees of each of them, the Owner shall defend, indemnify and hold harmless the Design-Builder, its Subcontractors and Subsubcontractors, and the agents, officers, directors and employees of each of them, from and against all claims, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees, costs and



expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.7.7 Material Safety Data (MSD) sheets as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by the Design-Builder, Subcontractors, the Owner or Others, shall be maintained at the Project by the Design-Builder and made available to the Owner and Subcontractors.

3.7.8 During the Design-Builder's performance of the Work, the Design-Builder shall be responsible for the proper handling of all materials brought to the Worksite by the Design-Builder. Upon the issuance of the Certificate of Substantial Completion, the Owner shall be responsible under this section for materials and substances brought to the site by the Design-Builder if such materials or substances are required by the Contract Documents.

3.7.9 Section 3.6 shall survive the completion of the Work under this Agreement or any termination of this Agreement.

3.8 WARRANTY

3.8.1 The Design-Builder warrants that all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Warranties shall commence on the Date of Substantial Completion of the Work or of a designated portion.

3.8.2 To the extent products, equipment, systems or materials incorporated in the Work are specified and purchased by the Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. To the extent products, equipment, systems or materials incorporated in the Work are specified by the Owner but purchased by the Design-Builder and are inconsistent with selection criteria that otherwise would have been followed by the Design-Builder, the Design-Builder shall assist the Owner in pursuing warranty claims. **ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.**

3.8.3 The Design-Builder shall secure required certificates of inspection, testing or approval and deliver them to the Owner.

3.8.4 The Design-Builder shall collect all written warranties and equipment manuals and deliver them to the Owner in a format directed by the Owner.

3.8.5 With the assistance of the Owner's maintenance personnel, the Design-Builder shall direct the checkout of utilities and start-up operations, and adjusting and balancing of systems and equipment for readiness.

3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 If, prior to Substantial Completion and within one year after the date of Substantial Completion of the Work or for such longer periods of time as may be set forth with respect to specific warranties



required by the Contract Documents, any Defective Work is found, the Owner shall promptly notify the Design-Builder in writing. Unless the Owner provides written acceptance of the condition, the Design-Builder shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period the Owner discovers and does not promptly notify the Design-Builder or give the Design-Builder an opportunity to test or correct Defective Work as reasonably requested by the Design-Builder, the Owner waives the Design-Builder's obligation to correct that Defective Work as well as the Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall be extended by the period of time between Substantial Completion and the actual performance of the later Work. Correction periods shall not be extended by corrective work performed by the Design-Builder.

3.9.3 If the Design-Builder fails to correct Defective Work within a reasonable time after receipt of written notice from the Owner prior to final payment, the Owner may correct it in accordance with the Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due the Design-Builder. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

3.9.4 The Design-Builder's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, the Owner discovers any Work which the Owner considers Defective Work, the Owner shall, unless the Defective Work requires emergency correction, promptly notify the Design-Builder and allow the Design-Builder an opportunity to correct the Work if the Design-Builder elects to do so. If the Design-Builder elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from the Owner and shall complete the correction of Work within a mutually agreed timeframe. If the Design-Builder does not elect to correct the Work, the Owner may have the Work corrected by itself or Others, and, if the Owner intends to seek recovery of those costs from the Design-Builder, the Owner shall promptly provide the Design-Builder with an accounting of correction costs it incurs.

3.9.5 If the Design-Builder's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, the Design-Builder shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of the Design-Builder's other obligations under the Contract Documents.

3.9.7 Prior to final payment, at the Owner's option and with the Design-Builder's agreement, the Owner may elect to accept Defective Work rather than require its removal and correction. In such case the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.



3.10 CONFIDENTIALITY Unless compelled by law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena, the Design-Builder shall treat as confidential and not disclose to third-persons, except Subcontractors, Subsubcontractors and the Design-Professional as is necessary for the performance of the Work, or use for its own benefit any of the Owner's developments, confidential information, know-how, discoveries, production methods and the like that may be disclosed to the Design-Builder or which the Design-Builder may acquire in connection with the Work. The Owner shall treat as confidential information all of the Design-Builder's estimating systems and historical and parameter cost data that may be disclosed to the Owner in connection with the performance of this Agreement. The Owner and the Design-Builder shall each specify those items to be treated as confidential and shall mark them as "Confidential." In the event of a legal compulsion or other order seeking disclosure of any Confidential Information, the Design-Builder or Owner, as the case may be, shall promptly notify the other party to permit that party's legal objection, if necessary.

3.11 ADDITIONAL SERVICES The Design-Builder shall provide or procure the following Additional services upon the request of the Owner. A written agreement between the Owner and the Design-Builder shall define the extent of such Additional services before they are performed by the Design-Builder. If a GMP has been established for the Work or any portion of the Work, such Additional services shall be considered a Change in the Work, unless they are specifically included in the statement of the basis of the GMP as set forth in Amendment 1.

3.11.1 Development of the Owner's Program, establishing the Project budget, investigating sources of financing, general business planning and other information and documentation as may be required to establish the feasibility of the Project.

3.11.2 Consultations, negotiations, and documentation supporting the procurement of Project financing.

3.11.3 Surveys, site evaluations, legal descriptions and aerial photographs.

3.11.4 Appraisals of existing equipment, existing properties, new equipment and developed properties.

3.11.5 Soils, subsurface and environmental studies, reports and investigations required for submission to governmental authorities or others having jurisdiction over the Project.

3.11.6 Consultations and representations before governmental authorities or others having jurisdiction over the Project other than normal assistance in securing building permits.

3.11.7 Investigation or making measured drawings of existing conditions or the reasonably required verification of the Owner-provided drawings and information.

3.11.8 Artistic renderings, models and mockups of the Project or any part of the Project or the Work.

3.11.9 Inventories of existing furniture, fixtures, furnishings and equipment which might be under consideration for incorporation into the Work.

3.11.10 Interior design and related services, including procurement and placement of furniture, furnishings, artwork and decorations.



3.11.11 Making revisions to the Schematic Design, Design Development, Construction Documents or documents forming the basis of the GMP after they have been approved by the Owner, and which are due to causes beyond the control of the Design-Builder. Causes beyond the control of the Design-Builder do not include acts or omissions on the part of Subcontractors, Material Suppliers, Subsubcontractors or the Design-Professional.

3.11.12 Design, coordination, management, expediting and other services supporting the procurement of materials to be obtained, or work to be performed, by the Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems and other specialty systems which are not a part of the Work.

3.11.13 Estimates, proposals, appraisals, consultations, negotiations and services in connection with the repair or replacement of an insured loss, provided such repair or replacement did not result from the negligence of the Design-Builder.

3.11.14 The premium portion of overtime work ordered by the Owner, including productivity impact costs, other than that required by the Design-Builder to maintain the Schedule of Work.

3.11.15 Out-of-town travel by the Design-Professional in connection with the Work, except between the Design-Professional's office, the Design-Builder's office, the Owner's office and the Worksite.

3.11.16 Obtaining service contractors and training maintenance personnel, assisting and consulting in the use of systems and equipment after the initial start-up.

3.11.17 Services for tenant or rental spaces not a part of this Agreement.

3.11.18 Services requested by the Owner or required by the Work which are not specified in the Contract Documents and which are not normally part of generally accepted design and construction practice.

3.11.19 Serving or preparing to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Project.

3.11.20 Document reproduction exceeding the limits provided for in this Agreement.

3.11.21 Providing services relating to Hazardous Material discovered at the Worksite.

3.11.22 Other services as agreed to by the Parties and identified in an attached exhibit.

3.12 DESIGN-BUILDER'S REPRESENTATIVE The Design-Builder shall designate a person who shall be the Design-Builder's representative. The Design-Builder's Representative is Heath Doggett.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES PROVIDED BY OWNER Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

4.2 FINANCIAL INFORMATION Prior to commencement of the Work and thereafter at the written request of the Design-Builder, the Owner shall provide the Design-Builder evidence of Project financing. Evidence



of such financing shall be a condition precedent to the Design-Builder's commencing or continuing the Work. The Design-Builder shall be notified prior to any material change in Project financing.

4.3 WORKSITE INFORMATION To the extent the Owner has obtained, or is required elsewhere in the Contract Documents to obtain, the following Worksite information, the Owner shall provide at the Owner's expense and with reasonable promptness:

4.3.1 information describing the physical characteristics of the site, including surveys, Worksite evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions and environmental studies, reports and investigations; Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by the Design-Builder in laying out the Work.

4.3.2 tests, inspections and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical and chemical tests, required by the Contract Documents or by Law; and

4.3.3 any other information or services requested in writing by the Design-Builder which are required for the Design-Builder's performance of the Work and under the Owner's control.

4.4 MECHANICS AND CONSTRUCTION LIEN INFORMATION Within seven (7) Days after receiving the Design-Builder's written request, the Owner shall provide the Design-Builder with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include the Owner's interest in the real property interests of the Worksite and the record legal title.

4.5 RESPONSIBILITIES DURING DESIGN PHASE

4.5.1 The Owner shall provide the Owner's Program at the inception of the Design Phase and shall review and timely approve in writing schedules, estimates, Preliminary Estimate, Schematic Design Documents, Design Development Documents and Construction Documents furnished during the Design Phase, and the GMP Proposal.

4.6 RESPONSIBILITIES DURING CONSTRUCTION PHASE

4.6.1 The Owner shall review the Schedule of the Work as and timely approve the milestone dates set forth.

4.6.2 If the Owner becomes aware of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, the Owner shall give prompt written notice to the Design-Builder. The failure of the Owner to give such notice shall not relieve the Design-Builder of its obligations to fulfill the requirements of the Contract Documents.



4.6.3 The Owner shall have no contractual obligations to Subcontractors, suppliers, or the Design-Professional.

4.6.4 The Owner shall provide insurance for the Project as provided in ARTICLE 11.

4.7 OWNER'S REPRESENTATIVE The Owner's Representative is John Haley. The Owner's representative shall: (a) be fully acquainted with the Project; (b) agree to furnish the information and services required of the Owner in a timely manner; and (c) have the authority to bind the Owner in all matters requiring the Owner's approval, authorization or written notice. If the Owner changes its representative or the representative's authority as listed above, the Owner shall notify the Design-Builder in writing in advance.

4.8 TAX EXEMPTION If in accordance with the Owner's direction the Design-Builder claims an exemption for taxes, the Owner shall indemnify and hold the Design-Builder harmless for all liability, penalty, interest, fine, tax assessment, attorneys' fees or other expense or cost incurred by the Design-Builder as a result of any action taken by the Design-Builder in accordance with the Owner's direction.

4.9 ELECTRONIC DOCUMENTS If the Owner requires that the Owner and Design-Builder exchange documents and data in electronic or digital form, prior to any such exchange, the Owner and the Design-Builder shall agree on a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate addenda, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software and services; (d) acceptable formats, transmission methods and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. The Parties shall each bear their own costs for the requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

ARTICLE 5 SUBCONTRACTS

Work not performed by the Design-Builder with its own forces shall be performed by Subcontractors or the Design-Professional.

5.1 RETAINING SUBCONTRACTORS The Design-Builder shall not retain any Subcontractor to whom the Owner has a reasonable and timely objection, provided that the Owner agrees to compensate the Design-Builder for any additional costs incurred by the Design-Builder as a result of such objection. The Owner may propose subcontractors to be considered by the Design-Builder. The Design-Builder shall not be required to retain any subcontractor to whom the Design-Builder has a reasonable objection.

5.2 MANAGEMENT OF SUBCONTRACTORS The Design-Builder shall be responsible for the management of the Subcontractors in the performance of their work.

5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACT

5.3.1 If this Agreement is terminated, each subcontract agreement shall be assigned by the Design-Builder to the Owner, subject to the prior rights of any surety, provided that:

5.3.1.1 this Agreement is terminated by the Owner pursuant to sections 12.2 or 12.3; and



5.3.1.2 the Owner accepts such assignment, after termination by notifying the Subcontractor and the Design-Builder in writing, and assumes all rights and obligations of the Design-Builder pursuant to each subcontract agreement.

5.3.2 If the Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, the Subcontractor's compensation shall be equitably adjusted as a result of the suspension.

5.4 BINDING OF SUBCONTRACTORS AND MATERIAL SUPPLIERS The Design-Builder agrees to bind every Subcontractor and Material Supplier (and require every Subcontractor to so bind its Sub-subcontractors and Material Suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the Subcontractors' or Material Suppliers' portions of the Work.

ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below. The Work shall proceed in general accordance with the approved schedule of Work as such schedule may be amended from time to time, subject, however, to other provisions of this Agreement.

6.2 SUBSTANTIAL/FINAL COMPLETION Unless the Parties agree otherwise, the Date of Substantial Completion or the Date of Final Completion shall be established in Amendment 1 (12/19/14) to this Agreement subject to adjustments as provided for in the Contract Documents. The Owner and the Design-Builder may agree not to establish such dates, or in the alternative, to establish one but not the other of the two dates. If such dates are not established upon the execution of this Agreement, at such time as a GMP is accepted a Date of Substantial Completion or Date of Final Completion of the Work shall be established in Amendment 1. If a GMP is not established and the Parties desire to establish a Date of Substantial Completion or Date of Final Completion, it shall be set forth in Amendment 1.

6.2.1 The deadlines for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.

6.2.2 Time is of the essence for this Agreement and the Contract Documents.

6.2.3 Unless instructed by the Owner in writing, the Design-Builder shall not knowingly commence the Work before the effective date of insurance to be provided by the Design-Builder or the Owner as required by the Contract Documents.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by any cause beyond the control of the Design-Builder, the Design-Builder shall be entitled to an equitable extension of the Date of Substantial Completion or the Date of Final Completion. Examples of causes beyond the control of the Design-Builder include, but are not limited to, the following: (a) acts or omissions of the Owner or Others; (b) changes in the Work or the sequencing of the Work ordered by the Owner, or arising from decisions of the Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials unanticipated by the Design-Builder, or concealed or unknown conditions; (d) delay authorized by the Owner pending dispute resolution or suspension by the Owner under section 12.1; (e) transportation delays not reasonably



foreseeable; (f) labor disputes not involving the Design-Builder; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics, (k) adverse governmental actions, (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated . The Design-Builder shall process any requests for equitable extensions of the Date of Substantial Completion or the Date of Final Completion in accordance with the provisions of ARTICLE 9.

6.3.2 In addition, if the Design-Builder incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, the Design-Builder shall be entitled to an equitable adjustment in the GMP subject to section 6.5.

6.3.3 If delays to the Project are encountered for any reason, the Parties agree to take reasonable steps to mitigate the effect of such delays.

6.4 LIQUIDATED DAMAGES

6.4.1 **SUBSTANTIAL COMPLETION** The Owner and the Design-Builder agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.4.1.1 The Design-Builder understands that if the Date of Substantial Completion established by Amendment 1, as may be amended by subsequent Change Order, is not attained, the Owner will suffer damages which are difficult to determine and accurately specify. The Design-Builder agrees that if the Date of Substantial Completion is not attained, the Design-Builder shall pay the Owner zero dollars (\$0.00) as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Date of Substantial Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages of whatsoever nature incurred by the Owner which are occasioned by any delay in achieving the Date of Substantial Completion.

6.4.2 **FINAL COMPLETION** The Owner and the Design-Builder agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Final Completion.

6.4.3 The Design-Builder understands that if the Date of Final Completion established by this Amendment 1 is not attained, the Owner will suffer damages which are difficult to determine and accurately specify. The Design-Builder agrees that if the Date of Final Completion is not attained, the Design-Builder shall pay the Owner zero dollars (\$0.00) as liquidated damages for each Day that Final Completion extends beyond the Date of Final Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages of whatsoever nature incurred by the Owner which are occasioned by any delay in achieving the Date of Final Completion.

6.4.4 **OTHER LIQUIDATED DAMAGES** The Owner and the Design-Builder may agree upon the imposition of liquidated damages based on other project milestones or performance requirements. Such agreement shall be included as an exhibit to this Agreement.

6.5 **LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES** Except for damages mutually agreed upon by the Parties as liquidated damages in section 6.4 and excluding losses covered by insurance



required by the Contract Documents, the Owner and the Design-Builder agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. The Owner agrees to waive damages including but not limited to the Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit or financing related to the Project, as well as the loss of business, loss of financing, principal office overhead and expenses, loss of profits not related to this Project, loss of reputation, or insolvency. The Design-Builder agrees to waive damages including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. ~~The following items of damages are excluded from this mutual waiver: []~~

6.5.1 The Owner and the Design-Builder shall require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 COMPENSATION

7.1 DESIGN PHASE COMPENSATION

7.1.1 To the extent required by Laws, the cost of services performed directly by the Design-Professional is computed separately and is independent from the Design-Builder's compensation for work or services performed directly by the Design-Builder; these costs shall be shown as separate items on applications for payment. If any Design-Professional is retained by the Design-Builder, the payments to the Design-Professional shall be as detailed in a separate agreement between the Design-Builder and the Design-Professional.

7.1.2 The Owner shall compensate the Design-Builder for services performed during the Design Phase, including preparation of a GMP Proposal, if applicable, as follows: per Consensus Doc 400

7.1.3 Compensation for Design Phase services, as part of the Work, shall include the Design-Builder's Fee, paid in proportion to the services performed, subject to adjustment.

7.1.4 Compensation for Design Phase services shall be equitably adjusted if such services extend beyond 7/13/14 from the date of this Agreement for reasons beyond the reasonable control of the Design-Builder or as provided in section 9.1. For changes in Design Phase services, compensation shall be adjusted as follows:

7.1.5 Within twenty-five (25) Days after receipt of each monthly application for payment, the Owner shall give written notice to the Design-Builder of the Owner's acceptance or rejection, in whole or in part, of such application for payment. Within fifteen (15) Days after accepting such application, the Owner shall pay directly to the Design-Builder the appropriate amount for which application for payment is made, less amounts previously paid by the Owner. If such application is rejected in whole or in part, the Owner shall indicate the reasons for its rejection. If the Owner and the Design-Builder cannot agree on a revised amount then, within fifteen (15) Days after its initial rejection in part of such application, the Owner shall pay directly to the Design-Builder the appropriate amount for those items not rejected by the Owner for which application for payment is made, less amounts previously paid by the Owner. Those items rejected by the Owner shall be due and payable when the reasons for the rejection have been removed.



7.1.6 If the Owner fails to pay the Design-Builder at the time payment of any amount becomes due, then the Design-Builder may, at any time thereafter, upon serving written notice that the Work will be stopped within seven (7) Days after receipt of the notice by the Owner, and after such seven (7) Day period, stop the Work until payment of the amount owing has been received.

7.1.7 Payments due pursuant to subsection 7.1.5, may bear interest from the date payment is due at the prime rate prevailing at the location of Project.

7.2 CONSTRUCTION PHASE COMPENSATION

7.2.1 The Owner shall compensate the Design-Builder for Work performed following the commencement of the Construction Phase on the following basis:

7.2.1.1 the Cost of the Work as allowed in ARTICLE 8; and

7.2.1.2 the Design-Builder's Fee paid in proportion to the services performed subject to adjustment.

7.2.2 The compensation to be paid under this section shall be limited to the GMP established in Amendment 1, which may be adjusted under ARTICLE 9.

7.2.3 Payment for Construction Phase services shall be as set forth in ARTICLE 10. If Design Phase services continue to be provided after construction has commenced, the Design-Builder shall continue to be compensated as provided in section 7.1, or as mutually agreed.

7.3 DESIGN-BUILDER'S FEE The Design-Builder's Fee shall be as follows, subject to adjustment as provided in section 7.4:

7.4 ADJUSTMENT IN THE DESIGN-BUILDER'S FEE Adjustment in the Design-Builder's Fee shall be made as follows:

7.4.1 for changes in the Work as provided in ARTICLE 9, the Design-Builder's Fee shall be adjusted as follows:

7.4.2 for delays in the Work not caused by the Design-Builder, except as provided in subsection 6.3.2, there will be an equitable adjustment in the Design-Builder's Fee to compensate the Design-Builder for increased expenses; and

7.4.3 if the Design-Builder is placed in charge of managing the replacement of an insured or uninsured loss, the Design-Builder shall be paid an additional fee in the same proportion that the Design-Builder's Fee bears to the estimated Cost of the Work for the replacement.

ARTICLE 8 COST OF THE WORK

The Owner agrees to pay the Design-Builder for the Cost of the Work as defined in this article. This payment shall be in addition to the Design-Builder's Fee stipulated in section 7.3.

8.1 COST ITEMS FOR DESIGN PHASE SERVICES



- 8.1.1 Compensation for Design Phase services as provided in section 7.1.
- 8.1.2 GMP cost proposal is based on last proposal dated 7-8-14 (Exhibit D)

8.2 COST ITEMS FOR CONSTRUCTION PHASE SERVICES

8.2.1 Wages paid for labor in the direct employ of the Design-Builder in the performance of the Work.

8.2.2 Salaries of the Design-Builder's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office performing the functions listed below:

8.2.3 Cost of all employee benefits and taxes including but not limited to workers' compensation, unemployment compensation, social security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Design-Builder's standard personnel policy, insofar as such costs are paid to employees of the Design-Builder who are included in the Cost of the Work under subsections 8.2.1 and 8.2.2.

8.2.4 Reasonable transportation, travel, hotel and moving expenses of the Design-Builder's personnel incurred in connection with the Work.

8.2.5 Cost of all materials, supplies and equipment incorporated in the Work, including costs of inspection and testing if not provided by the Owner, transportation, storage and handling.

8.2.6 Payments made by the Design-Builder to Subcontractors for work performed under this Agreement.

8.2.7 Fees and expenses for design services procured or furnished by the Design-Builder except as provided by the Design-Professional and compensated in section 7.1.

8.2.8 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of the Design-Builder.

8.2.9 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from the Design-Builder or Others, including installation, repair and replacement, dismantling, removal, maintenance, transportation and delivery costs. Rental from unrelated third-parties shall be reimbursed at actual cost. Rentals from the Design-Builder or its affiliates, subsidiaries or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment.

8.2.10 Cost of the premiums for all insurance and surety bonds which the Design-Builder is required to procure or deems necessary, and approved by the Owner, including any additional premium incurred as a result of any increase in the GMP.



8.2.11 Sales, use, gross receipts or other taxes, tariffs or duties related to the Work for which the Design-Builder is liable.

8.2.12 Permits, fees, licenses, tests, and royalties.

8.2.13 Losses, expenses or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work or redesign during the Construction Phase and for a one-year period following the Date of Substantial Completion, provided that such corrective work or redesign did not arise from the Design-Builder's negligence.

8.2.14 All costs associated with establishing, equipping, operating, maintaining and demobilizing the field office.

8.2.15 Reproduction costs, photographs, facsimile transmissions, long-distance telephone calls, data processing services, postage, express delivery charges, data transmission, telephone service, and computer-related costs at the Worksite, to the extent such items are used and consumed in the performance of the Work or are not capable of use after completion of the Work.

8.2.16 All water, power and fuel costs necessary for the Work.

8.2.17 Cost of removal of all non-hazardous substances, debris and waste materials.

8.2.18 Costs incurred due to an emergency affecting the safety of persons or property.

8.2.19 Legal, mediation and arbitration fees and costs, other than those arising from disputes between the Owner and the Design-Builder, reasonably and properly resulting from the Design-Builder's performance of the Work.

8.2.20 All costs directly incurred in the performance of the Work or in connection with the Project, and not included in the Design-Builder's Fee as set forth in ARTICLE 7, which are reasonably inferable from the Contract Documents.

8.3 DISCOUNTS All discounts for prompt payment shall accrue to the Owner to the extent such payments are made directly by the Owner. To the extent payments are made with funds of the Design-Builder, all cash discounts shall accrue to the Design-Builder. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

ARTICLE 9 CHANGES IN THE WORK

Changes in the Work which are within the general scope of this Agreement may be accomplished, without invalidating this Agreement, by Change Order, Interim Directed Change, or a minor change in the work, subject to the limitations stated in the Contract Documents.

9.1 CHANGE ORDER

9.1.1 The Design-Builder may request or the Owner, without invalidating this Agreement, may order changes in the Work within the general scope of the Contract Documents consisting of additions, deletions or other revisions to the GMP or the estimated cost of the work, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final



Completion being adjusted accordingly. All such changes in the Work shall be authorized by applicable Change Order, and processed in accordance with this article.

9.1.2 Each adjustment in the GMP or estimated Cost of the Work resulting from a Change Order shall clearly separate the amount attributable to compensation for Design Phase services, other Cost of the Work and the Design-Builder's Fee, with the Design-Builder's Fee not to exceed eight percent (8%).

9.1.3 The Owner and the Design-Builder shall negotiate an appropriate adjustment to the GMP or the estimated Cost of the Work, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the GMP, the estimated Cost of the Work, and compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion shall not be unreasonably withheld.

9.1.4 NO OBLIGATION TO PERFORM The Design-Builder shall not be obligated to perform changes in the Work that impacts the GMP or the estimated Cost of the Work, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion until a Change Order has been executed or written Interim Directed Change has been issued.

9.2 INTERIM DIRECTED CHANGE

9.2.1 The Owner may issue a written Interim Directed Change directing a change in the Work prior to reaching agreement with the Design-Builder on the adjustment, if any, in the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate, the compensation for Design Phase services.

9.2.2 The Owner and the Design-Builder shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, arising out of Interim Directed Change. As the changed Work is completed, the Design-Builder shall submit its costs for such Work with its application for payment beginning with the next application for payment within thirty (30) Days of the issuance of the Interim Directed Change. Pending final determination of cost to the Owner, amounts not in dispute may be included in applications for payment and shall be paid by Owner.

9.2.3 When the Owner and the Design-Builder agree upon the adjustments in the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, for a change in the Work directed by an Interim Directed Change, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directed Changes on which the Owner and Construction Manager have reached agreement on the GMP or the Date of Substantial Completion or Date of Final Completion issued since the last Change Order.

9.3 MINOR CHANGES IN THE WORK



9.3.1 The Design-Builder may make minor changes in the design and construction of the Project consistent with the intent of the Contract Documents which do not involve an adjustment in the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and do not materially and adversely affect the design of the Project, the quality of any of the materials or equipment specified in the Contract Documents, the performance of any materials, equipment or systems specified in the Contract Documents, or the quality of workmanship required by the Contract Documents.

9.3.2 The Design-Builder shall promptly inform the Owner in writing of any such changes and shall record such changes on the Design-Build Documents maintained by the Design-Builder.

9.4 CONCEALED OR UNKNOWN SITE CONDITIONS If the conditions encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, the Design-Builder shall stop affected Work after the condition is first observed and give prompt written notice of the condition to the Owner and the Design Professional. The Design-Builder shall not be required to perform any Work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or the Contract Time as a result of the unknown condition shall be determined as provided in this article.

9.5 DETERMINATION OF COST

9.5.1 An increase or decrease in the GMP or estimated Cost of the Work resulting from a change in the Work shall be determined by one or more of the following methods:

9.5.1.1 unit prices set forth in this Agreement or as subsequently agreed;

9.5.1.2 a mutually accepted, itemized lump sum;

9.5.1.3 costs determined as defined in section 7.2 and ARTICLE 8 and a mutually acceptable Design-Builder's Fee as determined in subsection 7.4.1; or

9.5.2 If an increase or decrease in Contract Price or Contract Time cannot be agreed to as set forth in sections 9.5.1 above, and the Owner issues an Interim Directed Change, the cost of the change in the Work shall be determined by the reasonable actual expense incurred and savings realized in the performance of the Work resulting from the change. If there is a net increase in the GMP, the Design-Builder's Fee shall be adjusted as set forth in subsection 7.4.1. In case of a net decrease in the GMP, the Design-Builder's Fee shall not be adjusted unless ten percent (10%) or more of the Project is deleted. The Design-Builder shall maintain a documented, itemized accounting evidencing the expenses and savings.

9.5.3 If unit prices are indicated in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to the Owner or the Design-Builder, such unit prices shall be equitably adjusted.

9.5.4 If the Owner and the Design-Builder disagree as to whether work required by the Owner is within the scope of the Work, the Design-Builder shall furnish the Owner with an estimate of the



costs to perform the disputed work in accordance with the Owner's interpretations. If the Owner issues a written order for the Design-Builder to proceed, the Design-Builder shall perform the disputed work and the Owner shall pay the Design-Builder fifty percent (50%) of its actual, direct cost to perform the work. In such event, both Parties reserve their rights as to whether the work was within the scope of the Work. The Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of Work. The Design-Builder's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work.

9.6 CLAIMS FOR ADDITIONAL COST OR TIME For any claim for an increase in the GMP, estimated Cost of the Work, the Design-Builder's Fee and the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, the Design-Builder shall give the Owner written notice of the claim within twenty-one (21) Days after the occurrence giving rise to the claim or within twenty-one (21) Days after the Design-Builder first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Claims for design and estimating costs incurred in connection with possible changes requested by the Owner, but which do not proceed, shall be made within twenty-one (21) Days after the decision is made not to proceed. Thereafter, the Design-Builder shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. The Owner shall respond in writing denying or approving the Design-Builder's claim no later than fourteen (14) Days after receipt of the Design-Builder's documentation of claim. Owner's failure to so respond shall be deemed a denial of the Design-Builder's claim. Any change in the GMP, estimated Cost of the Work, the Design-Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design Phase services, resulting from such claim shall be authorized by Change Order.

9.7 INCIDENTAL CHANGES The Owner may direct the Design-Builder to perform incidental changes in the Work upon concurrence with the Design-Builder that such changes do not involve adjustments in the Cost of the Work or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. The Owner shall initiate an incidental change in the Work by issuing a written order to the Design-Builder. Such written notice shall be carried out promptly and is binding on the Parties.

ARTICLE 10 PAYMENT FOR CONSTRUCTION PHASE SERVICES

10.1 PROGRESS PAYMENTS

10.1.1 On the twenty-fifth (25th) Day of each month after the Construction Phase has commenced, the Design-Builder shall submit to the Owner an application for payment consisting of the Cost of the Work performed up to the thirtieth (30th) Day of the month, along with a proportionate share of the Design-Builder's Fee. Prior to submission of the next application for payment, the Design-Builder shall furnish to the Owner a statement accounting for the disbursement of funds received under the previous application. The extent of such statement shall be as agreed upon between the Owner and the Design-Builder.

10.1.2 Within fifteen (15) Days after receipt of each monthly application for payment, the Owner shall give written notice to the Design-Builder of the Owner's acceptance or rejection, in whole or in part, of such application for payment. Within fifteen (15) Days after accepting such application, the Owner shall pay directly to the Design-Builder the appropriate amount for which application for payment is made, less amounts previously paid by the Owner. If such application is rejected in



whole or in part, the Owner shall indicate the reasons for its rejection. If the Owner and the Design-Builder cannot agree on a revised amount then, within fifteen (15) Days after its initial rejection in part of such application, the Owner shall pay directly to the Design-Builder the appropriate amount for those items not rejected by the Owner for which application for payment is made, less amounts previously paid by the Owner. Those items rejected by the Owner shall be due and payable when the reasons for the rejection have been removed.

10.1.3 If the Owner fails to pay the Design-Builder at the time payment of any amount becomes due, then the Design-Builder may, at any time thereafter, upon serving written notice that the Work will be stopped within seven (7) Days after receipt of the notice by the Owner, and after such seven (7) Day period, stop the Work until payment of the amount owing has been received.

10.1.4 Payments due but unpaid pursuant to subsection 10.1.2, less any amount retained pursuant to sections 10.2 and 10.3 may bear interest from the date payment is due at the prime rate prevailing at the place of the Project.

10.1.5 The Design-Builder warrants and guarantees that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to the Owner upon receipt of such payment by the Design-Builder, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to as liens.

10.1.6 The Owner's progress payment, occupancy or use of the Project, whether in whole or in part, shall not be deemed an acceptance of any Work not conforming to the requirements of the Contract Documents.

10.1.7 Upon Substantial Completion of the Work, the Owner shall pay the Design-Builder the unpaid balance of the Cost of the Work, compensation for Design Phase services and the Design-Builder's Fee, less one-hundred-fifty percent (150%) of the cost of completing any unfinished items as agreed to between the Owner and the Design-Builder as to extent and time for completion. The Owner thereafter shall pay the Design-Builder monthly the amount retained for unfinished items as each item is completed.

10.1.8 **STORED MATERIALS AND EQUIPMENT** Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite, including applicable insurance, storage and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on submission by the Design-Builder of bills of sale and proof of required insurance, or such other procedures satisfactory to the Owner to establish the proper valuation of the stored materials and equipment, the Owner's title to such materials and equipment, and to otherwise protect the Owner's interests therein, including transportation to the worksite.

10.2 **RETAINAGE** From each progress payment made prior to the time of Substantial Completion, the Owner may retain five percent (5%) of the amount otherwise due after deduction of any amounts as provided in section 10.3, and in no event shall such percentage exceed any applicable statutory requirements. If the Owner chooses to use this retainage provision:



10.2.1 after the Work is fifty percent (50%) complete, the Owner shall withhold no additional retainage and shall pay the Design-Builder the full amount due on account of subsequent progress payments;

10.2.2 the Owner may, in its sole discretion, reduce the amount to be retained at any time;

10.2.3 the Owner may release retainage on that portion of the Work a Subcontractor has completed, in whole or in part, and which work the Owner has accepted;

10.2.4 in lieu of retainage, the Design-Builder may furnish a retention bond or other security interest acceptable to the Owner, to be held by the Owner.

10.3 ADJUSTMENT OF DESIGN-BUILDER'S APPLICATION FOR PAYMENT The Owner may adjust or reject an application for payment or nullify a previously approved Design-Builder application for payment, in whole or in part, as may reasonably be necessary to protect the Owner from loss or damage based upon the following, to the extent that the Design-Builder is responsible under this Agreement:

10.3.1 the Design-Builder's repeated failure to perform the Work as required by the Contract Documents;

10.3.2 except as accepted by the insurer providing Builders Risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by the Design-Builder to the Owner or Others to whom the Owner may be liable;

10.3.3 the Design-Builder's failure to properly pay the Design-Professional, Subcontractors or Material Suppliers for labor, materials, equipment or supplies furnished in connection with the Work, provided that the Owner is making payments to the Design-Builder in accordance with the terms of this Agreement;

10.3.4 Defective Work not corrected in a timely fashion;

10.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Date of Substantial Completion or the Date of Final Completion, and that the unpaid balance of the GMP is not sufficient to offset any direct damages that may be sustained by the Owner as a result of the anticipated delay caused by the Design-Builder;

10.3.6 reasonable evidence demonstrating that the unpaid balance of the GMP is insufficient to fund the cost to complete the Work; and

10.3.7 uninsured third-party claims involving the Design-Builder or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the Design-Builder furnishes the Owner with adequate security in the form of a surety bond, letter of credit or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, the Owner shall give written notice to the Design-Builder, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by the Design-Builder in order to receive payment. When the above reasons for disapproving or



nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

10.4 OWNER OCCUPANCY OR USE OF COMPLETED OR PARTIALLY COMPLETED WORK

10.4.1 Portions of the Work that are completed or partially completed may be used or occupied by the Owner when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) or sureties consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work. The Design-Builder shall not unreasonably withhold consent to partial occupancy or use. The Owner shall not unreasonably refuse to accept partial occupancy or use, provided such partial occupancy or use is of value to the Owner.

10.5 FINAL PAYMENT

10.5.1 Final Payment, consisting of the unpaid balance of the Cost of the Work, compensation for Design Phase services and the Design-Builder's Fee, shall be due and payable when the work is fully completed. Before issuance of final payment, the Owner may request satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

10.5.2 In making final payment the Owner waives all claims except for:

10.5.2.1 outstanding liens;

10.5.2.2 improper workmanship or defective materials appearing within one year after the Date of Substantial Completion;

10.5.2.3 work not in conformance with the Contract Documents; and

10.5.2.4 terms of any special warranties required by the Contract Documents.

10.5.3 In accepting final payment, the Design-Builder waives all claims except those previously made in writing and which remain unsettled.

ARTICLE 11 INDEMNITY, INSURANCE, AND BONDS

11.1 INDEMNITY

11.1.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, Owner's officers, directors, members, consultants, agents and employees (the Indemnitees) from all claims for bodily injury and property damage other than to the Work itself and other property required to be insured, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. The Design-Builder shall not be required to indemnify or hold harmless the Indemnitees for any negligent acts or omissions of the Indemnitees. The Design-Builder shall be entitled to reimbursement of any defense costs paid



above Design-Builder's percentage of liability for the underlying claim to the extent provided for by the subsection below.

11.1.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, its officers, directors or members, Subcontractors or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of work by the Owner or Others, but only to the extent caused by the negligent acts or omissions of the Owner or Others. The Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for by the subsection above.

11.1.3 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of the Design-Builder, anyone directly or indirectly employed by the Design-Builder or anyone for whose acts the Design-Builder may be liable, the indemnification obligation 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 Design-Builder under workers' compensation acts, disability benefit acts or other employee benefit acts.

11.1.4 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, Owner's Officers, Directors, Members, Consultants, Agents, and Employees (the Indemnitees) from any claim, demand, action or cause of action whatsoever by any governmental entity or private person, claiming a violation in anyway of laws requiring the payment of certain wages (sometimes known as a prevailing wage), including, but not limited to Kentucky's prevailing wage law; the Davis-Bacon Act; or, any other state or federal law which provides for the compensation or wages of employees, for employees' hours of work or overtime compensation. The Owner shall be entitled to reimbursement of any defense costs, legal fees, fines or penalties incurred as a result of the Design-Builder's violation of Kentucky's prevailing wage law; the Davis-Bacon act; or any other state or federal law which provides for the compensation of wages for employee, for employee's hours of work or overtime compensation.

11.2 DESIGN-BUILDER'S LIABILITY INSURANCE

11.2.1 Before commencing the Work and as a condition precedent to payment, the Design-Builder shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. The Design-Builder shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. The Design-Builder's Employers' Liability, Business Automobile Liability, and CGL policies shall be written with at least the following limits of liability:

11.2.1.1 Employers' Liability Insurance

- (a) \$1,000,000 bodily injury by accident per accident
- (b) \$1,000,000 bodily injury by disease policy limit
- (c) \$1,000,000 bodily injury by disease per employee



11.2.1.2 Business Automobile Liability Insurance per accident \$1,000,000.

11.2.1.3 Commercial General Liability Insurance

- (a) Per occurrence \$1,000,000
- (b) General aggregate \$1,000,000
- (c) Products/completed operations aggregate \$2,000,000
- (d) Personal and advertising injury limit \$1,000,000

11.2.2 Employers' Liability, Business Automobile Liability and CGL coverage required under subsection 11.2.1 may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by Excess or Umbrella Liability policies.

11.2.3 The Design-Builder shall maintain in effect all insurance coverage required under subsection 11.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If the Design-Builder fails to obtain or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and charge the expense to the Design-Builder, or terminate this Agreement.

11.2.4 To the extent commercially available to the Design-Builder from its current insurance company, insurance policies required under subsection 11.2.1 shall contain a provision that the insurance company or its designee must give the Owner written notice transmitted in paper or electronic format: (a) 30 days before coverage is nonrenewed by the insurance company and (b) within 10 business days after cancellation of coverage by the insurance company. Prior to commencing the Work and upon renewal or replacement of the insurance policies, the Design-Builder shall furnish the Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under subsection 11.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, the Design-Builder shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

11.3 PROPERTY INSURANCE

11.3.1 Before commencing the Work, the Owner shall obtain and maintain a Builder's Risk Policy (through Denham-Blythe) upon the entire Project for the full cost of replacement at the time of loss. This insurance shall also name the Design-Builder, Subcontractors, Subsubcontractors, Material Suppliers and Design-Professional as named insureds. This insurance shall be written as a Builder's Risk Policy or equivalent form to cover all risks of physical loss except those specifically excluded by the policy, and shall insure (a) at least against the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Design-Builder) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused, and (b) damage resulting from defective design, workmanship or material and material or equipment stored offsite, onsite or in transit. The Owner shall be solely responsible for any deductible amounts or coinsurance penalties. This policy shall provide for a waiver of subrogation in favor of the Design-Builder, Subcontractors, Subsubcontractors, Material Suppliers and Design-Professional. This insurance shall remain in effect until final payment has been made or



until no person or entity other than the Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until the Owner has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, the Owner shall provide a copy of the property policy or policies obtained in compliance with this subsection.

11.3.2 If the Owner does not intend to purchase the property insurance required by this Agreement, including all of the coverages and deductibles described herein, the Owner shall give written notice to the Design-Builder and the Design-Professional before the Work is commenced. The Design-Builder may then provide insurance to protect its interests and the interests of the Subcontractors and Subsubcontractors, including the coverage of deductibles. The cost of this insurance shall be charged to the Owner in a Change Order. The Owner shall be responsible for all of Design-Builder's costs reasonably attributed to the Owner's failure or neglect in purchasing or maintaining the coverage described above.

11.3.2.1 If the Owner does not obtain insurance to cover the risk of physical loss resulting from Terrorism, the Owner shall give written notice to the Design-Builder before the Work commences. The Design-Builder may then provide insurance to protect its interests and the interests of the Subcontractors and Subsubcontractors against such risk of loss, including the coverage of deductibles. The cost of this insurance shall be charged to the Owner in a Change Order.

11.3.3 Owner and Design-Builder waive all rights against each other and their respective employees, agents, contractors, subcontractors and subsubcontractors, and design professionals for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance and such rights as the Design-Builder may have for the failure of the Owner to obtain and maintain property insurance in compliance with subsection 11.3.1.

11.3.4 To the extent of the limits of Design-Builder's CGL specified in subsection 11.2.1 or one million dollars (\$1,000,000.00), whichever is more, the Design-Builder shall indemnify and hold harmless the Owner against any and all liability, claims, demands, damages, losses and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent of the negligent acts or omissions of the Design-Builder, Subcontractor or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

11.3.5 RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss or damage to the Work shall be upon the Design-Builder until the Date of Substantial Completion, unless otherwise agreed to by the Parties.

11.4 OWNER'S INSURANCE

11.4.1 BUSINESS INCOME INSURANCE The Owner may procure and maintain insurance against loss of use of the Owner's property caused by fire or other casualty loss.

11.4.2 OWNER'S LIABILITY INSURANCE The Owner shall either self-insure or obtain and maintain its own liability insurance for protection against claims arising out of the performance of this Agreement, including without limitation, loss of use and claims, losses and expenses arising out of the Owner's acts or omissions.



11.5 ADDITIONAL LIABILITY COVERAGE

11.5.1 The Owner shall not require Design-Builder to purchase and maintain additional liability coverage, primary to Owner's coverage under subsection 11.4.2.

11.5.2 If required by the above subsection, the additional liability coverage required of the Design-Builder shall be

1. **NO - Additional Insured.** The Owner shall be named as an additional insured on the Design-Builder's CGL specified, for operations and completed operations, but only with respect to liability for bodily injury, property damage or personal and advertising injury to the extent caused by the negligent acts or omissions of Design-Builder, or those acting on Design-Builder's behalf, in the performance of the Design-Builder's Work for the Owner at the Worksite.

2. **NO - OCP.** The Design-Builder shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by the Owner.

Any documented additional cost in the form of a surcharge associated with procuring the additional general liability coverage in accordance with this subsection shall be paid by the Owner directly or the costs may be reimbursed by Owner to Design-Builder by increasing the contract price to correspond to the actual cost required to purchase and maintain the coverage. Prior to commencement of the Work, Design-Builder shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that the Owner has been named as an additional insured, as applicable,

11.6 **ROYALTIES, PATENTS AND COPYRIGHTS** The Design-Builder shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by the Design-Builder and incorporated in the Work. The Design-Builder shall defend, indemnify and hold the Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. The Owner agrees to defend, indemnify and hold the Design-Builder harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods or systems specified by the Owner.

11.7 **PROFESSIONAL LIABILITY INSURANCE** The Design-Builder shall obtain, either itself or through the Design Professional, professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be:

Practice Policy written for not less than one million dollars (\$1,000,000.00) per claim and in the aggregate with a deductible not to exceed one hundred thousand dollars (\$100,000.00). The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by the Design-Professional. This coverage shall be continued in effect for one year(s) after the Date of Substantial Completion.

11.8 BONDING



Performance and Payment Bonds are required of the Design-Builder. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to the Owner. Owner's acceptance shall not be withheld without reasonable cause.

11.8.1 Such Performance Bond shall be issued in the penal sum equal to one-hundred percent (100%) of the:

GMP

Such Performance Bond shall cover the cost to complete the Work, but shall not cover any damages of the type specified to be covered by the insurance pursuant to sections 11.2 and 11.3, whether or not such insurance is provided or is in an amount sufficient to cover such damages.

11.8.2 The penal sum of the Payment Bond shall equal the penal sum of the Performance Bond. The Design-Builder's Payment Bond for the Project, if any, shall be made available by the Owner or the Design-Builder upon the Subcontractor's written request.

11.8.3 Any increase in the GMP Price that exceeds ten percent [10%] in the aggregate shall require a rider to the Bonds increasing penal sums accordingly. Up to such ten percent [10%] amount, the penal sum of the bond shall remain equal to one-hundred percent [100%] of the GMP or as otherwise provided in subsection 11.8.2. The Design-Builder shall endeavor to keep its surety advised of changes within the scope of the initial Agreement potentially impacting the GMP or the Dates of Substantial Completion or Final Completion, though the Design-Builder shall require that its surety waives any requirement to be notified of any alteration or extension of time. A copy of the Design-Builder's Payment Bond for the Project, if any, shall be furnished by the Owner or the Design-Builder upon the Subcontractor's written request.

ARTICLE 12 SUSPENSION, NOTICE TO CURE, AND TERMINATION

12.1 SUSPENSION BY THE OWNER FOR CONVENIENCE

12.1.1 The Owner may order the Design-Builder in writing to suspend, delay or interrupt all or any part of the Work without cause for its convenience.

12.1.2 Adjustments caused by suspension, delay or interruption shall be made for increases in the GMP, compensation for Design Phase services, the Design-Builder's Fee or the Date of Substantial Completion or the Date of Final Completion. No adjustment shall be made if the Design-Builder is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.

12.2 TERMINATION BY THE OWNER FOR CAUSE

12.2.1 If the Design-Builder persistently fails to supply enough qualified workers, proper materials, or equipment, to maintain the approved Schedule of the Work, or fails to make prompt payment to its workers, Subcontractors or Material Suppliers, disregards Laws or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, the Design-Builder may be deemed in default. If the Design-Builder fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default, then the



Owner shall give the Design-Builder and, if applicable, the surety, a second notice to correct the default within a three (3) Day period.

12.2.2 If the Design-Builder fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, the Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing any reasonable means; (c) withhold payment due to the Design-Builder; and (d) as the Owner deems necessary, supply workers and materials, equipment and other facilities for the satisfactory correction of the default, and charge the Design-Builder the costs and expenses, including reasonable Overhead, profit and attorneys' fees.

12.2.3 In the event of an emergency affecting the safety of persons or property, the Owner may immediately commence and continue satisfactory correction of a default without first giving written notice to the Design-Builder, but shall give prompt written notice of such action to the Design-Builder following commencement of the action.

12.2.4 If the Design-Builder files a petition under the bankruptcy code, this Agreement shall terminate if the Design-Builder or the Design-Builder's trustee rejects the Agreement, or if there has been a default and the Design-Builder is unable to give adequate assurance that the Design-Builder will perform as required by this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the bankruptcy code.

12.2.5 If the Owner exercises its rights under subsection 12.2.1 or 12.2.2, upon the request of the Design-Builder the Owner shall provide a detailed accounting of the costs incurred by the Owner.

12.2.6 If the Owner terminates this Agreement for default, and it is later determined that the Design-Builder was not in default, or that the default was excusable under the terms of the Contract Documents, then, in such event, the termination shall be deemed a termination for convenience, and the rights of the Parties shall be as set forth in section 12.3.

12.3 TERMINATION BY OWNER FOR CONVENIENCE If the Owner terminates this Agreement other than as set forth in section 12.2, the Owner shall pay the Design-Builder for all Work executed and for all proven loss, cost or expense in connection with the Work, plus all demobilization costs. In addition, the Design-Builder shall be paid an amount calculated set forth below: costs plus eight percent (8%).

12.3.1 If the Owner terminates this Agreement before commencing the Construction Phase, the Design-Builder shall be paid for the Design-Builder's Design Phase services provided to date as set forth in subsections 7.1.2 and 7.1.3, and a premium set forth below: costs plus eight percent (8%).

12.3.2 If the Owner terminates this Agreement after commencement of the Construction Phase, the Design-Builder shall be paid for the Construction Phase services provided to date pursuant to subsection 7.2.1 and a premium set forth below: costs plus eight percent (8%).

12.3.3 The Owner shall also pay to the Design-Builder fair compensation, either by purchase or rental at the election of the Owner, for all equipment retained. The Owner shall assume and become liable for obligations, commitments and unsettled claims that the Design-Builder has previously undertaken or incurred in good faith in connection with the Work or as a result of the termination of this Agreement. As a condition of receiving the payments provided under this article, the Design-Builder shall cooperate with the Owner by taking all steps necessary to accomplish the legal



assignment of the Design-Builder's rights and benefits to the Owner, including the execution and delivery of required papers.

12.4 TERMINATION BY THE DESIGN-BUILDER

12.4.1 Upon seven (7) Days' written notice to the Owner, the Design-Builder may terminate this Agreement for any of the following reasons:

12.4.1.1 if the Work has been stopped for a thirty (30) Day period

- a. under court order or order of other governmental authorities having jurisdiction; or
- b. as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Design-Builder, materials are not available;

12.4.1.2 if the Work is suspended by the Owner for thirty (30) consecutive Days;

12.4.1.3 if the Owner fails to furnish reasonable evidence that sufficient funds are available and committed for the entire cost of the Project in accordance with subsection 4.2 of this Agreement.

12.4.2 If the Owner has for thirty (30) Days failed to pay the Design-Builder pursuant to subsection 10.1.2, the Design-Builder may give written notice of its intent to terminate this Agreement. If the Design-Builder does not receive payment within seven (7) Days of giving written notice to the Owner, then upon seven (7) Days' additional written notice to the Owner, the Design-Builder may terminate this Agreement.

12.4.3 Upon termination by the Design-Builder in accordance with this section, the Design-Builder shall be entitled to recover from the Owner payment for all Work executed and for all proven loss, cost or expense in connection with the Work, plus all demobilization costs and reasonable damages. In addition, the Design-Builder shall be paid an amount calculated as set forth either in subsection 12.3.1 or 12.3.2, depending on when the termination occurs, and subsection 12.3.3.

ARTICLE 13 DISPUTE MITIGATION AND RESOLUTION

13.1 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the Design-Builder shall continue the Work and maintain the approved schedules during any dispute mitigation or resolution proceedings. If the Design-Builder continues to perform, the Owner shall continue to make payments in accordance with the Agreement.

13.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who will record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of



first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

13.3 MITIGATION If the Parties select one of the dispute mitigation procedures below, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in section 13.5. The Parties agree that the dispute mitigation procedure shall be:

Project Neutral

13.3.1 MITIGATION PROCEDURES The Project Neutral/Dispute Review Board (Neutral/Board) shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of the Neutral's/Board's responsibilities. The costs and expenses of the Neutral/Board shall be shared equally by the Parties. The Neutral/Board shall be available to either Party, upon request, throughout the course of the Project, and shall make regular visits to the Project so as to maintain an up-to-date understanding of the Project progress and issues and to enable the Neutral/Board to address matters in dispute between the Parties promptly and knowledgeably. The Neutral/Board is to issue nonbinding findings within five (5) Business Days of referral of the matter to the Neutral/Board, unless good cause is shown.

13.3.2 If the matter remains unresolved following the issuance of the nonbinding finding by the mitigation procedure or if the Neutral/Board fails to issue nonbinding findings within five (5) Business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in section 13.5.

13.4 MEDIATION If direct discussions pursuant to section 13.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under section 13.3, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), or the Parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.

13.5 DISPUTE RESOLUTION. If the matter is unresolved following the utilization of the mitigation procedure, the appropriate venue for judicial resolution of any dispute is the state courts of the Commonwealth of Kentucky, or the United States District Court for the Western District of Kentucky, Bowling Green Division.

13.5.1 COSTS. The prevailing party shall be entitled to a reasonable attorney's fee.

13.5.2 VENUE The venue of any binding dispute resolution procedure shall be the location of the Project, unless the Parties agree on a mutually convenient location.

13.5.3 Neither Party may commence arbitration if the claim or cause of action would be barred by the applicable statute of limitations had the claim or cause of action been filed in a state or federal court. Receipt of a demand for arbitration by the person or entity administering the arbitration shall



constitute the commencement of legal proceedings for the purposes of determining whether a claim or cause of action is barred by the applicable statute of limitations. If, however, a state or federal court exercising jurisdiction over a timely filed claim or cause of action orders that the claim or cause of action be submitted to arbitration, the arbitration proceeding shall be deemed commenced as of the date the court action was filed, provided that the Party asserting the claim or cause of action files its demand for arbitration with the person or entity administering the arbitration within thirty (30) Days after the entry of such order.

13.5.4 An award entered in an arbitration proceeding pursuant to this Agreement shall be final and binding upon the Parties, and judgment may be entered upon an award in any court having jurisdiction.

13.6 MULTIPARTY PROCEEDING All Parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution proceedings.

13.7 LIEN RIGHTS. Nothing in this article shall limit any rights or remedies not expressly waived by the Design-Builder which the Design-Builder may have under lien laws.

ARTICLE 14 MISCELLANEOUS

14.1 EXTENT OF AGREEMENT Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Owner and Design-Builder and not for the benefit of any third-party.

14.2 ASSIGNMENT Except as to the assignment of proceeds, neither Party shall not assign its interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that the Owner may assign the Agreement to a wholly-owned subsidiary of the Owner when the Owner has fully indemnified the Design-Builder or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to the Design-Builder than this Agreement. In the event of such assignment, the Design-Builder shall execute any consent reasonably required. In such event, the wholly-owned subsidiary or lender shall assume the Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under the Agreement, unless otherwise agreed by the other Party.

14.3 GOVERNING LAW This Agreement shall be governed by the law in effect at the location of the Project.

14.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

14.5 NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.



14.6 TITLES The titles given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.7 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

RIGHTS AND REMEDIES The Parties' rights, liabilities, responsibilities and remedies with respect to this Agreement, whether in contract, tort, negligence or otherwise, shall be exclusively those expressly set forth in this Agreement

ARTICLE 15 CONTRACT DOCUMENTS

15.1 CONTRACT DOCUMENTS The Contract Documents are as follows:

- (a) Exhibit A: Basis of Design/Owner Program – Owners RFP, dated 1/9/14.
- (b) Exhibit B: Labor Relations – Prevailing Wages Attachment
- (c) Exhibit C: Proposal Letter dated 7/8/14.
- (d) Exhibit D: Outline Specifications dated 7/8/14.
- (e) Exhibit E: Preliminary Schedule dated 7/8/14.
- (f) Exhibit F: Drawing List - DCRN #1 dated 7/8/14.

15.2 ORDER OF PRECEDENCE In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement, including Amendment 1; (b) this Agreement; (c) design documents approved by the Owner pursuant to sections 3.1.4 - 3.1.7 in order of the most recently approved; (d) information furnished by the Owner pursuant to 3.7.4 or designated as a contract document in section 15.1; (e) other documents listed in this Agreement. Except as otherwise provided, among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered a conflict or inconsistency.

OWNER: Todd County Water District

BY: Dr. George D. Brown NAME: Dr. George Brown, Chairman of Board of Commissioners

WITNESS: [Signature] NAME: John Haley TITLE: Superintendent

DESIGN-BUILDER: Denham-Blythe Company, Inc.

BY: [Signature] NAME: R. Vance Hohn, PE TITLE: Vice-President

WITNESS: [Signature] NAME: Heath Dockett TITLE: PM

END OF DOCUMENT.



Request for Proposals

The Todd County Water District will accept proposals from prospective contractors for design-build services for a new office and shop building complex in Elkton, Kentucky. Proposals will be accepted until the close of business on January 24, 2014 at the District office located at 617 West Main Street, Elkton, KY 42220. Prospective bidders may obtain a project information package by contacting John Haley, District Manager at (270) 265-2229.

Information Package
Request for Proposals
Todd County Water District
Elkton, Kentucky
January 9, 2014

New Office and Shop Complex

General

The Todd County Water District (TCWD) intends to construct an office and shop complex on an undeveloped site located on US 68/80 in Elkton, Kentucky using the design-build approach to construct the project. TCWD is seeking to engage a contractor or joint venture to provide all design, permitting, construction and commissioning services required for completion of the project.

Site Conditions

The project will be built on a 3.3 acre site located as shown on the attached exhibits. The site is not within the Elkton city limits. The site is presently undeveloped, and is or will be owned by the TCWD. Potable water service will be available from the TCWD on the site. Public sanitary sewer service is not available, and an on-site septic system will be required. Natural gas is not available at the site. Phone, cable TV/broadband internet service are available on the site. There is an existing entrance from US 68/80 to the site.

Preliminary Planning

Exhibits provided in this package show conceptual plans for the proposed improvements. The intent is to provide these documents as a starting point for the final design. The Contractor is encouraged to suggest modification that would result in greater economy or functionality.

The preliminary design anticipates the following:

1. A one story office building with 9-foot ceiling height, slab-on-grade, wood or metal framing, brick exterior, painted gypsum board interior, tile or carpet flooring, asphalt shingle roof. Provide one drive through window, with provisions to add a second in the future. Allow for expansion of the building in the future. Provide customer service counter with full height, pass-through glass partition. Provide accessible attic space for records storage.
2. A pre-engineered metal shop building with 16-foot eave height, 6-inch reinforced concrete slab-on-grade, 14' roll-up door height, lighting, convenience outlets and freeze protection heating in the shop area, heated and air conditioned break room and restroom, insulated roof and walls, liner panels to 10-feet above floor.

3. Concrete stoop and sidewalks to all office building exterior doors. Curbed asphalt or concrete paved parking lot for customers and visitors. Separate gravel entrance, parking and storage for the shop. Six foot security fence around the shop and storage area.

Contents of the Proposal

Responses to this request for proposal are asked to specifically address the following items. Please limit the response to no more than 20 pages.

1. General description of your company or project team.
2. Names and description of the qualifications of any design or major construction subcontractors you propose to use on the project.
3. Names and qualifications of individuals to be assigned to the project.
4. Experience with similar design-build projects. Please highlight 3-5 similar, recent projects performed by your company or team. Provide references with contact information.
5. Your proposed method of compensation for your services.
6. Your estimated budget for the project.
7. Your estimated schedule for completion of the project.
8. Your plan for using local labor and resources where possible.

Selection Process

The TCWD intends to engage one company for the services necessary to complete the project, but reserves the right to reject any or all proposals. TCWD will not be liable for any expense associated with responding to this request for proposals.

TCWD representatives anticipate reviewing the materials submitted by responders and meeting with one or more of the top ranked firms to discuss project details and clarify any issues pertaining to the proposal. TCWD anticipates award to the responder determined by the TCWD Board to offer the best combination of competency, value and responsiveness. The goal of the TCWD is to have the award completed and the project initiated by the spring of 2014.

Questions

Questions regarding this request for proposals should be addressed to John Haley, General Manager of the Todd County Water District at (270) 265-2229

Attachments

The following attachments are provided.

1. Site Location.
2. Area Map.

3. Boundary Survey.
4. Preliminary Office Floor Plan.
5. Preliminary Office Elevations.
6. Preliminary Shop Plan.
7. Preliminary Site Layout.
8. Septic System Evaluation (2 pages).



SITE



Todd County Water District Elkton, Kentucky		
New Office & Maintenance Building SITE LOCATION		
MCGHEE ENGINEERING, INC. Guthrie, Kentucky		
January 7, 2014	1"=1,600'	EX-1



Todd County Water District Elkton, Kentucky	
New Office & Maintenance Building AREA MAP	
MCGHEE ENGINEERING, INC. Guthrie, Kentucky	
January 7, 2014	1"=1,600'
	EX-2

© 2013 Google

36° 49' 13.43" N 87° 16' 27.98" W elev. 636 ft

395 ft

erson Davis Hwy

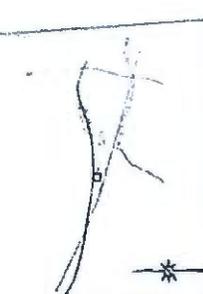


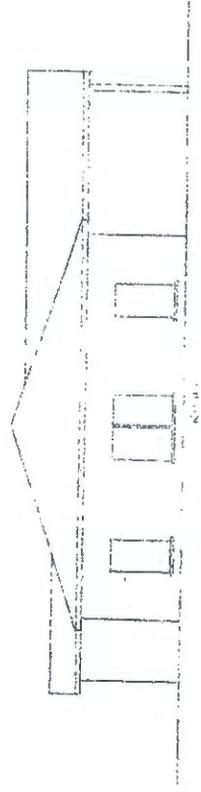
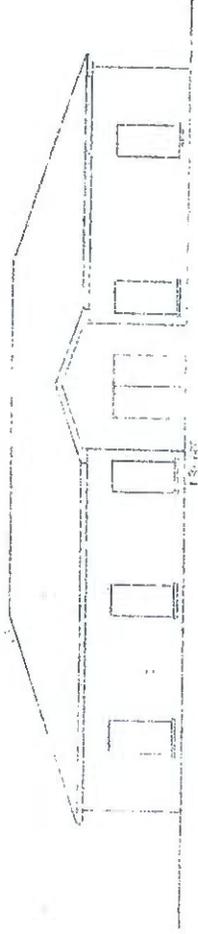
LAND SURVEYING
 BY **WILLIAM B. BRYAN**
 REGISTERED PROFESSIONAL LAND SURVEYOR
 KENTUCKY REGISTRATION NO. 1148
 OFFICE: 1000 S. MAIN ST., CINCINNATI, OHIO 45202
 PHONE: 526-1111

TRACT RECONFIGURATION
U. S. HIGHWAY 68-80
TOTAL AREA: 4.78 ACRES

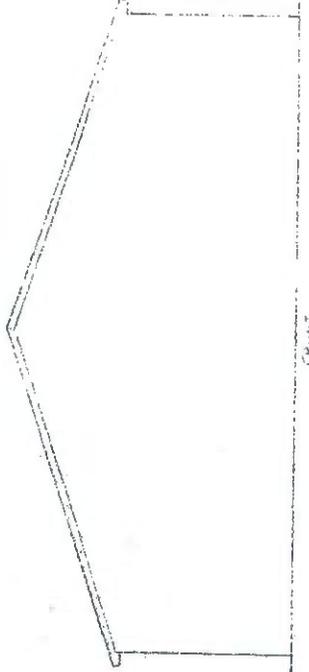
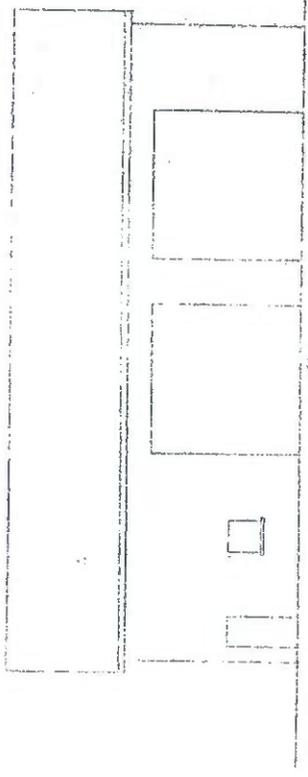
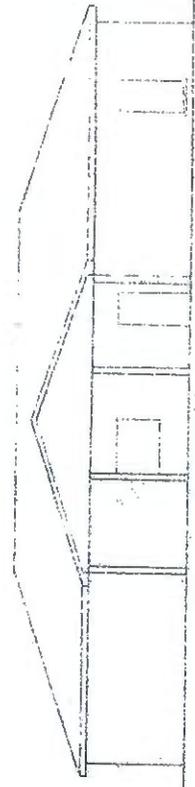
METHOD OF SURVEY:
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VICINITY MAP
 GRAPHIC SCALE: 1" = 50'
 APPROXIMATE LOCATION OF THE TRACT SURVEYED
 U. S. HIGHWAY 68-80
 KENTUCKY REGISTRATION NO. 1148

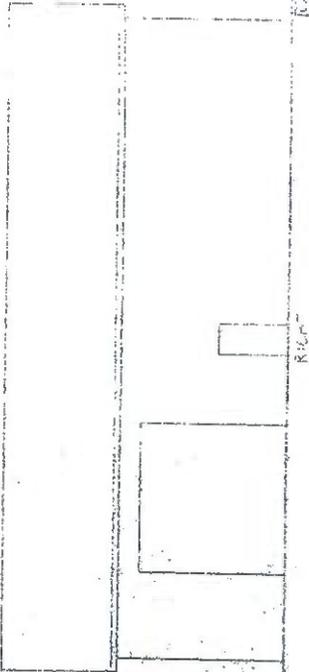
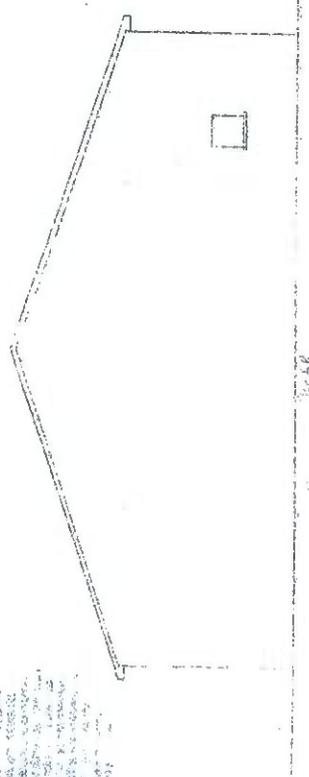




OPTIONAL



GARAGE



FOR THE CITY OF WASHINGTON
DISTRICT OF COLUMBIA
DEPARTMENT OF PUBLIC WORKS

County

Application No.

Owner's Name World C. Water District

Lot Address New 68' 80' west

Applicant's Name

Address

Evaluation Factors	Proposed System Area <i>Flagged Area</i>	Alternative Area 1 <i>Left of Survey Line</i>
1. Topography (slope %)	5-7% <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	5-7% <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
2. Landscape Position	Common side slope <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	Common side slope <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
3. Soil Texture and Group	0-8" sil 8-20" sil 20-42" sil <i>OP II (H2)</i> <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	0-4" sil 4-8" sil 8-12" sil 12-42" sil <i>OP IV</i> <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
4. Soil Structure	Blocky to 32" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	Blocky to 12" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
5. Internal Soil Drainage	Mottly chr 2 @ > 14" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	Mottly > 8" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
6. Soil Depth (in.)	> 42" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	> 42" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
7. Restrictive Horizons (in.)	P ₁ m @ 32" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	P ₁ m @ 12" <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
8. Available Space	100% <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U	100% <input type="radio"/> S <input type="radio"/> PS <input type="radio"/> U
9. Overall Site Classification	S <input type="radio"/> PS <input type="radio"/> U	S PS <input type="radio"/> U
10. Soil Series (if available)		

S = SUITABLE

PS = PROVISIONALLY SUITABLE

U = UNSUITABLE

11. List site and/or system modifications or alternatives required for site approval and the specific area selected for system installation:
- For 120 cap units flow → 1000 gal tank
162 ft of 24" lateral line installed 14" deep, max depth
enclosed in flagged area. Avoid power line > 10ft off
ground → carbon drain to 38 inches and ductiles
avoid under 14" (over soil to 10 inches capped over system)
15-20 ft down slope
unit 2 → 8' ft of standard 12" x 36" chambers (4')
unit 3 → 105 ft of low profile 8" x 26" x 4' chambers

FILLED OR DISTURBED SITES ONLY

12. Percolation Test Required: Yes No

13. Percolation tester instructions: Test to be run in flagged area at depth of _____ in. Presoaking of test holes to be in accordance with Section 6. (4) () Test measurements to be conducted in accordance with Section 6. (5) ().

Attach copy of application and site plan. Draw in evaluation areas and designate area selected for system installation (flagged area).

11-20-13
Date Requested

Start Time

A.M.
P.M.

[Signature]
Certified Inspector

81701
Cert. No.



To find the latitude and longitude of a point Click on the map, Drag the marker, or enter the..

Address:

Map Center: [Get Address](#) - [Land Plat Size](#) - [Street View](#) - [Area Photograp](#)

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Latitude and Longitude of a Point



*Redmond
Doubing*

KENTUCKY LABOR CABINET
PREVAILING WAGE DETERMINATION
CURRENT REVISION
LOCALITY NO. 003

Determination No. CR-8-003

Date of Determination: December 18, 2012

THIS WAGE DETERMINATION IS FOR INFORMATIONAL USE ONLY. AN OFFICIAL DOCUMENT SHOULD BE OBTAINED FROM THE KENTUCKY LABOR CABINET AT 502-564-3534 PURSUANT TO KRS 337.510

This schedule of the prevailing rate of wages for Locality No. 003, which includes Christian, Logan and Todd Counties, has been determined in accordance with the provisions of KRS 337.505 to 337.550. This determination shall be referred to as Prevailing Wage Determination No. CR-8-003.

Apprentices shall be permitted to work as such subject to Administrative Regulations adopted by the Executive Director of the Office of Workplace Standards. Copies of these regulations will be furnished upon request to any interested person.

Overtime is to be computed at not less than one and one-half (1 1/2) times the indicated BASE RATE for all hours worked in excess of eight (8) per day, or in excess of forty (40) per week. However, KRS 337.540 permits an employee and employer to agree, in writing, that the employee will be compensated at a straight time base rate for hours worked in excess of eight (8) hours in any one workday, but not more than ten (10) hours worked in any one workday, if such written agreement is prior to the over eight (8) hours in a workday actually being worked, or where provided for in a collective bargaining agreement. The fringe benefit rate is to be paid for each hour worked at a straight time rate for all hours worked. Fringe benefit amounts are applicable for all hours worked except when otherwise noted. Welders will receive rate for craft in which welding is incidental.

No laborer, workman or mechanic shall be paid at a rate less than that of the General Laborer except those classified as bona fide apprentices registered with the Kentucky State Apprenticeship Supervisor unless otherwise specified in this schedule of wage rates.

NOTE: The type of construction shall be determined by applying the following definitions.

BUILDING CONSTRUCTION

Building construction is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of such structures, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving.

HIGHWAY CONSTRUCTION

Highway construction includes the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction. It includes all incidental construction in conjunction with the highway construction project.

HEAVY CONSTRUCTION

Heavy projects are those projects that are not properly classified as either "building" or "highway". For example, dredging projects, water and sewer line projects, dams, flood control projects, sewage treatment plants and facilities, and water treatment plants and facilities are considered heavy.

Michael L. Dixon, Commissioner
Department of Workplace Standards
Kentucky Labor Cabinet

CHRISTIAN AND TODD COUNTIES:
ASBESTOS/INSULATION WORKERS:

BASE RATE \$21.10
FRINGE BENEFITS 5.63

LOGAN COUNTY:
ASBESTOS/INSULATION WORKERS:

BASE RATE \$12.59
FRINGE BENEFITS 2.00

BOILERMAKERS:

BASE RATE \$27.15
FRINGE BENEFITS 13.54

CHRISTIAN AND TODD COUNTIES:
BRICKLAYERS:

BASE RATE \$16.57
FRINGE BENEFITS 3.74

LOGAN COUNTY:
BRICKLAYERS:

BASE RATE \$16.00

CARPENTERS:

Carpenters:

BUILDING

BASE RATE \$22.23
FRINGE BENEFITS 13.29

Piledrivermen:

BUILDING

BASE RATE \$22.73
FRINGE BENEFITS 13.29

Carpenters:

HEAVY & HIGHWAY

BASE RATE \$19.95
FRINGE BENEFITS 5.43

Piledrivermen:

HEAVY & HIGHWAY

BASE RATE \$20.70
FRINGE BENEFITS 5.43

Divers:

HEAVY & HIGHWAY

BASE RATE \$31.05
FRINGE BENEFITS 5.43

CEMENT MASONS:

BASE RATE \$ 10.04

ELECTRICIANS:

Electricians:

*BASE RATE \$29.32
FRINGE BENEFITS 13.98

*When workmen are required to work on light towers, radio antennas, high bridges, structural steel, or any work of a similar hazardous nature, when no safety scaffold is used under the workmen, the wage scale for the first fifty (50) feet above the ground shall be the regular Journeyman rate. On work over the first fifty (50) feet above the ground as stipulated, the rate of pay shall be one and one-half (1 1/2) times the regular Journeyman scale. Such rate is to be paid only to the workmen actually performing the work at such heights. Structural steel is defined to mean open, unprotected, unfloored raw steel.

LABORERS: HEAVY HIGHWAY

HEAVY HIGHWAY GROUP 1

Aging and curing of concrete (any mode or method), asbestos abatement worker, asphalt plant laborers, asphalt laborers, batch truck dumpers, carpenter tenders, cement mason tenders, cleaning of machines, concrete laborers, demolition laborers, dredging laborers, drill helper, environmental laborer - nuclear, radiation, toxic and hazardous waste - Level D, flagmen, grade checkers, all hand digging and hand back filling, highway marker placers, landscaping laborers, mesh handlers and placers, puddler, railroad laborers, rip-rap and grouters, right of way laborers, sign, guard rail and fence installers (all types), signal men, sound barrier installer, storm and sanitary sewer laborers, swamper, truck spotters and dumpers, and wrecking of concrete forms:

HEAVY & HIGHWAY BASE RATE \$21.51
FRINGE BENEFITS 10.15

HEAVY HIGHWAY GROUP 2

Batter board men (sanitary and storm sewer), brickmason tenders, mortar mixer operator, scaffold builders, burner and welder, bushhammers, chain saw operator, concrete saw operators, deckhand scow man, dry cement handlers, environmental laborers - nuclear, radiation, toxic and hazardous waste - Level C, forklift operators for masonry, form setters, green concrete cutting, hand operated grouter and grinder machine operator, jack hammers, lead paint abatement, pavement breakers, paving joint machine, pipe layers-laser operators (non-metallic), plastic pipe fusion, power driven Georgia buggy or wheelbarrow, power post hole diggers, precast manhole setters walk-behind tampers, walk-behind trenchers, sand blasters, concrete chippers, surface grinders, vibrator operators, wagon drillers:

HEAVY & HIGHWAY BASE RATE \$21.76
FRINGE BENEFITS 10.15

HEAVY HIGHWAY GROUP 3

Asphalt luteman and rakers, gunnite nozzleman, gunnite operators and mixers, grout pump operator, side rail setters, rail paved ditches, screw operators, tunnel laborers (free air), and water blasters:

HEAVY & HIGHWAY BASE RATE \$21.81
FRINGE BENEFITS 10.15

HEAVY HIGHWAY GROUP 4

Caisson workers (free air), cement finishers, environmental laborer - nuclear, radiation, blasters, and tunnel muckers (free air), directional and horizontal boring, air track drillers (all types), powderman and blasters, troxler and concrete testers:

HEAVY & HIGHWAY BASE RATE \$22.41
FRINGE BENEFITS 10.15

MARBLE, TILE & TERRAZZO SETTERS:

BASE RATE \$22.64
FRINGE BENEFITS 6.10

MARBLE, TILE & TERRAZZO FINISHERS:

BASE RATE \$15.42
FRINGE BENEFITS 5.42

MILLWRIGHTS:

BASE RATE \$23.65
FRINGE BENEFITS 14.26

OPERATING ENGINEERS: BUILDING

BUILDING CLASS A-1:

Operating Engineers possessing 3rd party certification NCCCO (National Commission for the Certification of Crane Operators or OECP (Operating Engineers Certification Program) shall be paid the minimum wage rate per hour on the following equipment: Cableway, carrydeck crane, clamshell, crane, derrick, derrick boat, dragline, hoist (1 drum when hoisting engine (2 or more drums), hydraulic boom trucks, orangepeel bucket, overhead crane, piledriver, truck crane, hoist, tower cranes (French, Germand and other types), hydrocran.

BUILDING	BASE RATE	\$27.54
	FRINGE BENEFITS	13.40

BUILDING CLASS A:

Auto Patrol, Batchter Plant, Bituminous Paver, Cableway, Carrydeck Crane, Central Compressor Plant, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Pump, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Operator, Dredge Engineer, Elevating Grader and all types of Loaders, Heavy Equipment Robotics Operator/Mechanic, Hoe-Type Machine, Hoist (1 drum when used for stack or chimney construction or repair), Hoisting Engine (2 or more drums), Horizontal Directional Drill Operator, Hydraulic Boom Trucks, Locomotive, Mechanically Operated Laser Screed, Motor Scraper, Carry-all Scoop, Bulldozer, Heavy Duty Welder, Mechanic, Orangepeel Bucket, Overhead Crane, Piledriver, Power Blade, Motor Grader, Roller (bituminous), Scarifier, Shovel, Tractor Shovel, Truck Crane, Winch Truck, Push Dozer, Highlift, Forklift (regardless of lift height and except when used for masonry construction), Telescoping Type Forklift, All types of Boom Cats, Core Drill, Hopto, Tow or Push Boat, A-Frame Winch Truck, Concrete Paver, Gradeall, Hoist, Hyster, Pumpcrete, Ross Carrier, Boom, Tall Boom, Rotary Drill, Hydro Hammer, Mucking Machine, Rock Spreader attached to equipment, Scoopmobile, KeCal Loader, Tower Cranes (French, German and other types), Hydrocrane, Backfiller, Gurries, sub-Grader, Tunnel Mining Machines including Moles, Shields, or similar types of Tunnel Mining Equipment.

BUILDING	*BASE RATE	\$26.51
	FRINGE BENEFITS	13.40

*Operators on cranes with boom between one-hundred fifty feet (150') and two-hundred twenty-five feet (225') including jib, shall receive one dollar (\$1.00) above base rate. Operators on cranes with boom 225' and over including jib, shall receive one dollar and fifty cents (\$1.50) above base rate. All cranes with piling leads will receive (\$1.00) above base rate regardless of boom length

BUILDING CLASS B:

All Air Compressors (over 900 cfm), Bituminous Mixer, Joint Sealing Machine, Concrete Mixer (under 21 cu. ft), Form Grader, Roller (rock), tractor (50 HP and over), Bull Float, Finish Machine, Outboard Motor Boat, Flexplane, Fireman, Boom Type Tamping Machine, Truck Crane Oiler, Greaser on Grease Facilities servicing Heavy Equipment, Switchman or brakeman, Mechanic Helper, Whirley Oiler, Self-Propelled Compactor, Tractair and Road Widening Trencher and Farm Tractor with Attachments (except backhoe, highlift and endloader), Elevator (regardless of ownership when used for hoisting any building materials), Hoisting Engineer (1 drum or buck hoist), Forklift (when used for masonry construction Firebrick Masonry Excluded), Well Points, Grout Pump, Throttle-Valve Man, Tugger, Electric Vibrator Compactor and Caisson Drill Helper:

BUILDING	BASE RATE	\$23.69
	FRINGE BENEFITS ¹	13.40

BUILDING CLASS C:

Bituminous Distributor, Cement Gun, Conveyor, Mud Jack, Paving Joint Machine, Roller (earth), Tamping Machine, Tractors (under 50 HP), Vibrator, Oiler, Concrete Saw, Burlap and Curing Machine, Hydro-Seeder, Power Form handling Equipment, Deckhand Steersman, Hydraulic Post Driver and Drill Helper:

BUILDING	BASE RATE	\$22.90
	FRINGE BENEFITS	13.40

HEAVY HIGHWAY CLASS A-1:

Operating Engineers possessing 3rd party certification NCCCO (National Commission for the Certification of Crane Operators or OECF (Operating Engineers Certification Program) shall be paid the minimum wage rate per hour on the following equipment: Cableway, carry deck crane, cherry picker, clamshell, crane derrick, derrick boat, dragline, hoist engine (2 or more drums), hydraulic boom truck, hydrocrane, orangepeel bucket, overhead crane, piledriver, rough terrain crane, tower cranes (French, German and other types, truck crane:

HEAVY HIGHWAY	BASE RATE	\$28.40
	FRINGE BENEFITS	13.40

HEAVY HIGHWAY CLASS A:

A-Frame Winch Truck, Auto Patrol, Backfiller, Batcher Plant, Bituminous Paver, Bituminous Transfer Machine, All types of Boom Cats, Bulldozer, Cableway, Carry-All Scoop, Carry Deck Crane, Central Compressor Plant Operator, Clamshell, Concrete Mixer (21 cu. ft. or over), Concrete Paver, Truck-Mounted Concrete Pump, Core Drills, Crane, Crusher Plant, Derrick, Derrick Boat, Ditching and Trenching Machine, Dragline, Dredge Operator, Dredge Engineer, Earth Movers, Elevating Grader and all types of Loaders, Grade-All, Gurries, Heavy Equipment Robotics Operator/Mechanic, Highlift, Hoe-Type Machine, Hoist (two or more drums), Hoisting Engine (two or more drums), Horizontal Directional Drill Operator, Hydraulic Boom Truck, Hydrocrane, Hyster, KeCal Loader, Letourneau, Locomotive, Mechanic, Mechanically Operated Laser Screed, Mechanic Welder, Mucking Machine, Motor Scraper, Orangepeel Bucket, Piledriver, Power Blade, Pumpcrete, Push Dozer, Rock Spreader attached to Equipment, All Rotary Drills, Roller (bituminous), Scarifier, Scoopmobile, Shovel, Side Boom, Subgrader, Tailboom, Telescoping Type Forklift, Tow or Push Boat, Tower Cranes (French, German and other types), Tractor Shovel, Truck Crane, Tunnel Mining Machines including Moles, Shields, or Similar types of Tunnel Mining Equipment:

HEAVY & HIGHWAY	**BASE RATE	\$27.35
	FRINGE BENEFITS	13.40

**Operators on cranes with booms one hundred fifty feet (150') and over including jib shall receive (\$1.00) above base rate.

HEAVY HIGHWAY CLASS B:

All Air Compressors (over 900 cu. ft. per min.), Bituminous Mixer, Boom Type Tamping Machine, Bull Float, Concrete Mixer (under 21 cu. ft.), Dredge Engineer, Electric Vibrator Compactor/Self-Propelled Compactor, Elevator (one drum or buck hoist), Elevator (regardless of ownership when used to hoist building material), Finish Machine, Firemen, Flex-Plane, Forklift (regardless of lift height), Form Grader, Hoist (one drum), Joint Sealing Machine, Mechanic Helper, Outboard Motor Boat, Power Sweeper (riding type), Roller (rock), Ross Carrier, Skid Mounted or Trailer Mounted Concrete Pumps, Skid Steer Machine with All Attachments, Switchman or Brakeman, Throttle Valve Man, Tractair and Road Widening Trencher, Tractor (50 HP and over), Truck Crane Oiler, Tugger, Welding Machine, Well Points, and Whirley Oiler:

HEAVY & HIGHWAY	BASE RATE	\$24.87
	FRINGE BENEFITS	13.40

OPERATING ENGINEERS HEAVY HIGHWAY: (Continued)

HEAVY HIGHWAY CLASS B2:

Greaser on Grease Facilities servicing Heavy Equipment, All off Road Material Handling Equipment Including Articulating Dump Trucks:

HEAVY & HIGHWAY	BASE RATE	\$25.26
	FRINGE BENEFITS	13.40

HEAVY HIGHWAY CLASS C:

Bituminous Distributor, Burlap and Curing Machine, Caisson Drill and Core Drill Helper (track or skid mounted), Cement Gun, Concrete Saw, Conveyor, Deckhand Oiler, Grout Pump, Hydraulic Post Driver, Hydro Seeder, Mud Jack, Oiler, Paving Joint Machine, Power Form Handling Equipment, Pump, Roller (earth), Steermen, Tamping Machine, Tractors (under 50 H.P.) and Vibrator:

HEAVY & HIGHWAY	BASE RATE	\$24.60
	FRINGE BENEFITS	13.40

Both Building and Heavy Highway employees assigned to work below ground level are to be paid ten percent (10%) above base wage rate. This does not apply to open cut work.

PAINTERS:

Brush & Roller:

BASE RATE	\$19.50
FRINGE BENEFITS	9.13

Blast & Spray:

BASE RATE	\$20.50
FRINGE BENEFITS	9.13

Bridges & Dams:

Brush & Roller:

HEAVY & HIGHWAY

BASE RATE	\$24.25
FRINGE BENEFITS	9.13

Blast & Spray:

HEAVY & HIGHWAY

BASE RATE	\$25.25
FRINGE BENEFITS	9.13

CHRISTIAN & TODD COUNTIES:

PLASTERERS:

BASE RATE	\$15.91
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LOGAN COUNTY:

PLASTERERS:

BASE RATE	\$11.81
FRINGE BENEFIT	1.59

PLUMBERS & STEAMFITTERS:

BASE RATE	\$32.31
FRINGE BENEFITS	14.51

ROOFERS: (Excluding Metal Roofs)

BASE RATE	\$10.00
FRINGE BENEFITS	.02

SHEETMETAL WORKERS: (Including HVAC and Metal Roofs) BASE RATE \$25.91
FRINGE BENEFITS 8.06

SPRINKLER FITTERS: BASE RATE \$29.00
FRINGE BENEFITS 16.75

BUILDING TRUCK DRIVERS:
Light Teamster, all trucks and autos, up to but not including 5 tons:
BUILDING BASE RATE \$13.80
FRINGE BENEFITS 2.08

Heavy Teamster, all trucks 5 tons and over, including special equipment such as euclids, winch trucks, boom trucks, demster dumpsters, crawler type trucks, tractor-trailer trucks, low-boys, distributor trucks, water tank trucks, fork lifts, buses, tandem dump trucks, ambulances, all ready mix trucks, and truck mechanics: BUILDING BASE RATE \$14.45
FRINGE BENEFITS 2.08

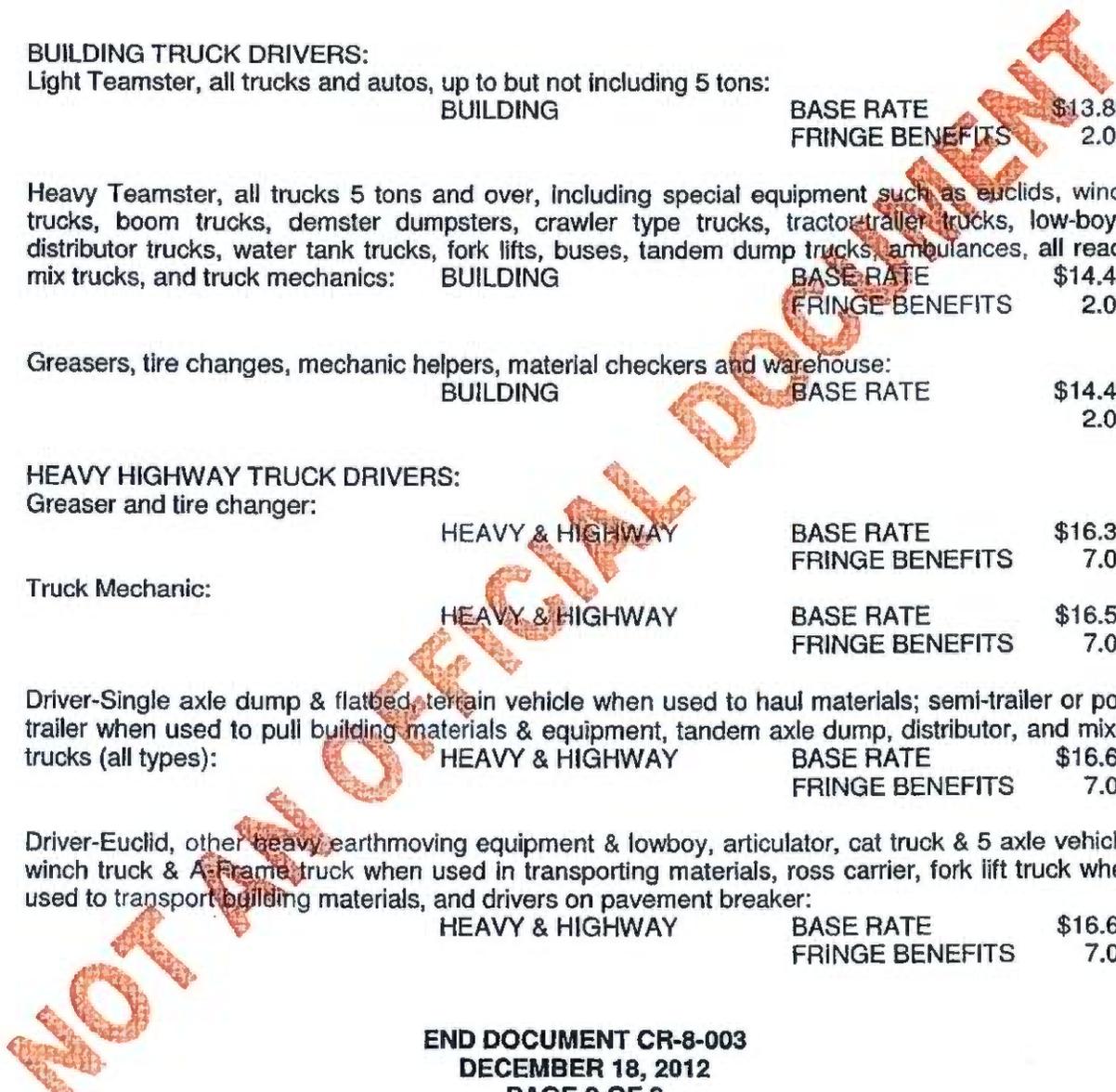
Greasers, tire changes, mechanic helpers, material checkers and warehouse:
BUILDING BASE RATE \$14.40
FRINGE BENEFITS 2.08

HEAVY HIGHWAY TRUCK DRIVERS:
Greaser and tire changer: HEAVY & HIGHWAY BASE RATE \$16.34
FRINGE BENEFITS 7.04

Truck Mechanic: HEAVY & HIGHWAY BASE RATE \$16.57
FRINGE BENEFITS 7.04

Driver-Single axle dump & flatbed, terrain vehicle when used to haul materials; semi-trailer or pole trailer when used to pull building materials & equipment, tandem axle dump, distributor, and mixer trucks (all types): HEAVY & HIGHWAY BASE RATE \$16.64
FRINGE BENEFITS 7.04

Driver-Euclid, other heavy earthmoving equipment & lowboy, articulator, cat truck & 5 axle vehicle, winch truck & A-Frame truck when used in transporting materials, ross carrier, fork lift truck when used to transport building materials, and drivers on pavement breaker:
HEAVY & HIGHWAY BASE RATE \$16.65
FRINGE BENEFITS 7.04





July 8, 2014

Todd County Water District
617 West Main Street
Elkton, KY 42240

Attn: Mr. John Haley
District Manager

Re: **New Office & Shop Complex**
Elkton, Kentucky
Denham-Blythe No. 14-257

Dear Mr. Haley:

We are pleased to submit our design-build budget proposal for your new office and shop building complex located on your property in Elkton, Kentucky. Our team will provide all labor, materials, equipment, supervision, and engineering as on the following pages.

We appreciate the opportunity to provide you with this service and are looking forward to the successful completion of your project. Should you have any questions, please contact us at 615-855-2244.

Very truly yours,
DENHAM-BLYTHE CO., INC.

A handwritten signature in blue ink, appearing to read 'H. Doggett', is written over a horizontal line.

Heath Doggett
Project Manager

CC: Vance Hohn – Denham-Blythe
Daril Cardwell – Denham-Blythe

SCOPE and GMP PRICING

- A. The design-build team consists of the following disciplines and companies:
1. Construction and Management - Denham-Blythe Company.
 2. Architectural and Structural Engineering – Denham-Blythe Company.
 3. Civil Engineering – Denham-Blythe Co.
 4. Mechanical Construction and Engineering – WBW, pricing is based on Durham Heating & Cooling.
 5. Plumbing Construction and Engineering – WBW, pricing is based on Industrial Piping.
 6. Electrical Construction and Engineering – WBW, pricing is based on Knights Electrical.

This team is qualified to complete all engineering, working and detailed drawings, and construction of your project under a total responsibility contract to assure you of the highest quality of engineering and construction.

We will work closely with Todd County Water District personnel in the planning and construction stages to keep interruptions to daily operations to a minimum and to provide the earliest occupancy time possible.

- B. Denham-Blythe Company will provide complete construction services including procurement, estimating, scheduling, field engineering, field supervision, cost accounting, testing, field inspection, and coordination of this project.
- C. A complete set of working drawings, including architectural, civil, structural, mechanical, and electrical will be provided. Accurate record set drawings plus a copy of all shop drawings will be transmitted to the owner upon completion of the project.

Our proposed scope consists of the following items, which are included in the total price of the project.

1. General Conditions
 - a. Full time on site supervision. We have estimated 24 weeks for the project.
 - b. Field engineering support for building layout and quality control.
 - c. Project management support for weekly meetings, procurement, billings, scope changes, expediting contractors, etc.
 - d. Temporary office, storage trailers, dumpsters, and toilets.
 - e. Weekly clean-up and final construction cleaning.
 - f. Permits – value of \$1,500.00.

- g. Vehicles, phones, mobilization, travel, etc.
- h. Builder's risk insurance with \$2,500 deductible and bonding.

2. Site work

- a. Site work
 - i. Strip topsoil to a depth of 12".
 - ii. Erosion control.
 - iii. Mass cut and fill to level building pads.
 - iv. Respread topsoil.
- b. Demolition
 - i. No work.
- c. Asphalt/Gravel Lots
 - i. Furnish and install 1820 sy of light duty paving - 6" dense grade aggregate (DGA), 2" binder and 1" topcoat.
 - ii. Striping for parking, two (2) HC stalls, and four (4) directional arrows.
 - iii. Install 2810 sy of 8" DGA.
- d. Soil testing allowance of \$2,000.00.
- e. Termite treatment.
- f. 620 lf of chain link fence, 6' high with, three (3) strands of barb wire at the top.
- g. Re-seed disturbed areas.
- h. Landscape allowance of \$2,500.00.

3. Concrete

- a. Form and place foundations for garage and office area, approximately 30 cy.
- b. Furnish, place and finish slabs on grade for both buildings, approximately 135 cy.
- c. Aprons and truck wash pads at overhead doors outside garage, approximately 756 sf.
- d. Concrete testing.
- e. Provide vapor barrier for office.
- f. Furnish, place and finish sidewalks, approximately 384 sf.
- g. Furnish and install twelve (12) – 6" diameter 7' long pipe bollards.
- h. Provide expansion joint material at the slab perimeter.

4. Masonry

- a. Furnish and install approximately 300 sf of 8" CMU for the office foundation walls.
- b. Furnish and install brick façade for office building. Brick Allowance is \$325.00/thousand.

5. Steel

- a. Furnish and install 85lf of steel lintels for the office windows.
- b. Provide four (4) steel columns for the porches.

6. Woods and Plastics

- a. Provide wood framing, sheathing and house wrap for office structure.
- b. Provide plywood telephone board.
- c. Provide wood blocking for cabinets, counters and toilet accessories.
- d. Provide base and wall cabinets for break rooms, reception area, drive-up window, and ADA restroom counters. All millwork will be plastic laminate with interior melamine finishes.

7. Thermal/Moisture Protection

- a. Caulking around joints as required.
- b. Provide office insulation in walls and ceiling as required by codes.
 - i. R-38 above the ceiling.
 - ii. R-19 in the walls.
 - iii. All interior walls are insulated.
- c. Provide 8" roof and 6" wall insulation for the garage.
- d. Provide insulation in interior walls of the garage.
- e. Provide foundation insulation. 2" rigid board (blue board).
- f. Provide 30 yr dimensional asphalt shingle roofing for office.
- g. Vinyl siding in gables, vented vinyl soffit, aluminum break metal fascia, 6" gutters and associated downspouts.
- h.

8. Doors and Windows

- a. Furnish and install three (3) overhead doors with electric operators.
- b. Provide two (2) aluminum windows for the garage.
- c. Provide aluminum windows and store front doors for the office.
- d. Furnish and install fourteen (17) hollow metal door frames with nine (11) prefinished wood doors and five (6) metal doors.

9. Finishes

- a. Provide 5/8" drywall for the office and garage interior partitions.
- b. Provide 5/8" drywall for the office and garage break room and restroom ceilings. Garage restroom, storage, and break room will be ACT.
- c. Provide plywood dust cover over garage restroom and break room.
- d. Paint interior walls, ceilings, trim, doors, exterior door, and columns.
- e. Provide VCT and carpet per finish schedule.
- f. Provide ceramic floor tile in office restrooms.

10. Specialties

- a. Provide solid plastic urinal screens.
- b. Provide one (1) fire extinguisher with a cabinet.
- c. Provide grab bars and mirrors for the restrooms.
- d. Provide one (1) fire extinguisher in Garage/Shop building.
- e. Provide toilet paper/soap/paper towel dispensers, and sanitary napkin disposals.

11. Equipment

- a. Provide InterbankX IBX-3026-ND night depository drop box.
 - i. Combination night depository head accepts deposit envelopes without use of a key and allows key holders to deposit bank bags.
 - ii. Non-grout head with ½" high strength housing.
 - iii. Dial Combination lock.
 - iv. Alarm package w/door contact, vibration, and heat sensor installed.
- b. Provide InterbankX Q-Tran-713SW wide drive-thru window.
 - i. Pre-designed drive thru combination window/drawer/intercom unit. This unit is glazed with Level 1 Bullet Resistant Glazing for security. Transaction drawer with speaker installed in framing.
- c. This work is worth over \$14,390.00.

12. Furnishings - No work.

13. Special Construction – Pre-Engineered Metal Building – Garage Only

- a. Provide one (1) 60'x80'x16' eave building
- b. Loading of building:
 - i. 2013 KY Building Code.
 - ii. 20 psf live load (no tributary load reduction).
 - iii. Ground snow load 15 psf.
 - iv. Roof snow load 15 psf.
 - v. Seismic category D.
 - vi. Wind category C.
- c. Standing seam roof.
- d. By-pass girts.
- e. Rod X-bracing.
- f. 26 gauge standard R panel siding panels.
- g. Gutters and downspouts.
- h. Add door canopy. Value of \$800.00.

14. Conveying System - No work

15. Mechanical/Plumbing

a. Mechanical

i. Office Area - System 1:

1. Rooms included: Main Office, Board Room, Break Room, Public Restroom, and Reception Area.
2. 3.5 Ton 13 SEER American Standard Split Heat Pump w/15 KW Heater.
3. Digital Thermostat.
4. Installation Materials: Drain Line, Safety Drain Pan, Refrigerant Lineset, Control Wiring, and Miscellaneous Materials.
5. 3.5 Ton Return/Supply Duct System, Ceiling Registers, Ceiling Returns.
6. One (1) Exhaust Fan Venting.
7. Labor to Install.

ii. Office Area – System 2:

1. Rooms Included: File Map Room, Office 1, Office 2, Hall, Storage, and Restrooms.
2. 3 Ton 13 SEER American Standard Split Heat Pump w/10 KW Heater.
3. Digital Thermostat.
4. Installation Materials: Drain Line, Safety Drain Pan, Refrigerant Lineset, Control Wiring, and Miscellaneous Materials.
5. 3 Ton Return/Supply Duct System, Ceiling Registers, Ceiling Returns.
6. Two (2) Exhaust Fan Venting.
7. Labor to Install.

iii. Maintenance Shop:

1. Break Room/Restroom: 1.5 Ton 13 SEER American Standard Split Heat Pump w/ 5 KW Heater.
2. Digital Thermostat.
3. Installation Materials: Drain Line, Safety Drain Pan, Refrigerant Lineset, Control Wiring, and Miscellaneous Materials.
4. 1.5 Ton Return/Supply Duct System, Ceiling Registers, Ceiling Returns.
5. Garage: (2) 175,000 BTU Hanging Heaters (Propane), Venting, Hanging Materials.
6. One (1) Exhaust Fan Venting.

7. Labor to Install.

b. Plumbing

i. Provide water (Pex) and sanitary lines (PVC) for office and garage.

1. 100 lf of underground 2" piping is included for service to building.

ii. Provide fixtures for office and garage per the drawings.

Office

1. Two (2) ADA tank type water closets.
2. One (1) wall hung urinal.
3. One (1) hi-lo drinking fountain.
4. One (1) two compartment SS sink.
5. Two (2) drop-in sinks.
6. Two (2) point-of-use water heaters.
7. One (1) floor drain.
8. Two (2) wall hydrants.
9. One (1) kitchen icemaker/water connection.

Garage

10. One (1) ADA tank type water closet.
11. One (1) wall hung urinal.
12. One (1) drop-in sink.
13. One (1) two compartment SS sink.
14. One (1) 40 gallon electric water heater.
15. One (1) 36" fiberglass shower.
16. One (1) floor drain.
17. One (1) wall hydrants.
18. One (1) ice maker box.
19. One (1) kitchen icemaker/water connection.

16. Electrical

a. Paved Parking Lot:

- i. Five (5) – 400 watt metal halide shoe box lights attached to a 20' square pole controlled by time clock and contactor.
- ii. Five (5) – 24" diameter concrete pole bases.
- iii. Lot – conduit and conductors required.

b. Electrical Service:

- i. One (1) – 400 amp self-contained meter base on office building storage room exterior wall.
- ii. One (1) – underground 4" PVC service entrance conduit from meter base to utility installed riser pole (max distance of conduit – 200').

- iii. One (1) – 400 amp 120/240 volt single phase panel with required breakers located in storage room of office building with required conduit and conductors from meter base.
- c. Telephone / Communications Service
 - i. One (1) - underground 3" PVC conduit from telephone board to utility riser pole (max distance of conduit – 200')
- d. OFFICE BUILDING:
 - i. Office
 - 1. Four (4) – 2'x 4' 4-tube lay in fixtures.
 - 2. One (1) – dual level control wall switch motion sensor.
 - 3. Five (5) – duplex receptacles.
 - 4. Two (2) – voice/data rough-in and stub up.
 - ii. File / Map Room
 - 1. Four (4) – 2'x 4' 4-tube lay in fixtures.
 - 2. One (1) – dual level control wall switch motion sensor.
 - 3. Five (5) – duplex receptacles.
 - 4. One (1) – voice / data rough-in and stub up.
 - iii. Main Office Area
 - 1. Fourteen (14) – 2'x 4' 4-tube parabolic lens lay in fixtures.
 - 2. Two (2) – 2 gang 3-way switch (dual level lighting).
 - 3. One (1) – 2 gang 4-way switch (dual level lighting).
 - 4. Two (2) – combo exit / emergency fixtures.
 - 5. One (1) – twin head emergency fixture.
 - 6. One (1) – exterior emergency egress fixture (rear door).
 - 7. Nine (9) – duplex receptacles.
 - 8. Five (5) – quad receptacles (double duplex).
 - 9. Two (2) – tel/power poles.
 - 10. Six (6) – voice / data rough-in and stub up.
 - iv. Reception Area
 - 1. Four (4) – 2' x 4' 2-tube lay in fixtures.
 - 2. Two (2) – 3-way switches.
 - 3. One (1) – combo exit / emergency fixture.
 - 4. Four (4) – duplex receptacles.
 - v. Entry
 - 1. Two (2) – 2'x 4' 2-tube lay in fixtures.
 - 2. One (1) – light switch.
 - 3. One (1) – combo exit / emergency fixture.
 - 4. One (1) – exterior emergency egress fixture.
 - vi. Hall
 - 1. Four (4) – 2' x 4' 2-tube lay in fixtures.
 - 2. Two (2) – 3-way wall switches (no motion sensors).

3. One (1) – twin head emergency fixture.
 4. One (1) – combo exit / emergency fixture.
 5. One (1) – exterior emergency egress fixture.
 6. Two (2) – duplex receptacles.
 7. One (1) – GFI water cooler receptacle.
- vii. Staff Restrooms (qty of 2, each to have)
1. One (1) – 2' x 4' 2-tube lay in fixture.
 2. One (1) – vanity wall mount fixture.
 3. One (1) – motion sensor wall switch.
 4. One (1) – GFI receptacle.
 5. One (1) – twin head emergency fixture.
 6. One (1) – connection to exhaust fan (fan by mechanical contractor).
 7. One (1) – Max FLA connection to POU instantaneous water heater.
- viii. Board room
1. Six (6) – 2' x 4' 2-tube parabolic lens lay in fixtures.
 2. Six (6) – 6" LED dimmable recess can fixtures.
 3. One (1) – wall switch.
 4. One (1) – dimmer switch.
 5. One (1) – twin head emergency fixture.
 6. Seven (7) – duplex receptacle.
 7. One (1) – 2 gang floor box with one (1) duplex receptacle and one (1) outlet opening for voice / data.
- ix. Break Room
1. Three (3) – 2' x 4' 2-tube lay in fixtures.
 2. One (1) – wall switch motion sensor.
 3. One (1) – dedicated duplex receptacle and circuit for refrigerator.
 4. Two (2) – above counter GFI receptacles.
 5. One (1) – voice / data rough – in and stub up.
- x. Storage
1. Two (2) – 4' 2-tube strip lights.
 2. One (1) – motion sensor wall switch.
 3. One (1) – twin head emergency fixture.
 4. One (1) – duplex receptacle.
 5. One (1) – 4' x 4' painted telephone board.
- xi. Drive Through
1. Six (6) – PL fluorescent recessed cans controlled by time clock and contactor.
- xii. Front Porch

1. Six (6) – PL fluorescent recessed cans controlled by time clock and contactor.
- xiii. HVAC/Hot Water Heaters
 1. Four (4) – 240 volt circuit and connection for heat pump and emergency heat for two systems in the office and two in the garage.
 2. Two (2) connections to electric water heaters.
 3. Connections to exhaust fans in restrooms and garage area.
- xiv. Building Exterior
 1. Seven (7) – 150 watt wall pack fixtures.
 2. Two (2) – wall mount light fixtures at front entry controlled by time clock and contactor.
 3. Two (2) wall mount light fixtures on front columns of the front porch controlled by time clock and contactor.
 4. Two (2) – wall mount light fixtures at side entry controlled by time clock and contactor.
 5. Five (5) – WP GFI receptacles.
- xv. LOT – all conduit & conductors required for all above listed office building items.
- e. SHOP BUILDING
 - i. Electric Service
 1. LOT – 125 amp 120/240 volt feeder from panel in office building to a 120 / 240 volt panel in the garage area.
 - ii. Garage Area
 1. Eleven (14) – 2' x 4' 6 –tube high bay fixtures.
 2. Two (2) – 2 gang 3-way switches.
 3. Three (3) – twin head emergency fixtures.
 4. One (1) – combo exit / emergency fixture.
 5. One (1) – exterior emergency egress fixture.
 6. Four (4) – GFI receptacles.
 7. One (1) – GFI receptacle for water cooler.
 8. Two (2) – max 30 amp 240 volt circuit and connection to unit heaters (heaters by mechanical contractor).
 9. One (1) – max 30 amp 240 volt circuit and connection to water heater.
 - iii. Break Room
 1. Four (4) – 2' x 4' 2-tube lay in fixtures.
 2. Two (2) – 3-way switches.
 3. One (1) – combo exit / emergency fixture.
 4. One (1) – exterior emergency egress fixture.

5. One (1) – dedicated duplex receptacle and circuit for refrigerator.
 6. Three (3) – duplex receptacles.
 7. Two (2) – above counter GFI receptacles.
 8. One (1) – max 20 amp 240 volt receptacle and circuit for PTAC unit (unit by mechanical contractor).
 9. One (1) – voice / data rough-in and conduit back to main telephone board in office building.
- iv. Restroom
1. One (1) – 2' x 4' 2-tube lay in fixture.
 2. Two (2) – light switch.
 3. One (1) – twin head emergency fixture.
 4. One (1) – GFI receptacle.
 5. One (1) – connection to exhaust fan (fan by mechanical contractor).
 6. One (1) – Shower light.
- v. Building Exterior
1. Seven (7) – 150 watt wall pack fixtures controlled by a photo cell.
- vi. Lot – all conduit and conductors required for all above listed shop building items.

17. Engineering

- a. Includes project development, all needed specifications, plans, and project support.
- b. Stamped construction drawings.
- c. Record drawings included with project closeout.

Clarifications:

1. Earthen spoils to remain on site, and all fill material is to be obtained on site.
2. No rock removal.
3. No provisions for unsuitable soils remediation work.
4. Our scope excludes any overtime work.
5. Allowances exclude builder's overhead and profit.
6. The prices are subject to change based on final design and final pricing.
7. Prevailing Wages are included.
8. Sales Tax is included.
9. Quotation is valid for thirty (30) days.
10. We include a one (1) year warranty.
11. Telephone, Voice/Data system, not in contract (NIC).
12. Security system, not in contract (NIC).

- 13. Television/Cabling, not in contract (NIC).
- 14. No retention pond.

Our design-build, guaranteed maximum price (GMP) for the above scope of work is.....\$998,116.00

Price Breakdown:

Division	Description	7-8-14
1	General Conditions	\$124,780
2	Site work	\$270,460
3	Concrete	\$72,676
4	Masonry	\$32,823
5	Lintels & Steel	\$4,134
6	Woods/Plastics	\$60,950
7	Thermal/Moisture	\$31,573
8	Doors/Windows	\$41,677
9	Finishes	\$47,888
10	Specialties	\$3,407
11	Bank Equipment	\$16,141
12	Furnishings	\$0
13	Special Construction	\$74,289
14	Conveying Systems	\$0
15	Mechanical/Plumbing	\$102,679
16	Electrical	\$109,906
20	Engineering	\$8,191
	TOTAL	\$998,116

ID	Task Name	Duration	Start	Finish	Predecessors	June				
						5/18	5/25	6/1	6/8	6/15
1	Procurement	70 days	Mon 5/26/14	Fri 8/29/14						
3	Engineering	30 days	Mon 5/26/14	Fri 7/4/14						
2	Board Approvals	30 days	Mon 5/26/14	Fri 7/4/14						
6	Final GMP Pricing	10 days	Wed 6/25/14	Tue 7/8/14 3FS-8 days						
4	Permitting (total)	30 days	Mon 7/7/14	Fri 8/15/14 3						
5	PEMB Lead Time	40 days	Mon 7/7/14	Fri 8/29/14 3						
7	Construction	110 days	Mon 8/4/14	Fri 1/2/15						
8	Sitework	10 days	Mon 8/4/14	Fri 8/15/14 4SS+20 days						
9	Foundations	20 days	Mon 8/18/14	Fri 9/12/14 8						
27	Turning Lane	25 days	Mon 8/18/14	Fri 9/19/14 4						
10	Office Framing	10 days	Mon 9/15/14	Fri 9/26/14 9						
11	Erect PEMB	10 days	Mon 9/15/14	Fri 9/26/14 9						
12	Plumbing Rough-In	5 days	Mon 9/29/14	Fri 10/3/14 10						
13	Electrical Rough-In	5 days	Mon 9/29/14	Fri 10/3/14 10						
18	Office Roofing	5 days	Mon 9/29/14	Fri 10/3/14 10						
22	Septic System	10 days	Mon 10/6/14	Fri 10/17/14 12						
14	Office Drywall	15 days	Mon 10/6/14	Fri 10/24/14 12,13						
19	Office Masonry	15 days	Mon 10/6/14	Fri 10/24/14 18						
15	Paint	10 days	Mon 10/27/14	Fri 11/7/14 14						
20	Paving and Stone	15 days	Mon 10/27/14	Fri 11/14/14 19						
16	Office Ceilings	5 days	Mon 11/10/14	Fri 11/14/14 15						
24	Electrical/Mechanical Trimout	5 days	Mon 11/17/14	Fri 11/21/14 16						
21	Exterior Concrete	20 days	Mon 11/17/14	Fri 12/12/14 20						
17	Office Flooring	10 days	Mon 11/24/14	Fri 12/5/14 24						
25	Punchlist	5 days	Mon 12/8/14	Fri 12/12/14 17						
26	Inspections	10 days	Mon 12/8/14	Fri 12/19/14 17						
28	Project Closeout	20 days	Mon 12/8/14	Fri 1/2/15 17						
23	Landscaping	5 days	Mon 12/15/14	Fri 12/19/14 21						

Preliminary Schedule
Date: Wed 7/2/14

Critical		Task		Baseline
Critical Split		Split		Baseline Split
Critical Progress		Task Progress		Baseline Milesto



Drawing Status List

DCRN#: 1 (CONTRACT SET)

Client Name: Todd Co. Water District

Project Description: New Office & Shop Complex

Job #: 14-257

Location: Elkton, KY

Date: 7-8-14

Project Manager: Heath Doggett

Architect/Engineer: Katie Beard, Corey Adams, Derek Brooks

Superintendents:

Dwg. #	Drawing Title	Date	Rev. #	Revision Note
	CIVIL DRAWINGS			
SD-1.0	Site Plan	06-23-14	2	Permit & Construction
SD-1.1	Turn Lane Plan & Profile	06-19-14	0	Review
SD-1.2	Turn Lane Cross Sections	06-19-14	0	Review
SD-1.3	Traffic Control Plan	06-16-14	0	Review
SD-2.0	Grading & Drainage Plan	06-23-14	2	Permit & Construction
	ARCHITECTURAL DRAWINGS			
A-1.0	Office Floor Plan & Details	06-06-14	0	Review
A-1.1	Storage Building Floor Plan	06-06-14	0	Review
A-2.0	Office Building Elevations	06-06-14	0	Review
A-2.1	Storage Building Elevations	06-06-14	0	Review
A-4.0	Wall Sections	06-06-14	0	NA

	CONCRETE DRAWINGS			
<i>C-1.0</i>	<i>Concrete Plan-Office</i>	<i>07-01-14</i>	<i>2</i>	<i>For Construction</i>
<i>C-1.1</i>	<i>Foundation Plan – Shop Building</i>	<i>07-01-14</i>	<i>2</i>	<i>For Construction</i>
	ELECTRICAL DRAWINGS			
<i>E-0.1</i>	<i>Electrical Site Plan</i>	<i>07-08-14</i>	<i>1</i>	<i>For Reference</i>
<i>E-2.0</i>	<i>Power Plan</i>	<i>07-08-14</i>	<i>1</i>	<i>For Reference</i>
<i>E-2.1</i>	<i>Garage Power Plan</i>	<i>07-08-14</i>	<i>1</i>	<i>For Reference</i>
	MECHANICAL DRAWINGS			
<i>M-1.0</i>	<i>Office HVAC Plan</i>			
<i>M-1.1</i>	<i>Garage HVAC Plan</i>			
	PLUMBING DRAWINGS			
<i>P-0.1</i>	<i>Plumbing Specs</i>			
<i>P-0.2</i>	<i>Plumbing Specs</i>			
<i>P-1.1</i>	<i>Office Plumbing Underground Plan</i>			
<i>P-1.2</i>	<i>Garage Plumbing Underground Plan</i>			
<i>P-2.1</i>	<i>Office Plumbing Aboveground Plan</i>			
<i>P-2.2</i>	<i>Garage Plumbing Aboveground Plan</i>			
<i>U-1.0</i>	<i>Plumbing Site Plan</i>			

ConsensusDocs 400

PRELIMINARY DESIGN-BUILD AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER



TABLE OF ARTICLES

1. TEAM RELATIONSHIP
2. DESIGN-BUILDER'S RESPONSIBILITIES
3. OWNERSHIP OF DOCUMENTS
4. OWNER'S RESPONSIBILITIES
5. CONTRACT TIME
6. COMPENSATION
7. PROFESSIONAL LIABILITY INSURANCE

This Agreement is made this 23rd day of May in the year 2014, by and between the

OWNER
Todd County Water District, 617 W. Main St., Elkton, KY 42240

and the

DESIGN-BUILDER
Denham-Blythe Company, Inc., 100 Trade St. Lexington, KY 40511



for preliminary services in connection with the following

PROJECT

New Office and Shop Complex.

Notice to the Parties shall be given at the above addresses.

ARTICLE 1 TEAM RELATIONSHIP

1.1 The Owner and the Design-Builder agree to proceed on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner. The Owner and the Design-Builders shall perform their obligations with integrity, ensuring at a minimum that: (a) conflicts of interest shall be avoided or disclosed promptly to the other Party; and (b) the Design-Builder and the Owner warrant that they have not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including their agents, officers and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

ARTICLE 2 DESIGN-BUILDER'S RESPONSIBILITIES

2.1 The Design-Builder shall exercise reasonable skill and judgment in the performance of its services. Architectural and engineering services shall be procured from licensed, independent design professionals retained by the Design-Builder or furnished by licensed employees of the Design-Builder, or as permitted by the law of the State in which the Project is located. The person or entity providing architectural and engineering services shall be referred to as the Design Professional. If the Design Professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between the Design-Builder and the Design Professional. The Design Professionals for the Project are Derek Brooks, AIA and Adam Jones, PE both registered design professionals employed at Denham-Blythe Company, Inc.

2.2 The Design-Builder is responsible for the following Preliminary Design-Build Services:

2.2.1 **OWNER'S PROGRAM** If requested by the Owner as an Additional Service, the Design-Builder shall assist the Owner in the development and preparation of the Owner's Program, which is an initial description of the Owner's objectives. The Owner's Program may include budget and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

2.2.2 **PRELIMINARY EVALUATION** The Design-Builder shall review the Owner's Program to ascertain the requirements of the Project and shall verify such requirements with the Owner. The Design-Builder's review shall also provide to the Owner a preliminary evaluation of the site with regard to access, traffic, drainage, parking, building placement and other considerations affecting the building, the environment and energy use, as well as information regarding applicable governmental laws, regulations and requirements. The Design-Builder shall review the Owner's existing test reports but will not undertake any independent testing nor be required to furnish types of information derived from such testing in its preliminary evaluation. The Design-Builder shall also propose alternative architectural, civil, structural, mechanical, electrical and other systems for review by the Owner, in order to determine the most desirable method of achieving the Owner's requirements in terms of cost, technology, quality and speed of delivery. Based upon its review and verification of the Owner's Program and other relevant information, the Design-Builder shall provide



a preliminary evaluation of the Project's feasibility for the Owner's acceptance. The Design-Builder's preliminary evaluation shall specifically identify any deviations from the Owner's Program.

2.2.3 PRELIMINARY SCHEDULE The Design-Builder shall provide a preliminary schedule for the Owner's written approval. The schedule shall show the activities of the Owner and the Design-Builder necessary to meet the Owner's completion requirements.

2.2.4 PRELIMINARY ESTIMATE The Design-Builder shall prepare for the Owner's written approval a preliminary estimate utilizing area, volume, or similar conceptual estimating techniques. The level of detail for the estimate shall reflect the Owner's Program and any additional available information. If the preliminary estimate exceeds the Owner's budget, the Design-Builder shall make written recommendations to the Owner.

2.2.5 SCHEMATIC DESIGN DOCUMENTS The Design-Builder shall submit for the Owner's written approval Schematic Design Documents based on the agreed upon Preliminary Evaluation. Schematic Design Documents shall include drawings, outline specifications and other conceptual documents illustrating the Project's basic elements, scale and their relationship to the Worksite. One set of these Documents shall be furnished to the Owner. When the Design-Builder submits the Schematic Design Documents, the Design-Builder shall identify in writing all material changes and deviations from the Design-Builder's preliminary evaluation, schedule and estimate. The Design-Builder shall update the preliminary schedule and preliminary estimate based on the Schematic Design Documents.

2.2.6 ADDITIONAL SERVICES The Design-Builder shall provide the following Additional Services:

ARTICLE 3 OWNERSHIP OF DOCUMENTS

3.1 OWNERSHIP OF TANGIBLE DOCUMENTS Upon the making of final payment to the Design-Builder, the Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data and information (hereinafter "Documents") prepared, provided or procured by the Design-Builder, its Design Professional, Subcontractors or consultants and distributed to the Owner for this Project.

3.2 COPYRIGHT The Parties agree that Owner shall obtain ownership of the copyright of all Documents. The Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by ARTICLE 6 and the payment of the fee reflecting the agreed value of the copyright set forth below:

If the Parties have not made a selection to transfer copyright interests in the Documents, the copyright shall remain with the Design-Builder.

3.3 OWNER'S USE The Owner shall have the right to use, reproduce or make derivative works of the Design-Build Documents for other projects without the written authorization of the Design-Builder, who shall not unreasonably withhold consent. The Owner's use of the Design-Build Documents on other projects or without the Design-Builder's written authorization or involvement is at the Owner's sole risk, and the Owner shall indemnify and hold harmless the Design-Builder, the Design Professional and Subcontractors, and the agents, officers, directors and employees of each of them from and against any and all claims, damages, losses, costs and expenses, including but not limited to attorneys' fees, costs



and expenses incurred in connection with any dispute resolution process, arising out of or resulting from such use of the Design-Build Documents.

3.4 DESIGN-BUILDER'S USE Where the Design-Builder has transferred its copyright interest in the Documents, the Design-Builder may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole. The Design-Builder shall obtain from its Design Professional, Subcontractors and consultants property rights and rights of use that correspond to the rights given by the Design-Builder to the Owner in this Agreement.

3.5 ELECTRONIC DOCUMENTS If the Owner requires that the Owner and Design-Builder exchange documents and data in electronic or digital form, prior to any such exchange, the Owner and Design-Builder shall agree on a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate Agreement.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide to the Design-Builder all relevant information for the Project, including the Owner's Program, unless the Owner's Program is developed and prepared with the assistance of the Design-Builder as an Additional Service. The Owner shall timely review and approve schedules, estimates, Schematic Design Documents and other documents provided under this Agreement.

4.2 OWNER'S ELECTION TO PROCEED If the Owner elects to proceed with the Project beyond the Preliminary Design-Build Services provided in this Agreement, the Owner and the Design-Builder shall enter into an additional agreement for the completion of the design and the construction of the Project. If the Owner elects not to proceed with the Project, the Owner shall have no further obligation to the Design-Builder other than the payment of compensation as set forth in this Agreement.

ARTICLE 5 CONTRACT TIME

5.1 The Design-Builder's Services provided under this Agreement shall commence on or about April 30, 2014, and shall be completed on or about June 30, 2014.

ARTICLE 6 COMPENSATION

6.1 The Owner shall compensate the Design-Builder monthly for Preliminary Design-Build Services performed under the Agreement on the following basis:

A stipulated sum of \$27,300.00 per e-mail dated 3-27-14 (Exhibit A).

6.2 Reimbursable expenses under this Agreement shall include:

None Required

ARTICLE 7 PROFESSIONAL LIABILITY INSURANCE

7.1 The Design-Builder shall obtain, either itself or through the Design Professional, professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be:



General Office Coverage X-or-Project-Specific-Professional-Liability-Insurance-[_____]-(indicate-one)

written for not less than \$1,000,000.00 per claim and in the aggregate with a deductible not to exceed \$1,000,000.00. The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by the Design Professional.

This Agreement is entered into as of the date entered in ARTICLE 1.

ATTEST: _____

OWNER: Todd County Water District

BY: _____ /

PRINT NAME: Dr. George Brown on behalf of Board of Commission

ATTEST: _____

DESIGN-BUILDER: Denham-Blythe Company, Inc.

BY: _____

PRINT NAME: R. Vance Hohn, P.E. PRINT TITLE: Vice President

END OF DOCUMENT.



EXHIBIT A

From: Vance Hohn
Sent: Thursday, March 27, 2014 4:52 PM
To: john haley (jghaley@hotmail.com)
Cc: Heath Doggett
Subject: Upfront Engineering Money - Todd County Water District

John,

Per our conversations, we are pleased to offer a proposal to perform the upfront engineering for your project. This will develop a set of permit/construction documents to advance our opportunities of not getting held up for the building permit after we apply for the fast trace site/foundations permit.

Civil, Structural, Architectural	\$10,000.00
HVAC & Plumbing	\$9,000.00
Electrical	\$4,000.00
Civil for Road (turning lane)	\$3,000.00
Mark Up on HVAC, Plumbing and Electrical	\$1,300.00
TOTAL	\$27,300.00

All of this money is covered in our base price except the civil work for the road, and I left some engineering money in our base price for shop drawing review, updates, site visits and record set drawings.

Let us know if you can get the preliminary engineering approved.

Thanks.

R. Vance Hohn, P.E. Vice President vhohn@denhamblythe.com
www.denhamblythe.com [phone] (615) 855-2244 [fax] (615) 855-2249 [cell] (615) 975-0445
855 Springfield Hwy Suite 101 Goodlettsville, TN 37072
[Disclaimer Information Click Here](#)



General Office Coverage X or Project Specific Professional Liability Insurance [] (indicate one)

written for not less than \$1,000,000.00 per claim and in the aggregate with a deductible not to exceed \$1,000,000.00. The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by the Design Professional.

This Agreement is entered into as of the date entered in ARTICLE 1.

ATTEST: _____

OWNER: Todd County Water District

BY: Dr. George A. Brown

PRINT NAME: Dr. George Brown on behalf of Board of Commission

ATTEST: Kathleen Ditzler

DESIGN-BUILDER: Denham-Blythe Company, Inc.

BY: R. Vance Hohn

PRINT NAME: R. Vance Hohn, P.E. PRINT TITLE: Vice President *

END OF DOCUMENT.

