

SCHEDULE 13

FORM OF MEMORANDUM OF LEASE

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MEMORANDUM OF LEASE AGREEMENT

THIS MEMORANDUM OF LEASE AGREEMENT (this "**Memorandum**") is made and entered into as of this ___ day of _____, 2017, by and between **THE OHIO STATE UNIVERSITY** ("**Lessor**"), as lessor, with an address of _____, and [_____] [a/an _____] ("**Lessee**"), as lessee, with an address of _____.

BACKGROUND

A. Lessor and Lessee entered into that certain Long-Term Lease and Concession Agreement for The Ohio State University Utility System, executed as of _____, 2017 (the "**Lease**"), pursuant to which, among other things, and subject to the terms and conditions set forth therein, Lessor (i) leased to Lessee the Utility System Land and Utility Facilities (each as defined below) (collectively, the "**Premises**"), (ii) granted Lessee a license to access certain appurtenant premises in connection therewith, and (iii) granted Lessee the right to use, possess, control, operate, manage, modify, maintain and rehabilitate the Premises and certain other assets in connection therewith;

B. Lessor and Lessee desire to provide record evidence of Lessee's lease of the Premises pursuant to the terms of the Lease.

CONFIRMATION AND ACKNOWLEDGEMENT

NOW, THEREFORE, Lessor and Lessee hereby confirm the terms of the Lease and acknowledge the following:

1. Lessor and Lessee. The names and addresses of Lessor and Lessee under the Lease are as set forth in the Preamble of this Memorandum.
2. Premises. The real property leased by Lessee pursuant to the Lease consists of the real property described in Schedule 1 attached hereto (the "**Utility System Land**") and the

“**Utility Facilities**”, consisting of those improvements and equipment (a) constituting part of or located on the Columbus Campus, including those identified in Schedule 1 attached hereto, that are directly and exclusively involved in the generation, distribution and return of the Utilities and the operation and maintenance of the Utility System and that are not beyond the line of demarcation for each Utility as set forth in the Performance Standards, including the distribution pipes carrying the Utilities, the trench-boxes and vaults exclusively used in connection with the Utilities, the McCracken Power Plant, the South Campus Central Chiller Plant, the East Regional Chilled Water Plant, the OSU Substation, the Smith Substation, the West Campus Substation, the Gashouses, the Generator Plant, the Water Treatment Plant, the geothermal wells, and electric distribution wires or (b) located on Utility System Land; provided that the definition of “Utility Facilities” does not include (i) any improvements or equipment that are beyond the line of demarcation for each Utility as set forth in the Performance Standards, except for those areas expressly set forth in the Performance Standards as being within said line of demarcation or (ii) any cameras or other public safety equipment installed, maintained or used by the Department of Public Safety.

3. Term. The term of the Lease commences on the date of this Memorandum and expires on the fiftieth (50th) anniversary thereof (or such later date as may be required to effect a Delay Event Remedy under the Lease but subject to earlier termination as provided in the Lease).

4. No Options. Lessee has no option or right to renew or extend the term of the Lease, except in the case of certain Delay Events.

5. Prior References. Lessor claims title (or beneficial title) to the Premises pursuant to the following deeds of record filed in Franklin County Records:

Volume 103, Page 542	Volume 2228, Page 109	Volume 2670, Page 97
Volume 103, Page 543	Volume 2228, Page 136	Volume 2672, Page 530
Volume 103, Page 544	Volume 2249, Page 7	Volume 2672, Page 532
Volume 103, Page 546	Volume 2449, Page 112	Volume 2672, Page 534
Volume 103, Page 547	Volume 2250, Page 221	Volume 2674, Page 406
Volume 103, Page 549	Volume 2250, Page 224	Volume 2674, Page 511
Volume 103, Page 550	Volume 2252, Page 627	Volume 2678, Page 683
Volume 103, Page 551	Volume 2258, Page 659	Volume 2678, Page 254
Volume 103, Page 552	Volume 2259, Page 235	Volume 2679, Page 698
Volume 564, Page 8	Volume 2261, Page 407	Volume 2680, Page 11
Volume 602, Page 463	Volume 2264, Page 632	Volume 2681, Page 337
Volume 604, Page 561	Volume 2269, Page 671	Volume 2682, Page 686
Volume 620, Page 413	Volume 2272, Page 419	Volume 2683, Page 74
Volume 641, Page 242	Volume 2272, Page 574	Volume 2684, Page 57
Volume 694, Page 598	Volume 2285, Page 396	Volume 2685, Page 563
Volume 706, Page 360	Volume 2294, Page 660	Volume 2685, Page 564
Volume 706, Page 361	Volume 2294, Page 662	Volume 2685, Page 568
Volume 706, Page 362	Volume 2294, Page 664	Volume 2686, Page 369
Volume 706, Page 363	Volume 2295, Page 524	Volume 2687, Page 399
Volume 706, Page 364	Volume 2297, Page 172	Volume 2687, Page 547

Volume 717, Page 124	Volume 2303, Page 681	Volume 2690, Page 284
Volume 717, Page 125	Volume 2320, Page 208	Volume 2691, Page 362
Volume 717, Page 128	Volume 2337, Page 17	Volume 2701, Page 424
Volume 725, Page 485	Volume 2337, Page 179	Volume 2703, Page 136
Volume 725, Page 488	Volume 2348, Page 254	Volume 2709, Page 107
Volume 746, Page 375	Volume 2356, Page 525	Volume 2710, Page 328
Volume 753, Page 213	Volume 2360, Page 86	Volume 2710, Page 330
Volume 803, Page 625	Volume 2361, Page 354	Volume 2711, Page 190
Volume 804, Page 360	Volume 2365, Page 113	Volume 2711, Page 442
Volume 807, Page 173	Volume 2366, Page 478	Volume 2714, Page 94
Volume 814, Page 159	Volume 2368, Page 610	Volume 2714, Page 273
Volume 815, Page 123	Volume 2369, Page 234	Volume 2714, Page 276
Volume 817, Page 657	Volume 2369, Page 51	Volume 2714, Page 279
Volume 819, Page 297	Volume 2369, Page 612	Volume 2714, Page 282
Volume 878, Page 155	Volume 2370, Page 277	Volume 2714, Page 285
Volume 878, Page 60	Volume 2370, Page 34	Volume 2715, Page 256
Volume 889, Page 289	Volume 2370, Page 36	Volume 2716, Page 271
Volume 890, Page 101	Volume 2370, Page 670	Volume 2717, Page 572
Volume 907, Page 118	Volume 2386, Page 261	Volume 2717, Page 573
Volume 917, Page 492	Volume 2387, Page 470	Volume 2721, Page 5
Volume 921, Page 645	Volume 2388, Page 358	Volume 2721, Page 7
Volume 929, Page 405	Volume 2403, Page 584	Volume 2721, Page 372
Volume 930, Page 523	Volume 2404, Page 320	Volume 2721, Page 374
Volume 930, Page 532	Volume 2409, Page 440	Volume 2721, Page 376
Volume 934, Page 24	Volume 2417, Page 147	Volume 2721, Page 587
Volume 934, Page 418	Volume 2429, Page 593	Volume 2722, Page 659
Volume 935, Page 28	Volume 2448, Page 525	Volume 2728, Page 238
Volume 939, Page 133	Volume 2448, Page 527	Volume 2733, Page 104
Volume 939, Page 138	Volume 2449, Page 108	Volume 2733, Page 450
Volume 940, Page 336	Volume 2450, Page 141	Volume 2733, Page 697
Volume 940, Page 338	Volume 2450, Page 221	Volume 2734, Page 487
Volume 940, Page 406	Volume 2464, Page 247	Volume 2739, Page 118
Volume 941, Page 378	Volume 2471, Page 16	Volume 2740, Page 639
Volume 942, Page 179	Volume 2473, Page 308	Volume 2742, Page 351
Volume 950, Page 582	Volume 2475, Page 94	Volume 2742, Page 353
Volume 951, Page 150	Volume 2479, Page 114	Volume 2742, Page 355
Volume 952, Page 358	Volume 2481, Page 395	Volume 2742, Page 357
Volume 952, Page 637	Volume 2484, Page 662	Volume 2742, Page 671
Volume 959, Page 78	Volume 2572, Page 266	Volume 2742, Page 674
Volume 962, Page 210	Volume 2594, Page 231	Volume 2743, Page 190
Volume 962, Page 654	Volume 2598, Page 55	Volume 2743, Page 372
Volume 963, Page 592	Volume 2599, Page 71	Volume 2747, Page 383
Volume 965, Page 281	Volume 2600, Page 620	Volume 2750, Page 41
Volume 966, Page 297	Volume 2600, Page 622	Volume 2752, Page 13
Volume 979, Page 134	Volume 2601, Page 129	Volume 2752, Page 181

Volume 980, Page 381	Volume 2601, Page 131	Volume 2761, Page 117
Volume 993, Page 327	Volume 2601, Page 370	Volume 2762, Page 448
Volume 1042, Page 76	Volume 2602, Page 609	Volume 2764, Page 69
Volume 1044, Page 415	Volume 2603, Page 293	Volume 2765, Page 192
Volume 1093, Page 511	Volume 2603, Page 295	Volume 2770, Page 463
Volume 1186, Page 7	Volume 2603, Page 299	Volume 2774, Page 318
Volume 1593, Page 559	Volume 2605, Page 139	Volume 2778, Page 594
Volume 1593, Page 562	Volume 2607, Page 452	Volume 2780, Page 115
Volume 1593, Page 566	Volume 2608, Page 475	Volume 2842, Page 385
Volume 1751, Page 44	Volume 2611, Page 610	Volume 2844, Page 223
Volume 1751, Page 47	Volume 2612, Page 593	Volume 2844, Page 612
Volume 1751, Page 50	Volume 2612, Page 595	Volume 2881, Page 291
Volume 1809, Page 504	Volume 2614, Page 65	Volume 2907, Page 113
Volume 1970, Page 569	Volume 2615, Page 366	Volume 3061, Page 120
Volume 1970, Page 571	Volume 2615, Page 517	Volume 3061, Page 122
Volume 1970, Page 573	Volume 2616, Page 16	Volume 3061, Page 124
Volume 1972, Page 532	Volume 2616, Page 258	Volume 3061, Page 126
Volume 1972, Page 534	Volume 2622, Page 584	Volume 3121, Page 82
Volume 1973, Page 31	Volume 2626, Page 154	Volume 3267, Page 216
Volume 1973, Page 33	Volume 2626, Page 156	Volume 3279, Page 107
Volume 1973, Page 35	Volume 2627, Page 495	Volume 3282, Page 104
Volume 1974, Page 58	Volume 2628, Page 498	Volume 3288, Page 566
Volume 1974, Page 308	Volume 2611, Page 610	Volume 3296, Page 377
Volume 1974, Page 311	Volume 2663, Page 143	Volume 3296, Page 379
Volume 1974, Page 374	Volume 2663, Page 69	Volume 3296, Page 381
Volume 1974, Page 519	Volume 2637, Page 69	Volume 3296, Page 383
Volume 1974, Page 521	Volume 2639, Page 157	Volume 3296, Page 551
Volume 1974, Page 523	Volume 2642, Page 67	Volume 3296, Page 552
Volume 1978, Page 339	Volume 2645, Page 30	Volume 3296, Page 553
Volume 1994, Page 130	Volume 2647, Page 69	Volume 3296, Page 554
Volume 1996, Page 32	Volume 2649, Page 366	Volume 3298, Page 159
Volume 2074, Page 252	Volume 2649, Page 685	Volume 3433, Page 411
Volume 2076, Page 331	Volume 2649, Page 687	Volume 3446, Page 171
Volume 2077, Page 222	Volume 2653, Page 106	Volume 3481, Page 120
Volume 2078, Page 474	Volume 2656, Page 433	Volume 3481, Page 122
Volume 2113, Page 581	Volume 2659, Page 153	Volume 3530, Page 10
Volume 2120, Page 626	Volume 2660, Page 651	Volume 3575, Page 198
Volume 2138, Page 303	Volume 2661, Page 207	Volume 3611, Page 648
Volume 2148, Page 318	Volume 2663, Page 667	Volume 3632, Page 623
Volume 2149, Page 557	Volume 2663, Page 69	Volume 3677, Page 247
Volume 2167, Page 428	Volume 2663, Page 71	Volume 3687, Page 714
Volume 2173, Page 325	Volume 2663, Page 143	
Volume 2175, Page 588	Volume 2664, Page 614	
Volume 2177, Page 154	Volume 2668, Page 112	ORV 2125 G02
Volume 2183, Page 471	Volume 2669, Page 490	ORV 2185, Page G03

Volume 2185, Page 161	Volume 2670, Page 95	ORV 8766, Page B14
Volume 2190, Page 125	Volume 2670, Page 498	ORV 9186, Page A06
Volume 2219, Page 342	Volume 2670, Page 501	ORV 04920 D14
Volume 2223, Page 28		ORV 06194 D01
Volume 2227, Page 229		ORV 10253 I20
Volume 2227, Page 686	Book 428, Page 192	ORV 14248 C10
Volume 2227, Page 688	Book 428, Page 194	ORV 14694 Page D18
Volume 2228, Page 107	Book 504, Page 574	ORV 14694, Page D18
	Book 602, Page 463	ORV 17610, Page I04
	Book 616, Page 399	ORV 17337, Page B15
	Book 804, Page 360	ORV 23093 E05
	Book 804, Page 361	ORV 23253, Page D07
	Book 966, Page 339	ORV 24895 F13
	Book 2077, Page 222	ORV 24895 F17
	Book 2077, Page 226	ORV 27390 C05
	Book 2598 Page 51	ORV 28079 F04
	Deed Book 629, Page 11	ORV 33468, Page E03

Lessor claims title (or beneficial title) to the Premises pursuant to the following deeds of record filed in Franklin County Records as:

Document No. 199904140093478	Instrument No. 199710070114040
Document No. 200008020153148	Instrument No. 199707250055147
Document No. 200307080207557	Instrument No. 199705270007187
Document No. 200309090285913	Instrument No. 199906100117618
Document No. 200312300405732	Instrument No. 200009290198264
Document No. 200704040058615	Instrument No. 200009290198266
Document No. 200708230148989	Instrument No. 200108070181903
Document No. 200805090072140	Instrument No. 200211250300652
Document No. 201310040168286	Instrument No. 200309050283360
Document No. 201306250106669	Instrument No. 200905010061900
	Instrument No. 200608240168926
	Instrument No. 200111140263759
	Instrument No. 200111200268517
	Instrument No. 201011050148560
	Instrument No. 201310040168286

6. Inconsistent Provisions. The provisions of this Memorandum constitute only a general description of the content of the Lease with respect to matters set forth herein. Accordingly, third parties are advised that the provisions of the Lease itself shall be controlling with respect to all matters set forth herein. In the event of any discrepancy between the provisions of the Lease and this Memorandum, the provisions of the Lease shall take precedence and prevail over the provisions of this Memorandum. Any capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Lease.

7. Termination of Memorandum of Lease. This Memorandum and all rights of Lessee in the Premises shall terminate upon the expiration or earlier termination of the Lease,

which may be evidenced by a written notice of such expiration or termination signed by Lessor upon or at any time after expiration or termination and recorded or filed in the appropriate land records of Franklin County, Ohio. Upon Lessor's request, Lessee shall join in the execution of the notice of expiration or termination, but the same shall not be required in order for such notice to be valid, enforceable or recordable.

8. Counterparts. This Memorandum may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement.

9. Successors and Assigns. The Lease and the covenants and conditions herein contained shall inure to the benefit of the Lessor and Lessee and their respective permitted successors and assigns and is binding upon the Lessor and Lessee and their respective successors and assigns.

10. Incorporation. The Lease and all of the terms and conditions thereof and schedules thereto are incorporated herein and made a part hereof by reference as though fully rewritten herein.

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IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be executed as of the day and year first above written.

LESSOR:

THE OHIO STATE UNIVERSITY

By: _____
Printed Name: _____
Title: _____

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

BEFORE ME, a Notary Public, in and for said county and state, personally appeared _____, the _____ of The Ohio State University, who acknowledged before me that she/he did sign the foregoing instrument on behalf of The Ohio State University.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2017.

NOTARY PUBLIC

SCHEDULE 1

[See Attached]

SCHEDULE 14¹

UNIVERSITY WITHHELD PAYMENTS

[to be added]

¹ NTD: To be produced prior to Closing.

SCHEDULE 15

KEY PERFORMANCE INDICATORS

The Concessionaire shall calculate whether any KPI Compensation for each Key Performance Indicator has been generated during a Fiscal Year in accordance with this Schedule 15. For the avoidance of doubt, each KPI Calculation corresponds to one Key Performance Indicator.

1. *Definitions*

- (a) Unless otherwise specified or the context otherwise requires, for the purposes of this Schedule 15, the following terms have the following meanings:
- (i) “Availability KPIs” means those Key Performance Indicators which are measured by the following KPI Calculations: Electric Hours KPI Calculation, Electric Events KPI Calculation, Steam Hours KPI Calculation, Steam Events KPI Calculation, Natural Gas Hours KPI Calculation, Natural Gas Events KPI Calculation, Chilled Water Hours KPI Calculation and Chilled Water Event KPI Calculation.
 - (ii) “Chilled Water Portion of the Utility System” means that portion of the Utility System exclusively used in the distribution of chilled water to the Columbus Campus.
 - (iii) “Electric Portion of the Utility System” means that portion of the Utility System exclusively used in the distribution of electricity to the Columbus Campus.
 - (iv) “Emergency Response KPI” means the Key Performance Indicator measured by the Emergency Response KPI Calculation.
 - (v) “Emergency Response Score” means the following, which is depicted on KPI Calculation Appendix 13 and is intended to reflect the below in tabular form,
 - (A) with respect to an Emergency that affects the Utility System or a portion thereof (as determined by the University in its reasonable discretion) that the Concessionaire first received notification of (either verbally or by electronic means from the University, identifying it as an Emergency) between 6:00 A.M. eastern time and 6:00 P.M. eastern time on Business Days (“Business Hours”):
 - (1) 0 if the Emergency Response Time is 10 minutes or fewer;
 - (2) 1 if the Emergency Response Time is longer than 10 minutes but 15 minutes or fewer;

- (3) 2 if the Emergency Response Time is longer than 15 minutes but 30 minutes or fewer;
 - (4) 3 if the Emergency Response Time is longer than 30 minutes but 60 minutes or fewer;
 - (5) 5 if the Emergency Response Time is longer than 60 minutes; and
- (B) with respect to an Emergency that affects the Utility System or a portion thereof that the Concessionaire first received notification of (either verbally or by electronic means) at any time other than Business Hours:
- (1) 0 if the Emergency Response Time is 30 minutes or fewer;
 - (2) 1 if the Emergency Response Time is longer than 30 minutes but 45 minutes or fewer;
 - (3) 2 if the Emergency Response Time is longer than 45 minutes but 90 minutes or fewer;
 - (4) 3 if the Emergency Response Time is longer than 90 minutes but 150 minutes or fewer;
 - (5) 5 if the Emergency Response Time is longer than 150 minutes;
- (vi) “Emergency Response Time” means the time, calculated in minutes and seconds rounded down to the nearest whole minute, between (i) the time which the Concessionaire has knowledge of or was notified about an Emergency that affected the Utility System or any portion thereof, including by visual observation of an Emergency, verbal or written notice from the University or a third party or by an automated notification from the Utility System and (ii) the time the Concessionaire or the Operator had personnel at the source of the Emergency.
- (vii) “KPI Calculation Appendix” means each of the appendices attached to this Schedule 15, provided that for the Chilled Water Hours KPI Calculation, Appendix 8 shall be the applicable KPI Calculation Appendix through the Fiscal Year ending on June 30, 2020 and Appendix 9 shall be the relevant KPI Calculation Appendix commencing with the Fiscal Year that ends on June 30, 2021.
- (viii) “KPI Calculations” means, collectively, Electric Hours KPI Calculation, Electric Events KPI Calculation, Steam Hours KPI Calculation, Steam Events KPI Calculation, Natural Gas Hours KPI Calculation, Natural Gas Events KPI Calculation, Chilled Water Hours KPI Calculation, Chilled

Water Event KPI Calculation, 10-Year EUI KPI Calculation, Annual EUI KPI Calculation, Smart Meter KPI Calculation and Emergency Response KPI Calculation, and “KPI Calculation” shall mean any one of the foregoing.

- (ix) “KPI Event” occurs when a KPI Calculation does not meet the Target for the applicable Key Performance Indicator in a Fiscal Year, provided that, for the Emergency Response KPI, a “KPI Event” will be deemed to occur if the Emergency Response Score is above 0 for any given Emergency in that Fiscal Year.
 - (x) “KPI Event Year” means a Fiscal Year in which a KPI Event occurs.
 - (xi) “KPI Measurement Window” means, commencing with the current Fiscal Year, the number of consecutive Fiscal Years preceding that Fiscal Year including the current Fiscal Year (but in no event more than the number of “Consecutive Event Years” shown on the applicable KPI Calculation Appendix), in which a KPI Event occurred.
 - (xii) “Natural Gas Portion of the Utility System” means that portion of the Utility System exclusively used in the distribution of natural gas to the Columbus Campus.
 - (xiii) “Steam Portion of the Utility System” means that portion of the Utility System exclusively used in the distribution of steam and heated hot water to the Columbus Campus.
 - (xiv) “Target” for any Key Performance Indicator means the amount or percentage, as applicable, for that Key Performance Indicator as identified on the relevant KPI Calculation Appendix, provided that for the Chilled Water Hours KPI Calculation, the Target starting in Fiscal Year ending on June 30, 2021 shall be average Chilled Water Hours KPI Calculation for that Fiscal Year and all prior Fiscal Years during the Term.
- (b) All capitalized words, not otherwise defined herein, shall have the meaning set forth in this Agreement, and if, pursuant to the terms and conditions of the Agreement, the definition of such capitalized words is modified, such modification shall be deemed to apply in this Schedule 15.
 - (c) References to a “current Fiscal Year” herein shall mean the Fiscal Year for which the KPI Calculation is being determined.

2. ***Rules of General Applicability***

- (a) If, in any instance, the KPI Compensation is shown by the applicable KPI Calculation Appendix to be \$10,000,000, it shall be deemed to read, in all such instances, “the greater of (i) \$10,000,000 and (ii) 10% of the Utility Fee for that particular Fiscal Year.”

3. ***KPI Calculation for each Availability KPI***

- (a) *KPI Calculation for Electricity – Unplanned Outage (Hours): KPI Calculation Appendix 1*

The Key Performance Indicator for the hours of Unplanned Outages for electricity is determined on an annual basis in each Fiscal Year by dividing the number of hours that constitute an Unplanned Outage in that Fiscal Year for the Electric Portion of the Utility System by the total possible connection hours of the Electric Portion of the Utility System during that Fiscal Year, expressed as a percentage rounded to the nearest thousandth decimal point, and subtracting that result from 100% (the “Electric Hours KPI Calculation”).

- (b) *KPI Calculation for Electricity – Unplanned Outage (Events): KPI Calculation Appendix 2*

The Key Performance Indicator for the number of events of Unplanned Outages for electricity is determined on an annual basis in each Fiscal Year to equal the number of unique Unplanned Outages for the Electric Portion of the Utility System or any portion thereof (the “Electric Events KPI Calculation”).

- (c) *KPI Calculation for Steam – Unplanned Outage (Hours): KPI Calculation Appendix 3*

The Key Performance Indicator for the hours of Unplanned Outages for steam and heated hot water is determined on an annual basis in each Fiscal Year by dividing the number of hours that constitute an Unplanned Outage in that Fiscal Year for the Steam Portion of the Utility System by the total possible connection hours of the Steam Portion of the Utility System during that Fiscal Year, expressed as a percentage rounded to the nearest hundredth decimal point, and subtracting that result from 100% (the “Steam Hours KPI Calculation”).

- (d) *KPI Calculation for Steam – Unplanned Outage (Events): KPI Calculation Appendix 4*

The Key Performance Indicator for the number of events of Unplanned Outages for steam and heated hot water is determined on an annual basis in each Fiscal Year to equal the number of unique Unplanned Outages for the Steam Portion of the Utility System or any portion thereof (the “Steam Events KPI Calculation”).

- (e) *KPI Calculation for Natural Gas – Unplanned Outage (Hours): KPI Calculation Appendix 5*

The Key Performance Indicator for the hours of Unplanned Outages for natural gas is determined on an annual basis in each Fiscal Year by dividing the number of hours that constitute an Unplanned Outage in that Fiscal Year for the Natural Gas Portion of the Utility System by the total possible connection hours of the Natural Gas Portion of the Utility System during that Fiscal Year, expressed as a

percentage rounded to the nearest hundredth decimal point, and subtracting that result from 100% (the “Natural Gas Hours KPI Calculation”).

- (f) *KPI Calculation for Natural Gas – Unplanned Outage (Events): KPI Calculation Appendix 6*

The Key Performance Indicator for the number of events of Unplanned Outages for natural gas is determined on an annual basis in each Fiscal Year to equal the number of unique Unplanned Outages for the Natural Gas Portion of the Utility System or any portion thereof (the “Natural Gas Events KPI Calculation”).

- (g) *KPI Calculation for Chilled Water – Unplanned Outage (Hours): KPI Calculation Appendix 7*

The Key Performance Indicator for the hours of Unplanned Outages for chilled water is determined on an annual basis in each Fiscal Year by dividing the number of hours that constitute an Unplanned Outage in that Fiscal Year for the Chilled Water Portion of the Utility System by the total possible connection hours of the Chilled Water Portion of the Utility System during that Fiscal Year, expressed as a percentage rounded to the nearest hundredth decimal point, and subtracting that result from 100% (the “Chilled Water Hours KPI Calculation”).

- (h) *KPI Calculation for Chilled Water – Unplanned Outage (Events): KPI Calculation Appendices 8 and 9*

The Key Performance Indicator for the number of events of Unplanned Outages for chilled water is determined on an annual basis in each Fiscal Year to equal the number of unique Unplanned Outages for the Chilled Water Portion of the Utility System or any portion thereof (the “Chilled Water Events KPI Calculation”).

4. ***Determination of KPI Compensation for each Availability KPI***

- (a) The KPI Compensation for each Availability KPI for a Fiscal Year is determined as follows:
- (i) If the applicable KPI Calculation meets the Target for that Availability KPI in that Fiscal Year, then the KPI Compensation for that Key Performance Indicator for that Fiscal Year is \$0;
 - (ii) If (A) such Fiscal Year is a KPI Event Year for that Availability KPI and (B) the immediately preceding Fiscal Year was not a KPI Event Year for that Availability KPI, then the KPI Compensation shall be the amount shown on the applicable KPI Calculation Appendix for that KPI Calculation under the column labeled “0 Consecutive Event Years” and in the row where the column labeled “Annual Score” includes the KPI Calculation in the applicable KPI Calculation Appendix;

- (iii) If such Fiscal Year and the immediately preceding Fiscal Year are both KPI Event Years for that Availability KPI, then the KPI Compensation shall be determined by adding the applicable KPI Calculation for the Fiscal Years during the KPI Measurement Window and dividing that sum by the number of Fiscal Years in the KPI Measurement Window and rounding to the decimal point set forth in the applicable KPI Calculation, or if none is provided, to the nearest whole number, (the “KPI Calculation Average”), in which case the KPI Compensation shall be the amount shown on the applicable KPI Calculation Appendix for that KPI Calculation under the column where the number equals the number of Fiscal Years in the KPI Measurement Window and the row where the column labeled “Annual Score” includes the KPI Calculation Average in the applicable KPI Calculation Appendix, provided that if the KPI Compensation for such Fiscal Year would be higher if calculated pursuant to sub-section (ii) hereof, then the KPI Compensation shall be calculated in accordance with sub-section (ii) as if the immediately preceding Fiscal Year was not a KPI Event Year.

5. ***KPI Calculation and KPI Compensation for Energy Use Intensity Key Performance Indicators***

- (a) *KPI Calculation for 10-Year EUI KPI Calculation: KPI Calculation Appendix 10*

The Key Performance Indicator for the 10-year Energy Use Intensity calculation is determined by dividing (i) the current Fiscal Year’s Energy Use Intensity by (ii) the Energy Use Intensity for the Fiscal Year ending on June 30, 2017, expressed as a percentage rounded to the nearest whole number, and subtracting that result from 100% (the “10-Year EUI KPI Calculation”). The 10-Year EUI KPI Calculation shall be not be calculated for any Fiscal Year after the Fiscal Year ending on June 30, 2032, and no KPI Compensation shall be payable in connection therewith thereafter.

- (b) *KPI Compensation for 10-Year EUI Calculation*

The KPI Compensation for the 10-Year EUI KPI Calculation for a Fiscal Year is determined as follows:

- (i) If the 10-Year EUI KPI Calculation for (1) the current Fiscal Year and the immediately preceding Fiscal Year or (2) the Fiscal Year ending on June 30, 2028 is equal to 25% or higher, then the KPI Compensation is \$0 and the Key Performance Indicator for the 10-year Energy Use Intensity calculation is deemed satisfied and this Section 5 shall be deleted in its entirety.
- (ii) If the 10-Year EUI KPI Calculation for any Fiscal Year before the Fiscal Year ending on June 30, 2028 is less than, equal to, or greater than 25%, then the KPI Compensation is \$0.

- (iii) Commencing on the Fiscal Year ending on June 30, 2028, if the 10-Year EUI KPI Calculation for the applicable Fiscal Year is less than 25%, then the KPI Compensation for this Key Performance Indicator shall be determined by the amount shown on KPI Calculation Appendix 10 under the column that identifies the applicable Fiscal Year after the Closing and in the row where the column labeled “Annual Score” identifies the applicable 10-Year EUI KPI Calculation.

(c) *KPI Calculation for Annual EUI KPI Calculation: KPI Calculation Appendix 11*

The Key Performance Indicator for the annual Energy Use Intensity calculation is determined by (i) adding the Energy Use Intensity for the current Fiscal Year with the Energy Use Intensity for the 2 immediately preceding Fiscal Years and dividing that sum by 3 (the “Current Fiscal Year Average EUI”), (ii) adding the Energy Use Intensity for the 3 Fiscal Years immediately preceding the current Fiscal Year and dividing that sum by 3 (the “Previous Fiscal Year Average EUI”) and (iii) dividing (1) the Current Fiscal Year Average EUI by (2) the Previous Fiscal Year Average EUI, expressed as a percentage, and subtracting 100% from that result, rounded to the nearest tenth decimal point (the “Annual EUI KPI Calculation”).

(d) *KPI Compensation for Annual EUI KPI Calculation*

The KPI Compensation for the Annual EUI KPI Calculation for a Fiscal Year is determined as follows:

- (i) If the Annual KPI EUI Calculation is at or below the Target in that Fiscal Year, then the KPI Compensation for the Annual EUI KPI Calculation for that Fiscal Year is \$0;
- (ii) If (A) such Fiscal Year is a KPI Event Year for the Annual KPI EUI Calculation and (B) the immediately preceding Fiscal Year was not a KPI Event Year for the Annual KPI EUI Calculation, then the KPI Compensation shall be the amount shown on the KPI Calculation Appendix 11 under the column labeled “0 Consecutive Event Years” and in the row where the column labeled “Annual Score” includes the applicable Annual EUI KPI Calculation;
- (iii) If such Fiscal Year and the immediately preceding Fiscal Year are both KPI Event Years for the Annual EUI KPI Calculation, then the KPI Compensation shall be determined by adding the applicable KPI Calculation for the Fiscal Years during the KPI Measurement Window and dividing that sum by the number of Fiscal Years in the KPI Measurement Window rounded to the nearest hundredth decimal point (the “EUI KPI Calculation Average”), in which case the KPI Compensation shall be the amount shown on KPI Calculation Appendix 11 under the column where the number equals the number of consecutive KPI Event Years in the KPI

Measurement Window and the row where the column labeled “Annual Score” includes the EUI KPI Calculation Average in KPI Calculation Appendix 11, provided that if the KPI Compensation for such Fiscal Year would be higher if calculated pursuant to sub-section (ii) hereof, then the KPI Compensation shall be calculated in accordance with sub-section (ii) as if the immediately preceding Fiscal Year was not a KPI Event Year.

6. ***KPI Calculation and KPI Compensation for Smart Meter Key Performance Indicators***

(a) *KPI Calculation for Smart Meters: KPI Calculation Appendix 12*

The Key Performance Indicator for the deployment of smart meters on the Columbus Campus shall be determined by dividing, at the end of each consecutive 12-month period (commencing on the first full month after the Closing Date occurred if the Closing Date occurred on a day other than the first day of a month) following the Closing Date, the number of smart meters deployed on the Columbus Campus that meet the requirements of Section 5.4 of the Agreement by the total number of smart meters that are required to be deployed by the Concessionaire, expressed as a percentage rounded to the nearest whole number (the “Smart Meter KPI Calculation”).

(b) *KPI Compensation for Smart Meter KPI Calculation*

The KPI Compensation for the Smart Meter KPI Calculation for a Fiscal Year is determined as follows:

- (i) If at the end of the applicable 12-month period, the Smart Meter KPI Calculation is at or above the Target identified in the column for such 12-month period on KPI Calculation Appendix 12, then the KPI Compensation for the Smart Meter KPI Calculation is \$0; and
- (ii) If at the end of the applicable 12-month period, the Smart Meter KPI Calculation is below the Target identified in the column for such 12-month period on KPI Calculation Appendix 12, then the KPI Compensation for the Smart Meter KPI Calculation shall be the amount shown on KPI Calculation Appendix 12 under the column for such 12-month period and in the row where the column labeled “Annual Score” includes the Smart Meter KPI Calculation.

- (c) The Smart Meter KPI Calculation shall cease to be calculated and this Section 6 shall terminate upon the earlier to occur of (i) the Smart Meter KPI Calculation equals 100% or (ii) ninety-seven months after the Closing.

7. ***KPI Calculation and KPI Compensation for Emergency Response Key Performance Indicators***

(a) *KPI Calculation for Emergency Response: KPI Calculation Appendix 13*

The Emergency Response KPI is determined on an annual basis in each Fiscal Year to equal the sum of the Emergency Response Scores for each Emergency during the applicable Fiscal Year (the “Emergency Response KPI Calculation”).

(b) *KPI Compensation for Emergency Response KPI Calculation*

- (i) If the Emergency Response KPI Calculation in that Fiscal Year is at or below the Target for the Emergency Response KPI on KPI Calculation Appendix 13, then the KPI Compensation for the Emergency Response KPI Calculation is \$0; and
- (ii) If the Emergency Response KPI Calculation in that Fiscal Year is above the Target for the Emergency Response KPI on KPI Calculation Appendix 13, then the KPI Compensation for the Emergency Response KPI Calculation shall be the amount shown on KPI Calculation Appendix 13 under the column labeled “KPI Compensation” in the row where the column labeled “Annual Score” includes the Emergency Response KPI Calculation.

(c) *Emergency Response Time Information.*

Within 30 Days after an Emergency, the Concessionaire shall provide the University with written verification of the Emergency Response Time for the applicable Emergency, which shall include a description of the method by which the Concessionaire obtained the knowledge of, or the notice received by the Concessionaire for such Emergency, certified as true and accurate by a senior officer of the Operator, and the Concessionaire shall provide such additional information regarding such Emergency Response Time as reasonably requested by the University.

8. ***Delivery of KPI Calculations and Right to Audit any Key Performance Indicator Calculation***

- (a) Within 30 Days after the expiration of the current Fiscal Year, the Concessionaire shall provide the University with written notice of its determination of all KPI Calculations and the KPI Compensation for the current Fiscal Year.
- (b) The records that the Concessionaire maintains with respect to the calculation of the actual KPI Calculations shall be retained by the Concessionaire for a period of 4 Fiscal Years following the Fiscal Year to which such KPI Calculations relate. The University shall have the right, through its Representatives, to examine, copy and audit such records at reasonable times, upon not less than 5 Business Days’ prior notice, at such place within the City of Columbus as the Concessionaire shall reasonably designate from time to time for the keeping of such records. All costs of any such audit shall be borne by the University; provided, however, that if such audit establishes that any KPI Compensation for any particular KPI Calculation for the applicable Fiscal Year was lower than the final determination thereof, as set forth in the statement delivered by the Concessionaire to the

University, by at least 1.0%, then the Concessionaire shall pay the cost of such audit. If, as a result of such audit, it is determined that the Concessionaire under calculated the KPI Compensation for any particular Fiscal Year, such difference shall be included as KPI Compensation in the KPI Evaluation Period during which such determination was made.

KPI Calculation for Electricity Unplanned Outage Hours

KPI Compensation to the University								
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years
% of Availability								
Target 100.00 % - 99.996 %	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
99.995 % - 99.994 %	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
99.993 % - 99.992 %	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
99.991 % - 99.990 %	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
99.989 % - 99.988 %	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
99.987 % - 99.986 %	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
99.985 % - 99.984 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
99.983 % - 99.982 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000					
< 99.982 %	\$ 10,000,000	\$ 10,000,000						

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
Year A 99.997%	No	0	99.997%	\$ -
Year B 99.992%	Yes	0	99.992%	\$ -
Year C 99.988%	Yes	2	99.990%	\$ 1,000,000
Year D 99.995%	Yes	3	99.992%	\$ 1,000,000
Year E 99.995%	Yes	4	99.993%	\$ 2,000,000
Year F 99.981%	Yes	5	99.990%	\$ 10,000,000
Year G 99.998%	No	0	99.998%	\$ -
Year H 99.994%	Yes	0	99.994%	\$ -
Year I 99.983%	Yes	2	99.989%	\$ 8,000,000
Year J 99.996%	No	0	99.996%	\$ -

KPI Calculation for Electricity Unplanned Outage Events

KPI Compensation to the University									
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years	9 Consecutive Event Years
Number of Events	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years
Target ≤ 7	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
8	\$ -	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
9	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
10	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
11	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
12	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
13	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
14	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000					
15	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000						
16	\$ 10,000,000	\$ 10,000,000							

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge	
Year A	8	Yes	0	8	\$ -
Year B	11	Yes	2	10	\$ 500,000
Year C	6	No	0	6	\$ -
Year D	8	Yes	0	8	\$ -
Year E	10	Yes	2	9	\$ -
Year F	16	Yes	3	11	\$ 10,000,000
Year G	14	Yes	4	12	\$ 8,000,000
Year H	9	Yes	5	11	\$ 8,000,000
Year I	5	No	0	5	\$ -
Year J	10	Yes	0	10	\$ -

KPI Calculation for Steam Unplanned Outage Hours

KPI Compensation to the University								
Annual Score % Availability	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years
Target 100.00 % - 99.90 %	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
99.89 % - 99.86 %	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
99.85 % - 99.82 %	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
99.81 % - 99.78 %	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
99.77 % - 99.74 %	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
99.73 % - 99.70 %	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
99.69 % - 99.66 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
99.65 % - 99.62 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000					
99.61 % - 99.58 %	\$ 10,000,000	\$ 10,000,000						
< 99.58%	\$ 10,000,000	\$ 10,000,000						

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
Year A 99.89%	Yes	0	99.89%	\$ -
Year B 99.82%	Yes	2	99.86%	\$ -
Year C 99.93%	No	0	99.93%	\$ -
Year D 99.81%	Yes	0	99.81%	\$ 500,000
Year E 99.66%	Yes	2	99.74%	\$ 4,000,000
Year F 99.79%	Yes	3	99.75%	\$ 4,000,000
Year G 99.81%	Yes	4	99.77%	\$ 8,000,000
Year H 99.75%	Yes	5	99.76%	\$ 10,000,000
Year I 99.94%	No	0	99.94%	\$ -
Year J 99.82%	Yes	0	99.82%	\$ -

KPI Calculation for Steam Unplanned Outage Events
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KPI Compensation to the University							
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years
Number of Events							
Target 0 - 8	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
9 - 10	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
11 - 12	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
13 - 14	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
15 - 16	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
17 - 18	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
19 - 20	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
21 - 22	\$ 10,000,000	\$ 10,000,000					
> 22	\$ 10,000,000						

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge	
Year A	10	Yes	0	10	\$ -
Year B	9	Yes	2	10	\$ 500,000
Year C	7	No	0	7	\$ -
Year D	14	Yes	0	14	\$ 1,000,000
Year E	9	Yes	2	12	\$ 1,000,000
Year F	9	Yes	3	11	\$ 2,000,000
Year G	9	Yes	4	10	\$ 2,000,000
Year H	21	Yes	5	12	\$ 10,000,000
Year I	5	No	0	5	\$ -
Year J	10	Yes	0	10	\$ -

KPI Calculation for Natural Gas Unplanned Outage Hours

KPI Compensation to the University							
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years
% of Availability							
Target 100.00 % - 99.96 %	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
99.95 % - 99.94 %	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
99.93 % - 99.92 %	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
99.91 % - 99.90 %	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
99.89 % - 99.88 %	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
99.87 % - 99.86 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
99.85 % - 99.84 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
< 99.84 %	\$ 10,000,000	\$ 10,000,000					

Examples: For illustration purposes only					
Annual Score		KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
Year A	99.95%	Yes	0	99.95%	\$ -
Year B	99.95%	Yes	2	99.95%	\$ 500,000
Year C	99.98%	No	0	99.98%	\$ -
Year D	99.95%	Yes	0	99.95%	\$ -
Year E	99.95%	Yes	2	99.95%	\$ 500,000
Year F	99.93%	Yes	3	99.94%	\$ 1,000,000
Year G	99.92%	Yes	4	99.94%	\$ 2,000,000
Year H	99.83%	Yes	5	99.92%	\$ 10,000,000
Year I	99.98%	No	0	99.98%	\$ -
Year J	99.94%	Yes	0	99.94%	\$ -

KPI Calculation for Natural Gas Unplanned Outage Events

KPI Compensation to the University									
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years	9 Consecutive Event Years
Number of Events	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years	Event Years
Target 0 - 3	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4	\$ -	\$ -	\$ -	\$ 5,000,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
5	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
6	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
7	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
8	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
9	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
10	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000					
11	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000						
>11	\$ 10,000,000	\$ 10,000,000							

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge	
Year A	4	Yes	0	4	\$ -
Year B	4	Yes	2	4	\$ -
Year C	2	No	0	2	\$ -
Year D	5	Yes	0	5	\$ -
Year E	10	Yes	2	8	\$ 4,000,000
Year F	7	Yes	3	7	\$ 2,000,000
Year G	8	Yes	4	8	\$ 8,000,000
Year H	10	Yes	5	8	\$ 8,000,000
Year I	3	No	0	3	\$ -
Year J	12	Yes	0	12	\$ 10,000,000

KPI Calculation for Chilled Water Unplanned Outage Hours

		KPI Compensation to the University								
Annual Score	% of Availability	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years	9 Consecutive Event Years
Target	99.99 % - 99.95 %	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	99.94 % - 99.93 %	\$ -	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
	99.92 % - 99.91 %	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
	99.90 % - 99.89 %	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
	99.88 % - 99.87 %	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
	99.86 % - 99.85 %	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
	99.84 % - 99.83 %	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
	99.82 % - 99.81 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000					
	99.80 % - 99.79 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000						
	< 99.79 %	\$ 10,000,000	\$ 10,000,000							

Examples: For illustration purposes only

Annual Score	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge	
Year A	99.93%	Yes	0	99.93%	\$ -
Year B	99.88%	Yes	2	99.91%	\$ 500,000
Year C	99.96%	No	0	99.96%	\$ -
Year D	99.88%	Yes	0	99.88%	\$ 500,000
Year E	99.82%	Yes	2	99.85%	\$ 2,000,000
Year F	99.94%	Yes	3	99.88%	\$ 2,000,000
Year G	99.94%	Yes	4	99.90%	\$ 2,000,000
Year H	99.78%	Yes	5	99.87%	\$ 10,000,000
Year I	99.95%	No	0	99.95%	\$ -
Year J	99.81%	Yes	0	99.81%	\$ 4,000,000

KPI Calculation for Chilled Water Unplanned Outage Events (Through Fiscal Year 2020)

KPI Compensation to the University				
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years
Number of Events				
Target 0 - 30 *	\$ -	\$ -	\$ -	\$ -
31 - 50	\$ -	\$ -	\$ -	\$ -
51 - 70	\$ -	\$ -	\$ -	\$ 500,000
71 - 90	\$ -	\$ -	\$ 500,000	\$ 1,000,000
91 - 100	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000
> 100	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000

Examples: For illustration purposes only

Annual Score		KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
Year A	31	Yes	0	31	\$ -
Year B	75	Yes	2	53	\$ -
Year C	110	Yes	3	72	\$ 500,000
Year D	95	Yes	4	78	\$ 1,000,000

KPI Calculation for Chilled Water Unplanned Outage Events Beginning with Fiscal Year 2021)

The target and Annual Score/Number of Events values are included here ONLY for illustrative purposes. The actual target and Annual Score/Number of Events levels will be determined based on the five-year performance data for Chilled Water for the period Fiscal Year 2016 - Fiscal Year 2020

KPI Compensation to the University (Beginning Fiscal Year 2021)							
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years
Number of Events							
Target = T (TBD)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
(T)101% - (T)125%	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
(T)126% - (T)150%	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
(T)151% - (T)175%	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
(T)176% - (T)200%	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
(T)201% - (T)225%	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
(T)226% - (T)250%	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000				
(T)251% - (T)275%	\$ 10,000,000	\$ 10,000,000					
> (T)275%	\$ 10,000,000						

Examples: For illustration purposes only

Annual Score		KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
Year A	(T) 118%	Yes	0	118%	\$ -
Year B	(T) 125%	Yes	2	122%	\$ -
Year C	(T) 100%	No	0	100%	\$ -
Year D	(T) 124%	Yes	0	124%	\$ -
Year E	(T) 225%	Yes	2	175%	\$ 4,000,000
Year F	(T) 175%	Yes	3	175%	\$ 4,000,000
Year G	(T) 139%	Yes	4	166%	\$ 8,000,000
Year H	(T) 114%	Yes	5	155%	\$ 10,000,000
Year I	(T) 101%	No	0	101%	\$ -
Year J	(T) 225%	Yes	0	225%	\$ 4,000,000

KPI Calculation for 10-Year EUI Score

KPI Compensation to the University					
Annual Score	Through Fiscal	Through Fiscal	Through Fiscal	Through Fiscal	Through Fiscal
% Below Baseline EUI	Year 2028	Year 2029	Year 2030	Year 2031	Year 2032
Target ≥ 25 %	\$ -	\$ -	\$ -	\$ -	\$ -
24 %	\$ 800,000	\$ 1,600,000	\$ 3,200,000	\$ 6,400,000	\$ 10,000,000
23 %	\$ 1,600,000	\$ 3,200,000	\$ 6,400,000	\$ 10,000,000	\$ 10,000,000
22 %	\$ 2,400,000	\$ 4,800,000	\$ 9,600,000	\$ 10,000,000	\$ 10,000,000
21 %	\$ 3,200,000	\$ 6,400,000	\$ 10,000,000	\$ 10,000,000	
20 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
19 %	\$ 4,800,000	\$ 9,600,000	\$ 10,000,000	\$ 10,000,000	
18 %	\$ 5,600,000	\$ 10,000,000	\$ 10,000,000		
17 %	\$ 6,400,000	\$ 10,000,000	\$ 10,000,000		
16 %	\$ 7,200,000	\$ 10,000,000	\$ 10,000,000		
15 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
14 %	\$ 8,800,000	\$ 10,000,000	\$ 10,000,000		
13 %	\$ 9,600,000	\$ 10,000,000	\$ 10,000,000		
≤ 12 %	\$ 10,000,000	\$ 10,000,000			

Examples: For illustration purposes only			
Annual Score	KPI Event	KPI Charge	
Fiscal Year 2028	12.0%	Yes	\$ 10,000,000
Fiscal Year 2029	19.0%	Yes	\$ 9,600,000
Fiscal Year 2030	23.0%	Yes	\$ 6,400,000
Fiscal Year 2031	24.0%	Yes	\$ 6,400,000
Fiscal Year 2032	25.4%	No	\$ -

KPI Calculation for Annual EUI Score

KPI Compensation to the University								
Annual Score	0 Consecutive Event Years	2 Consecutive Event Years	3 Consecutive Event Years	4 Consecutive Event Years	5 Consecutive Event Years	6 Consecutive Event Years	7 Consecutive Event Years	8 Consecutive Event Years
% Above 3-Year Average Score								
Target ≤ 3-Yr Average	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
0.1 % - 1.0 %	\$ -	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000
1.1 % - 2.0 %	\$ -	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
2.1 % - 3.0 %	\$ 500,000	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000
3.1 % - 4.0 %	\$ 1,000,000	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	
4.1 % - 5.0 %	\$ 2,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000		
5.1 % - 6.0 %	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000			
6.1 % - 7.0 %	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000				
7.1 % - 8.0 %	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000					
8.1 % - 9.0 %	\$ 10,000,000	\$ 10,000,000						
> 9.0 %	\$ 10,000,000	\$ 10,000,000						

Examples: For illustration purposes only

Year	Fiscal Year EUI	(A)	(B)	(C)	(D)	KPI Event	Consecutive Event Years	Average Consecutive Year Score	KPI Charge
		Avg of Current + Prior 2 FY EUIs	Avg of Prior 3 FY EUIs	EUI Difference = (A) - (B)	Annual Score % above/below (C)/(B)				
Year A-3	203,000								
Year A-2	199,955								
Year A-1	195,756								
Year A	192,820	196,177.0	199,570.3	-3,393.3	-1.70%	No	0	-1.70%	\$ -
Year B	185,492	191,356.0	196,177.0	-4,821.0	-2.46%	No	0	-2.50%	\$ -
Year C	196,956	191,756.0	191,356.0	400.0	0.21%	Yes	0	0.20%	\$ -
Year D	195,053	192,500.3	191,756.0	744.3	0.39%	Yes	2	0.30%	\$ -
Year E	203,245	198,418.0	192,500.3	5,917.7	3.07%	Yes	3	1.20%	\$ 1,000,000
Year F	215,643	204,647.0	198,418.0	6,229.0	3.14%	Yes	4	1.70%	\$ 2,000,000
Year G	218,878	212,588.7	204,647.0	7,941.7	3.88%	Yes	5	2.10%	\$ 8,000,000
Year H	212,311	215,610.7	212,588.7	3,022.0	1.42%	Yes	6	2.00%	\$ 8,000,000
Year I	210,400	213,863.0	215,610.7	-1,747.7	-0.81%	No	0	-0.80%	\$ -
Year J	209,138	210,616.3	213,863.0	-3,246.7	-1.52%	No	0	-1.50%	\$ -

KPI Calculation for Smart Meters

KPI Compensation to the University								
Annual Score	After 12 Months	After 24 Months	After 36 Months	After 48 Months	After 60 Months	After 72 Months	After 84 Months	After 96 Months
% of Deployment	Target = 25%	Target = 50%	Target = 75%	Target = 100%	Target = 100%	Target = 100%	Target = 100%	Target = 100%
100%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
96 % - 99 %	\$ -	\$ -	\$ -	\$ -	\$ 1,000,000	\$ 2,000,000	\$ 8,000,000	\$ 10,000,000
91 % - 95 %	\$ -	\$ -	\$ -	\$ 500,000	\$ 2,000,000	\$ 4,000,000	\$ 10,000,000	\$ 10,000,000
81 % - 90 %	\$ -	\$ -	\$ -	\$ 1,000,000	\$ 4,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000
71 % - 80 %	\$ -	\$ -	\$ -	\$ 2,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000	
61 % - 70 %	\$ -	\$ -	\$ -	\$ 4,000,000	\$ 10,000,000	\$ 10,000,000		
51 % - 60 %	\$ -	\$ -	\$ 500,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000		
41 % - 50 %	\$ -	\$ -	\$ 1,000,000	\$ 10,000,000	\$ 10,000,000			
31 % - 40 %	\$ -	\$ 500,000	\$ 2,000,000	\$ 10,000,000	\$ 10,000,000			
21 % - 30 %	\$ -	\$ 1,000,000	\$ 4,000,000	\$ 10,000,000	\$ 10,000,000			
11 % - 20 %	\$ -	\$ 2,000,000	\$ 8,000,000	\$ 10,000,000	\$ 10,000,000			
0 % - 10 %	\$ 500,000	\$ 4,000,000	\$ 10,000,000	\$ 10,000,000				

Examples: For illustration purposes only

Period: End of Month	Annual KPI Score	KPI Event	KPI Charge
12	22%	Yes	\$ -
24	39%	Yes	\$ 500,000
36	61%	No	\$ -
48	79%	Yes	\$ 1,000,000
60	89%	Yes	\$ 4,000,000
72	100%	No	\$ -

KPI Calculation for Emergency Response

Annual Score	KPI Compensation
Target = 0 - 2	\$ -
3 - 5	\$ 500,000
6 - 8	\$ 1,000,000
9 - 11	\$ 2,000,000
12 - 14	\$ 4,000,000
15 - 17	\$ 8,000,000
18 - 20	\$ 10,000,000

Business Hours:		Non-business Hours:	
Target ≤ 10 Minutes		Target ≤ 30 Minutes	
Response Time	Event Score	Response Time	Event Score
≤ 10 Mins	0	≤ 30 Mins	0
≤ 15 Mins	1	≤ 45 Mins	1
≤ 30 Mins	2	≤ 90 Mins	2
≤ 60 Mins	3	≤ 150 Mins	3
> 60 Mins	5	> 150 Mins	5

Examples: For illustration purposes only

YEAR	Events	Event Responses Times (Minutes)		Event Response Score	KPI Event	Annual Score	KPI Charge
		Business	Non-bus				
Year A	Event 1	--	18	0	No	1	\$ -
	Event 2	8	--	0	No		
	Event 3	14	--	1	Yes		
Year B	Event 1	9	--	0	No	5	\$ 500,000
	Event 2	67	--	5	Yes		
Year C	Event 1	31	--	3	Yes	12	\$ 4,000,000
	Event 2	28	--	2	Yes		
	Event 3	--	160	5	Yes		
	Event 4	20	--	2	Yes		
Year D	Event 1	8	--	0	No	8	\$ 1,000,000
	Event 2	15		1	Yes		
	Event 3	12		1	Yes		
	Event 4		44	1	Yes		
	Event 5	29		2	Yes		
	Event 6		40	1	Yes		
	Event 7		45	1	Yes		
	Event 8		35	1	Yes		
	Event 9	10		0	No		
Year E	Event 1	10	--	0	No	2	\$ -
	Event 2	15	--	1	Yes		
	Event 3	--	28	0	No		
	Event 4	15	--	1	Yes		

SCHEDULE 16

COLUMBUS CAMPUS

Appendix 1 to this Schedule 16 is a list of the buildings currently located on the Columbus Campus including the University designated building number and building name, the street address, the listed gross square footage, and the building use designation as of November 21, 2016. The list is intended to provide the Concessionaire with a general understanding of the buildings on the Columbus Campus. However, subject to the terms and conditions of the Agreement, the buildings and improvements on the Columbus Campus are subject to additions, deletions or other modifications from time to time at the University's sole discretion.

Appendix 2 to this Schedule 16 is a map that graphically depicts the real property and improvements comprising the Columbus Campus as of November 21, 2016. The map is a detailed approximation of the Columbus Campus boundaries and is intended to provide the Concessionaire with a general understanding of the Columbus Campus. The map is not a legal description of any University owned or leased real property or any owned or leased improvements located thereon.

The following additional appendices are provided by the University for informational purposes:

- Appendix 3 to this Schedule 16 is a map that graphically depicts the buildings on the Columbus Campus that have natural gas service, either served directly from a local utility company or served by Utility Facilities. This map is intended to provide the Concessionaire with an understanding of the natural gas serviced buildings on the Columbus Campus as of November 21, 2016.
- Appendix 4 to this Schedule 16 is a map that graphically depicts the buildings on the Columbus Campus that have steam or heating hot water heating (“HHW”) systems. This map is intended to provide the Concessionaire with an understanding of the steam and HHW serviced buildings on the Columbus Campus as of November 21, 2016.
- Appendix 5 to this Schedule 16 is a map that graphically depicts the buildings on the Columbus Campus that have chilled water cooling service, either served directly from a district cooling system or served by Utility Facilities. This map is intended to provide the Concessionaire with an understanding of the chilled water cooling serviced buildings on the Columbus Campus as of November 21, 2016.
- Appendix 6 to this Schedule 16 is a map that graphically depicts the buildings on the Columbus Campus that have electricity service, either served directly by (i) a local utility company, (ii) the City of Columbus municipal utility system, or (iii) Utility Facilities. This map is intended to provide the Concessionaire with an understanding of the electricity serviced buildings on the Columbus Campus as of November 21, 2016.

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
1	Bricker, John W, Hall	190 N Oval Mall	74,140	Administration
3	Agricultural Administration Building	2120 Fyffe Rd	100,228	Academic / Admin
4	Eighteenth Ave, 209 W	209 W 18th Ave	25,034	Academic
5	Eighteenth Avenue Library	175 W 18th Ave	99,126	Library
7	Mathematics Tower	231 W 18th Ave	61,621	Academic
8	Dairy Loose Housing Barn	2453 Carmack Rd	18,606	Agricultural
9	ElectroScience Laboratory	1320 Kinnear Rd	30,205	Research
10	Biological Sciences Greenhouses	332 W 12th Ave	35,173	Agricultural
11	Arps, George F, Hall	1945 N High St	129,371	Academic
12	Ornamental Plant Germplasm Center	670 Vernon Tharp St	18,258	Agricultural
14	Jennings, Edward H, Hall	1735 Neil Ave	112,502	Academic / Research
17	Knowlton, Austin E, Hall	275 W Woodruff Ave	174,422	Academic
18	Campbell, Elizabeth Owens, Hall	1787 Neil Ave	115,204	Academic
20	Cyclotron 1	1933 Cannon Dr	4,660	Storage
22	Longaberger Alumni House	2200 Olentangy River Rd	57,049	Conference Center
23	Dairy Research Barn	2491 Carmack Rd	11,231	Agricultural
24	Postle, Wendell D, Hall	305 W 12th Ave	278,307	Academic / Research
25	Derby Hall	154 N Oval Mall	115,260	Academic / Admin
26	Caldwell Laboratory	2024 Neil Ave	100,348	Academic / Research
28	Faculty Club	181 S Oval Dr	32,711	Academic
29	Women's Field House	1790 Cannon Dr	5,353	Athletics
30	Denney, Joseph Villiers, Hall	164 Annie & John Glenn Ave	103,832	Academic
34	Refuse Vehicle Storage Building	2564 Kenny Rd	2,880	Facilities
37	Hagerty Hall	1775 College Rd	142,496	Academic
38	Hamilton Hall	1645 Neil Ave	141,461	Academic / Research
39	Hayes Hall	108 N Oval Mall	43,608	Academic
40	Fechko Alumnae Scholarship House	220-222 W 11th Ave	6,396	Student Housing
41	Lazenby Hall	1827 Neil Ave Mall	66,558	Academic
42	Hughes Hall	1899 College Rd	60,883	Academic
43	Refuse Station	2566 Kenny Rd	1,805	Facilities
46	Journalism Building	242 W 18th Ave	84,561	Academic
47	Mershon Center	1501 Neil Ave	36,761	Academic / Admin
48	Pennsylvania Place	1478 Pennsylvania Ave	11,289	Student Housing
49	Drinko, John Deaver, Hall	55 W 12th Ave	211,421	Academic
50	Thompson, William Oxley, Memorial Library	1858 Neil Ave Mall	301,907	Library
52	Younkin Success Center	1640 Neil Ave	68,619	Student Life
53	McPherson Chemical Laboratory	140 W 18th Ave	117,599	Academic / Research
54	Mendenhall Laboratory	125 S Oval Mall	126,300	Academic / Admin
55	Mershon Auditorium	1871 N High St	120,223	Auditorium
56	Converse, George L, Hall	2121 Tuttle Park Pl	58,786	Academic
57	Edison Joining Technology Center	1248 Arthur Adams Dr	35,768	Research
59	Fry, Glenn Ansel, Hall	338 W 10th Ave	75,040	Academic / Research
60	Orton Hall	155 S Oval Mall	39,797	Academic / Admin
61	Page Hall	1810 College Rd	64,665	Academic
63	Cockins, Edith, Hall	1958 Neil Ave	59,866	Academic
64	Parker Food Science and Technology Building	2015 Fyffe Ct	78,214	Academic
65	Smith, Alpheus, Laboratory	174 W 18th Ave	218,839	Academic / Research
66	Plumb Hall	2027 Coffey Rd	45,196	Academic
67	Pomerene Hall	1760 Neil Ave	73,603	Academic
69	McCracken Power Plant	304 Annie & John Glenn Ave	110,142	Facilities / Admin
70	Physics Research Building	191 W Woodruff Ave	238,732	Academic / Research
71	Pump House	1925 Cannon Dr	1,647	Facilities

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
72	Enarson, Harold L, Classroom Building	2009 Millikin Rd	88,768	Academic
73	Research Center	1314 Kinnear Rd	98,131	Research
76	St John Arena	410 Woody Hayes Dr	217,262	Athletics
77	Central Service Building	2003 Millikin Rd	15,136	Facilities
78	Maintenance Building	2000 Tuttle Park Pl	51,289	Facilities
79	OSU Electric Substation	1735 Cannon Dr	13,520	Facilities
80	Sisson Hall	1920 Coffey Rd	55,501	Academic / Research
81	Schottenstein, Jerome, Center	555 Borrer Dr	604,784	Athletics
82	Ohio Stadium	411 Woody Hayes Dr	808,359	Athletics
83	Parking Garage - Northwest	271 Ives Dr	228,196	Parking Garage
84	Stillman Hall	1947 College Rd	67,284	Academic
85	Hale, Frank W, Jr, Hall	154 W 12th Ave	47,001	Academic / Admin
86	French, Thomas E, Field House	460 Woody Hayes Dr	88,424	Athletics
87	Townshend Hall	1885 Neil Ave Mall	64,370	Academic
88	Parking Garage - Tuttle Park Pl	2050 Tuttle Park Pl	365,188	Parking Garage
89	Doan, Charles Austin, Hall	410 W 10th Ave	673,130	Patient Care
90	Ramseyer Hall	29 W Woodruff Ave	86,387	Academic
91	Nicklaus Museum	2355 Olentangy River Rd	25,457	Athletics
92	Jesse Owens Memorial Stadium	2450 Fred Taylor Dr	27,987	Athletics
93	Owens Stadium - Meet Management Building	2402 Fred Taylor Dr	1,568	Athletics
94	North Star Road, 2470	2470 North Star Rd	16,413	Office
95	Baker Hall	93 & 129 W 12th Ave	227,010	Student Housing
97	Bradley, Carolyn, Hall	221 W 12th Ave	70,349	Student Housing
98	Canfield Hall	236 W 11th Ave	61,231	Student Housing
99	Siebert Hall	184 W 11th Ave	85,839	Student Housing
100	Mack Hall	1698 Neil Ave	78,880	Student Housing
102	Oxley Hall	1712 Neil Ave	31,148	Academic
103	Paterson, Alma W, Hall	191 W 12th Ave	64,303	Student Housing
105	Kennedy, June F, Commons	251 W 12th Ave	36,868	Student Housing
106	Sullivant, Joseph, Hall	1813 N High St	135,883	Academic
107	Watts Hall	2041 College Rd	35,504	Academic / Research
108	Buckeye Field	2410 Fred Taylor Dr	17,634	Athletics
112	Biomedical Research Tower	460 W 12th Ave	412,630	Research
113	Davis Heart and Lung Research Institute	473 W 12th Ave	139,528	Research
126	Kinnear Rd, 1314	1314 Kinnear Rd	21,171	SciTech
127	Smith, Thomas, Electrical Substation	1960 Tuttle Park Pl	24,456	Facilities
128	Kinnear Rd, 1260	1260 Kinnear Rd	2,788	SciTech
129	Corrosive Storage	1264 Kinnear Rd	398	Storage
130	Power House	1306 Kinnear Rd	9,112	Facilities
131	Aronoff, Stanley J, Laboratory	318 W 12th Ave	108,644	Academic / Research
132	Herrick Dr, 393	393 Herrick Dr	3,137	Research
133	Waterman Storage Facility	2510 Carmack Rd	5,450	Research
134	West Campus Substation	1989 Kenny Road	11,000	Facilities
135	Zoology Storage	1294 Kinnear Rd	2,044	Storage
136	Veterinary Medicine Academic	1900 Coffey Rd	113,459	Academic
138	Lacquer Paint House	1314 Kinnear Rd	600	Research
144	Psychology Building	1835 Neil Ave	132,712	Academic
145	Nineteenth Ave, 140 W	140 W 19th Ave	83,437	Academic / Research
146	Bolz, Harold A, Hall	2036 Neil Ave Mall	82,179	Academic
147	Newman and Wolfrom Laboratory of Chemistry	100 W 18th Ave	62,058	Lab
148	Scott, Peter L and Clara M, Laboratory	201 W 19th Ave	262,375	Academic / Research
149	Hopkins, James R, Hall	128 N Oval Mall	110,220	Academic

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
150	Evans, William Lloyd, Laboratory	88 W 18th Ave	117,574	OSUWMC
151	Fontana, Mars G, Laboratories	116 W 19th Ave	32,462	Academic / Research
152	Chemical Engineering Storage	127 W Woodruff Ave	600	Storage
153	Poultry Breeding House 3	708 W Lane Ave	10,229	Agricultural
154	Poultry Brooding House 2	722 W Lane Ave	5,661	Agricultural
155	Radiation Dosimetry Calibration Facility	1296 Kinnear Rd	5,603	Research
156	Animal Science Building	2029 Fyffe Rd	55,889	Academic
157	Wiseman Hall	400 W 12th Ave	82,032	Academic / Research
158	Reactor Building	1298 Kinnear Rd	3,856	Research
159	Parking Garage - Lane Ave	2105 Neil Ave	445,873	Parking Garage
160	Student Academic Services Building	281 W Lane Ave	137,250	Office
161	Ohio Union	1739 N High St	317,694	Student Housing
162	Parking Garage - Ohio Union South	1759 N High St	280,001	Parking Garage
163	Tzagournis, Manuel, Medical Research Facility	420 W 12th Ave	80,417	Academic / Research
165	Harding Hospital	1670 Upham Dr	114,199	Patient Care
166	Quonset Hut 8	2383 Wood Ave	4,400	Storage
167	Quonset Hut 9	2381 Wood Ave	4,400	Storage
168	Grounds Maintenance Equipment Storage	2379 Wood Ave	4,576	Storage
169	Quonset Hut 11	2381 Wood Ave	4,400	Storage
170	Parking Garage - SafeAuto Hospitals	1585 Westpark St	365,530	Parking Garage
171	Dodd Hall	480 Medical Center Dr	86,802	Patient Care
172	Parking Garage - Cannon Dr N and S	1640 Cannon Dr	445,148	Parking Garage
174	Animal House Kinnear Research Center	1314 Kinnear Rd	6,131	Agricultural
176	Starling Loving Hall	320 W 10th Ave	149,403	Academic / Research
177	Eleventh Ave, 235-243 W	235-243 W 11th Ave	1,882	Retail
178	Pesticide Handling Facility	2530 Carmack Rd	1,740	Facilities
179	Waterman Farm - Laboratory Headquarters	2490 Carmack Rd	8,444	Research
180	Goss, Leonard W, Laboratory	1925 Coffey Rd	67,943	Academic / Research
182	Haverfield House	112 W Woodruff Ave	30,267	Student Housing
184	Barrett House	88 W Woodruff Ave	35,829	Student Housing
185	Halloran House	60 W Woodruff Ave	30,269	Student Housing
186	Norton House	2114 Neil Ave	35,831	Student Housing
187	Mathematics Building	231 W 18th Ave	28,893	Academic
189	Drackett Tower	191 W Lane Ave	138,600	Student Housing
190	Morrison Tower	196 W 11th Ave	99,934	Student Housing
191	Nationwide and Ohio Farm Bureau 4-H Center	2201 Fred Taylor Dr	45,189	Conference Center
193	Eleventh Ave, 33 W	33 W 11th Ave	26,386	Office
194	Houck House	61 W Lane Ave	37,790	Student Housing
200	Research Foundation Building	1960 Kenny Rd	53,095	Academic
210	Wetland Bike Shelter	352 W Dodridge St	143	Agricultural
211	Adventure Recreation Center	855 Woody Hayes Dr	86,070	Student Housing
213	Center for Integrative Medicine	2000-2002 Kenny Rd	9,460	Patient Care
214	Kenny Rd, 2006-2030	2006-2030 Kenny Rd	27,283	Patient Care
215	Sandefur Wetland Pavilion	352 W Dodridge St	788	Agricultural
216	Retractable Shade Structure	730 Vernon Tharp St	6,566	Shelter
217	Recreation Field Support and Utility	1048 Carmack Rd	4,850	Athletics
218	Recreation Service Building	2200 Carmack Rd	1,862	Athletics
221	Waterman Farm - Heifer Barn	2467 Carmack Rd	4,800	Agricultural
222	Heffner Wetland Research and Education	352 W Dodridge St	9,157	Research
223	Plant Materials Building	2568 Kenny Rd	4,511	Agricultural
224	Plant Materials Greenhouse	2570 Kenny Rd	1,998	Agricultural
226	Kinnear Rd, 930 - Storage	930 Kinnear Rd	12,034	Office

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
227	Kinnear Road, 930	930 Kinnear Rd	41,919	Office
228	Bill Davis Baseball Stadium	650 Borrer Dr	30,233	Athletics
229	Ice Rink	390 Woody Hayes Dr	33,845	Athletics
230	Field Hockey and Outdoor Tennis Office	530 Irving Schottenstein Dr	938	Athletics
231	Zoology Research Laboratory	1292 Kinnear Rd	800	Research
232	Kenny Road, 1900	1900 Kenny Rd	31,269	Admin
234	Aquatic Ecology Laboratory Storage	1292 Kinnear Rd	450	Research
241	Ackerman Rd, 650	650 Ackerman Rd	42,074	Admin
242	Ackerman Rd, 660	660 Ackerman Rd	137,836	Patient Care
244	Ackerman Rd, 690 - Grounds Storage (0244)	690 Ackerman Rd	1,611	Storage
245	Physical Activity and Education Services - PAES	305 Annie & John Glenn Ave	163,899	Academic
246	Recreation and Physical Activity Center	337 Annie & John Glenn Ave	279,848	Student Housing
247	McCorkle Aquatic Pavilion	1847 Neil Ave	127,491	Athletics
248	Chemical & Biomolecular Engineering and Chemistry	151 W Woodruff Ave	236,537	Academic / Research
249	Fisher, Max M, Hall	2100 Neil Ave	132,056	Administration
250	Gerlach, John B, Graduate Programs Building	2108 Neil Ave	69,508	Academic / Admin
251	Schoenbaum Undergrad Program Bldg	210 W Woodruff Ave	62,748	Academic / Admin
252	Mason, Raymond E, Hall	250 W Woodruff Ave	68,150	Academic
253	Pfahl, John K, Executive Education Building	280 W Woodruff Ave	57,619	Academic / Admin
254	Blackwell Inn	2110 Tuttle Park Pl	127,992	Hotel
255	Coffey Rd Sports Center	1966 Coffey Rd	402	Athletics
257	Maintenance Storage Shed	2661 Defiance Dr	502	Storage
258	Salt Storage	2570 Kenny Rd	2,400	Storage
260	Mendoza House	190 W Woodruff Ave	41,691	Student Housing
261	Archer, John F, House	2130 Neil Ave	34,970	Student Housing
263	Service Building Annex	2578 Kenny Rd	58,566	Facilities
264	Satellite Communications Facility	1318 Kinnear Rd	3,121	Research
265	MacQuigg Laboratory	105 W Woodruff Ave	76,345	Academic / Research
266	Riffe, Vernal G, Jr, Building	496 W 12th Ave	130,130	Lab
267	Jones Tower	123 W Lane Ave	177,001	Student Housing
268	Taylor Tower	55 W Lane Ave	143,051	Student Housing
270	Woody Hayes Athletic Center	535 Irving Schottenstein Dr	219,343	Athletics
271	Lincoln, Abraham, Tower	1800 Cannon Dr	322,374	Student Housing
272	Morrill, Justin S, Tower	1900 Cannon Dr	324,185	Student Housing
273	Parks, Lloyd M, Hall	500 W 12th Ave	119,237	Academic / Research
274	Hitchcock Hall	2070 Neil Ave	118,612	Academic
275	Newton, Mildred E, Hall	1585 Neil Ave	80,833	Academic / Research
276	Biological Science Building	484 W 12th Ave	180,694	Academic / Research
277	Graves, Grant O, Hall	333 W 10th Ave	223,221	Academic / Research
278	Parking Garage - Arps	1990 College Rd	323,468	Parking Garage
279	Dreese Laboratories, Erwin E	2015 Neil Ave	185,430	Academic
280	Baker, David F, Systems Engineering Building	1971 Neil Ave	114,930	Academic
281	Meiling, Richard Lewis, Hall	370 W 9th Ave	76,545	Administration
282	Galbreath, Daniel M, Equine Center	685 Vernon Tharp St	40,822	Veterinary
283	Parking Garage - Biological Science Building	484 W 12th Ave	19,086	Parking Garage
284	Fawcett Center for Tomorrow, Novice G	2400 Olentangy River Rd	178,184	Admin / Conference
287	Parking Garage - Neil Ave	1801 Neil Ave	364,546	Parking Garage
288	Parking Garage - Ohio Union North	1780 College Rd	216,738	Parking Garage
289	Laundry Building	2560 Kenny Rd	52,931	Facilities
290	Printing Facility	2500 Kenny Rd	42,623	Office

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
291	Gas Meter House	1925 Coffey Rd	294	Facilities
293	Cunz, Dieter, Hall	1841 Neil Ave	68,100	Academic
294	Wilce, John W, Student Health Center	1875 Millikin Rd	50,179	Student Life
295	Howlett, Freeman S, Hall	2001 Fyffe Ct	62,605	Academic
296	Drake Performance and Event Center	1849 Cannon Dr	115,835	Academic
297	Howlett Greenhouses	680 Vernon Tharp St	41,484	Agricultural
298	Agricultural Engineering Building	590 Woody Hayes Dr	120,345	Agricultural
299	Veterinary Medical Center	601 Vernon Tharp St	222,496	Veterinary
302	Prior, John A, Hall	376 W 10th Ave	147,486	Academic
303	McCampbell, Eugene F, Hall	1581 Dodd Dr	133,041	Patient Care / Research
304	Athletic Maintenance	2402 Fred Taylor Dr	10,109	Athletics
305	Bus Shelter 42	157 W 12th Ave	147	Shelter
306	Atwell, Robert J, Hall	453 W 10th Ave	98,273	Academic / Research
307	Bevis Hall	1080 Carmack Rd	79,916	Academic
308	Rightmire Hall	1060 Carmack Rd	97,655	Academic / Research
309	Pressey, Sidney L, Hall	1070 Carmack Rd	77,779	Academic
310	Scott Hall, William H	1090 Carmack Rd	62,345	Academic / Research
311	Mount, John T, Hall	1050 Carmack Rd	72,186	Academic
312	Bus Shelter 55	116 W Woodruff Ave	147	Shelter
315	Bloch, R and A, Cancer Survivors Plaza	2180 Olentangy River Rd	73	Patient Care
316	Waterman Farm - Dairy Calf Barn	2449 Carmack Rd	7,698	Agricultural
317	Waterman Farm - Main Dairy Barn	2433 Carmack Rd	23,703	Agricultural
321	Learning Gardens Storage Shed	680 Vernon Tharp St	210	Agricultural
332	Bus Shelter 41	1716 Neil Ave	45	Shelter
337	Dulles, Foster Rhea, Hall	230 Annie & John Glenn Ave	42,300	Academic
338	Independence Hall	1923 Neil Ave Mall	15,891	Academic
339	University Hall	230 N Oval Mall	78,718	Academic
340	Kottman, Roy M, Hall	2021 Coffey Rd	167,040	Academic
341	Bus Shelter 25	628 Woody Hayes Dr	76	Shelter
342	Bus Shelter 20	629 Woody Hayes Dr	76	Shelter
343	Bus Shelter 24	380 Woody Hayes Dr	45	Shelter
344	Bus Shelter 54	1930 College Rd	146	Shelter
345	Biocontainment Laboratory	2090 Carmack Rd	2,862	Research
347	Jesse Owens Recreation Center North	2151 Neil Ave	23,728	Student Activity
348	Jesse Owens Recreation Center South	175 W 11th Ave	23,535	Student Activity
349	Jesse Owens Tennis Center West	1031 Carmack Rd	23,535	Student Activity
350	Library Book Depository	2700 Kenny Rd	38,544	Administration
352	Parking Garage - Eleventh Ave	229 W 11th Ave	221,813	Parking Garage
353	Ross Heart Hospital	452 W 10th Ave	306,801	Patient Care
354	Rhodes, James A, Hall	450 W 10th Ave	507,803	Patient Care
355	Weigel, Eugene J, Hall	1866 College Rd	47,042	Academic
356	Twelfth Ave, 395 W	395 W 12th Ave	90,747	Administration
357	Northwood-High Building	2231 N High St	41,171	Patient Care / Academic
358	Sherman, Hoyt L, Studio Art Center	1055 Carmack Rd	22,471	Academic
359	Parking Garage - Ninth Ave W	355 W 9th Ave	369,440	Parking Garage
360	Blankenship, Michael, Hall	901 Woody Hayes Dr	58,109	Administration
362	Bulk Chemical Warehouse	2600 Kenny Rd	15,512	Storage
363	Comprehensive Cancer Center, OSU	410 W 12th Ave	74,390	Academic / Research
371	Celeste, Richard F, Laboratory of Chemistry	120 W 18th Ave	110,310	Lab
372	Brain & Spine Hospital, Tenth Ave, 300 W	300 W 10th Ave	258,797	Patient Care
373	Kinnear Rd, 1100	1100 Kinnear Rd	48,532	Administration
374	Kinnear Rd, 1224	1224 Kinnear Rd	42,773	SciTech

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
375	The Ohio State University Comprehensive Cancer Center - Arthur G. James Cancer Hospital and Richard J. Solove Research Institute	460 W 10th Ave	1,186,252	Patient Care / Research
376	Chilled Water Plant, East Regional	30 W 18th Ave	23,450	Facilities
377	Generator Building	321 W 18th Ave	5,355	Facilities
378	Kinnear Rd, 1212-1218	1212-1218 Kinnear Rd	39,624	
379	Telecommunications Network Center	320 W 8th Ave	45,297	Facilities
381	Stores and Receiving	2650 Kenny Rd	125,050	Administration
382	Davis Medical Research Center	480 Medical Center Dr	43,459	Patient Care
384	Rothenbuhler Honey Bee Research Laboratory	2501 Carmack Rd	6,359	Research
385	Child Care Center	725 Ackerman Rd	43,358	Administration
386	Wexner Center for the Arts	1871 N High St	131,071	Museum
387	Parking Garage - Twelfth Ave	340 W 12th Ave	234,895	Parking Garage
388	Chiller Plant, South Campus Central	1740 Cannon Dr	83,056	Facilities
390	Water Treatment Building	331 W 18th Ave	14,991	Facilities
394	Biotechnology Support Facility	1096 Carmack Rd	24,433	Research
395	Kinnear Rd, 1275-1305	1275 Kinnear Rd	170,631	SciTech
800	Buckeye Village Community Center	2724 Defiance Dr	27,086	Student Housing
801	Buckeye Village A	600-626 Cuyahoga Ct	6,675	Student Housing
802	Buckeye Village B	630-672 Cuyahoga Ct	8,751	Student Housing
803	Buckeye Village C	661-702 Cuyahoga Ct	10,433	Student Housing
804	Buckeye Village D	601-653 Cuyahoga Ct	12,620	Student Housing
805	Buckeye Village E	2760-2796 Defiance Dr	8,691	Student Housing
806	Buckeye Village F	600-642 Stark Ct	10,522	Student Housing
807	Buckeye Village G	650-683 Stark Ct	10,428	Student Housing
808	Buckeye Village H	601-653 Stark Ct	12,540	Student Housing
809	Buckeye Village J	520-556 Mahoning Ct	8,662	Student Housing
810	Buckeye Village K	500-517 Mahoning Ct	8,664	Student Housing
811	Buckeye Village L	521-557 Mahoning Ct	10,679	Student Housing
812	Buckeye Village M	510-546 Montgomery Ct	10,678	Student Housing
813	Buckeye Village N	500-517 Montgomery Ct	6,655	Student Housing
814	Buckeye Village P	521-547 Montgomery Ct	6,647	Student Housing
815	Buckeye Village R	551-587 Montgomery Ct	10,677	Student Housing
816	Buckeye Village Laundry	2743 Defiance Dr	792	Student Housing
817	Buckeye Village S	591-627 Tuscarawas Ct	10,678	Student Housing
818	Buckeye Village T	631-657 Tuscarawas Ct	6,647	Student Housing
819	Buckeye Village U	661-703 Tuscarawas Ct	8,751	Student Housing
820	Buckeye Village V	650-702 Trumbull Ct	10,433	Student Housing
821	Buckeye Village W	630-647 Trumbull Ct	10,676	Student Housing
822	Buckeye Village X	651-703 Trumbull Ct	10,428	Student Housing
823	Buckeye Village Y	660-702 Ashtabula Ct	8,751	Student Housing
824	Buckeye Village Z	630-656 Ashtabula Ct	8,663	Student Housing
825	Buckeye Village AA	580-622 Ashtabula Ct	8,751	Student Housing
826	Buckeye Village BB	2541-2593 Lorain Ct	10,433	Student Housing
827	Buckeye Village CC	2600-2617 Lorain Ct	10,711	Student Housing
828	Buckeye Village DD	2540-2592 Lorain Ct	10,433	Student Housing
829	Buckeye Village EE	2551-2603 Muskingum Ct	12,539	Student Housing
830	Buckeye Village FF	2620-2637 Muskingum Ct	8,681	Student Housing
831	Buckeye Village GG	2570-2612 Muskingum Ct	10,522	Student Housing
832	Buckeye Village HH	2530-2556 Muskingum Ct	6,655	Student Housing
833	Buckeye Village Administration	2661 Defiance Dr	4,472	Student Housing

**SCHEDULE 16
COLUMBUS CAMPUS**

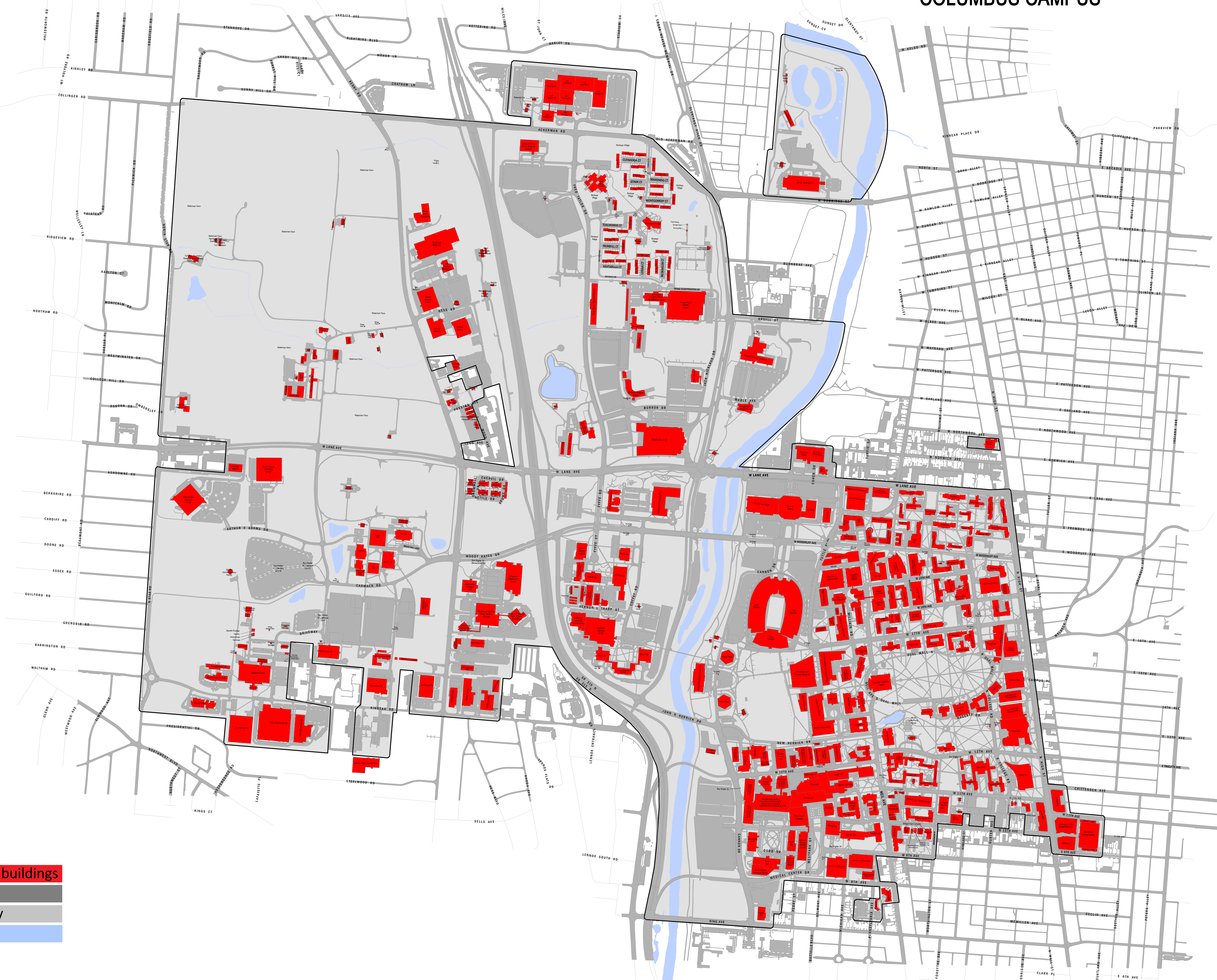
University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
834	Buckeye Village Recreation Hall	2704 Defiance Dr	3,685	Student Housing
846	William Hall Complex - Neil Building	1578 Neil Ave	129,908	Student Housing
847	William Hall Complex - Scholars House West	239 W 10th Ave	17,673	Student Housing
848	William Hall Complex - Scholars House East	221 W 10th Ave	17,685	Student Housing
849	William Hall Complex - Worthington Building	203 W 10th Ave	48,554	Student Housing
850	Residences on Tenth	230 W 10th Ave	189,625	Student Housing
851	Park-Stradley Hall	120 W 11th Ave	271,039	Student Housing
852	Smith-Steeb Hall	80 West 11th Ave	262,198	Student Housing
860	Gateway A	1595 N High St	130,188	Student Housing
862	Gateway B	1620 N High St	112,823	Retail
863	Gateway C - OSU Human Resources	1590 N High St	192,313	Retail
864	Hanley Alumnae Scholarship House	225 W 10th Ave	5,519	Student Housing
865	Gateway D	1550 N High St	81,019	Retail
866	Parking Garage - Gateway E	75 E 11th Ave	390,139	Parking Garage
867	Gateway F - North	43-71 E 11th Ave	19,356	Retail
868	Gateway F - South	42-68 E 9th Ave	19,344	Retail
869	Pomerene Alumnae Scholarship House	231 W 10th Ave	5,904	Student Housing
872	Neil Ave, 1630	1630 Neil Ave	2,380	Retail
875	Parking Garage - Ninth Ave E	345 W 9th Ave	324,058	Parking Garage
877	Neil Ave, 1618-1624	1618-1624 Neil Ave	13,500	Retail
878	Institute for Behavioral Medicine Research	460 Medical Center Dr	79,960	Medical Research
880	Morehouse Medical Plaza, Martha - Pavilion	2050 Kenny Rd	162,526	Patient Care
881	Morehouse Medical Plaza, Martha - Tower	2050 Kenny Rd	127,815	Patient Care
882	Morehouse Medical Plaza, Martha - Concourse	2050 Kenny Rd	38,084	Patient Care
891	Lawrence Tower	328 W Lane Ave	150,106	Student Housing
892	Parking Garage - W Lane Ave	328 W Lane Ave	98,460	Parking Garage
902	Eleventh Ave, 53 W	53 W 11th Ave	5,321	Office
909	11th Ave, 265 W	265 W 11th Ave	2,425	Retail
912	Neil Ave, 1656-1660	1656-1660 Neil Ave	10,365	Office
918	Lane Ave, 300 West	300 W Lane Ave	8,347	Food Services
921	Ackerman Place	700 Ackerman Rd	9,301	Patient Care
923	Kenny Rd, 2404	2404 Kenny Rd	7,628	Office
924	Kenny Rd, 2422	2422 Kenny Rd	2,036	Office
925	Wood Ave, 2410	2410 Wood Ave	1,300	Student Housing
927	Highland St, 1615	1615 Highland St	5,646	Student Housing
931	Kinnear Rd, 960	960 Kinnear Rd	42,415	Student Housing
932	Kinnear Rd, 1165	1165 Kinnear Rd	104,577	SciTech
937	Waterman Farm - Agronomy Pole Barn	2623 Kenny Rd	1,800	Agricultural
943	Kenny Rd, 1929	1929 Kenny Rd	50,813	Metro High School
944	Steelwood Athletic Training Facility	1160 Steelwood Rd	40,475	Athletics
949	State of Ohio Computer Center	1320 Arthur Adams Dr	20,100	
951	Kinnear Rd, 1315	1315 Kinnear Rd	99,781	FOD Storage
952	Waterman Farm - Agronomy Field Greenhouse	2551 Carmack Rd	1,296	Greenhouse
958	Waterman Farm - Agronomy Machinery Storage	2623 Kenny Rd	3,677	Storage
959	Kuhn, Albert J, Honors and Scholars House	220 W 12th Ave	9,971	Academic
963	Kinnear Rd, 760	760 Kinnear Rd	9,514	
964	Eleventh Ave, 45 W	45 W 11th Ave	4,525	Office
965	German House	141 W 11th Ave	4,501	Student Housing
968	Pump House 2	2814 Kenny Rd	64	Service
969	Riverwatch Tower	364 W Lane Ave	10,348	
974	Science Village	1381 Kinnear Rd	51,879	

**SCHEDULE 16
COLUMBUS CAMPUS**

University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
977	ElectroScience Laboratory Complex	1320-1330 Kinnear Rd	40,332	
983	Turfgrass Foundation Research and Education Facility	2710 North Star Rd	6,713	Research
984	Transmitter - WOSU	350 W Dodridge St	3,149	Facilities
985	Dodridge St, 250 W	250 W Dodridge St	74,070	Office - ARC Industries
987	Campus Shop	2469 Wood Ave	10,291	Facilities
992	Waterman Farm - Agronomy Turf Research	2551 Carmack Rd	1,960	Academic / Research
995	Evans Hall	520 King Ave	27,357	
1004	Jameson Crane Sports Medicine Institute	2835 Fred Taylor Drive	0	Patient Care
1007	Field Hockey Scoring Building	550 Irving Schottenstein Dr	120	Athletics
1008	Field Hockey Storage Shed	550 Irving Schottenstein Dr	100	Athletics
1011	Schumaker Student-Athlete Development Center	535 Irving Schottenstein Dr	219,343	Athletics
1020	Cyclotron 2	1933 Cannon Dr	2,725	Storage
1101	Torres House	187 W Lane Ave	123,225	Student Housing
1102	Houston House	97 W Lane Ave	0	Student Housing
1103	Raney House	33 W Lane Ave	125,474	Student Housing
1104	Bowen House	2125 N High St	87,581	Student Housing
1105	Busch House	2115 N High St	114,500	Student Housing
1106	Curl Hall	80 W Woodruff Ave	27,900	Student Housing
1107	Blackburn House	136 W Woodruff Ave	0	Student Housing
1109	North Recreation Center	149 W Lane Ave	0	Student Housing
1110	Nosker House	124 W Woodruff Ave	0	Student Housing
1220	enCORE Solar House	2235 Fred Taylor Dr	792	Research
1221	Bus Shelter 51	1901 Tuttle Park Pl	105	Shelter
1222	Bus Shelter 53	101 Annie & John Glenn Ave	147	Shelter
1223	Bus Shelter 49	340 W 12th Ave	60	Shelter
1224	Bus Shelter 23	1880 Cannon Dr	146	Shelter
1225	Bus Shelter 76	2660 Defiance Dr	65	Shelter
1226	Bus Shelter 77	2700 Defiance Dr	54	Shelter
1227	Bus Shelter 75	2701 Fred Taylor Dr	424	Shelter
1228	Bus Shelter 95	2133 Carmack Rd	65	Shelter
1229	Bus Shelter 94	2133 Carmack Rd	65	Shelter
1230	Bus Shelter 44	1740 S College Rd	348	Shelter
1231	Bus Shelter 43	1741 S College Rd	348	Shelter
1232	Bus Shelter 11	1050 Carmack Rd	126	Shelter
1233	Bus Shelter 12	951 Carmack Rd	147	Shelter
1234	Bus Shelter 13	1059 Carmack Rd	182	Shelter
1235	Bus Shelter 57	275 W Woodruff Ave	147	Shelter
1236	Bus Shelter 21	379 Woody Hayes Dr	45	Shelter
1237	Bus Shelter 32	325 Medical Center Dr	23	Shelter
1238	Bus Shelter 34	370 W 9th Ave	45	Shelter
1239	Bus Shelter 36	1640 Cannon Dr	45	Shelter
1240	Bus Shelter 56	282 W Woodruff Ave	147	Shelter
1241	Bus Shelter 58	145 W Woodruff Ave	147	Shelter
1242	Bus Shelter 14	901 Woody Hayes Dr	46	Shelter
1250	Sea Grant Boat Storage	1258 Kinnear Rd	144	Storage
1252	Sea Grant Boat Storage Shed 1	1258 Kinnear Rd	80	Storage
1253	Sea Grant Boat Storage Shed 2	1258 Kinnear Rd	1,730	Storage
1254	Aquatic Ecology Laboratory Boathouse	1296 Kinnear Rd	480	
1255	Zoology Research Laboratory Shed	1292 Kinnear Rd	100	
1256	Lane Ave, 1285 W	1285 W Lane Ave	0	

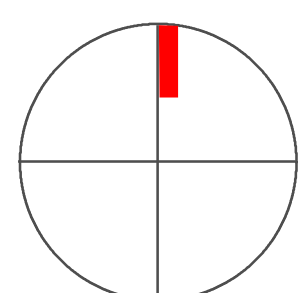
**SCHEDULE 16
COLUMBUS CAMPUS**

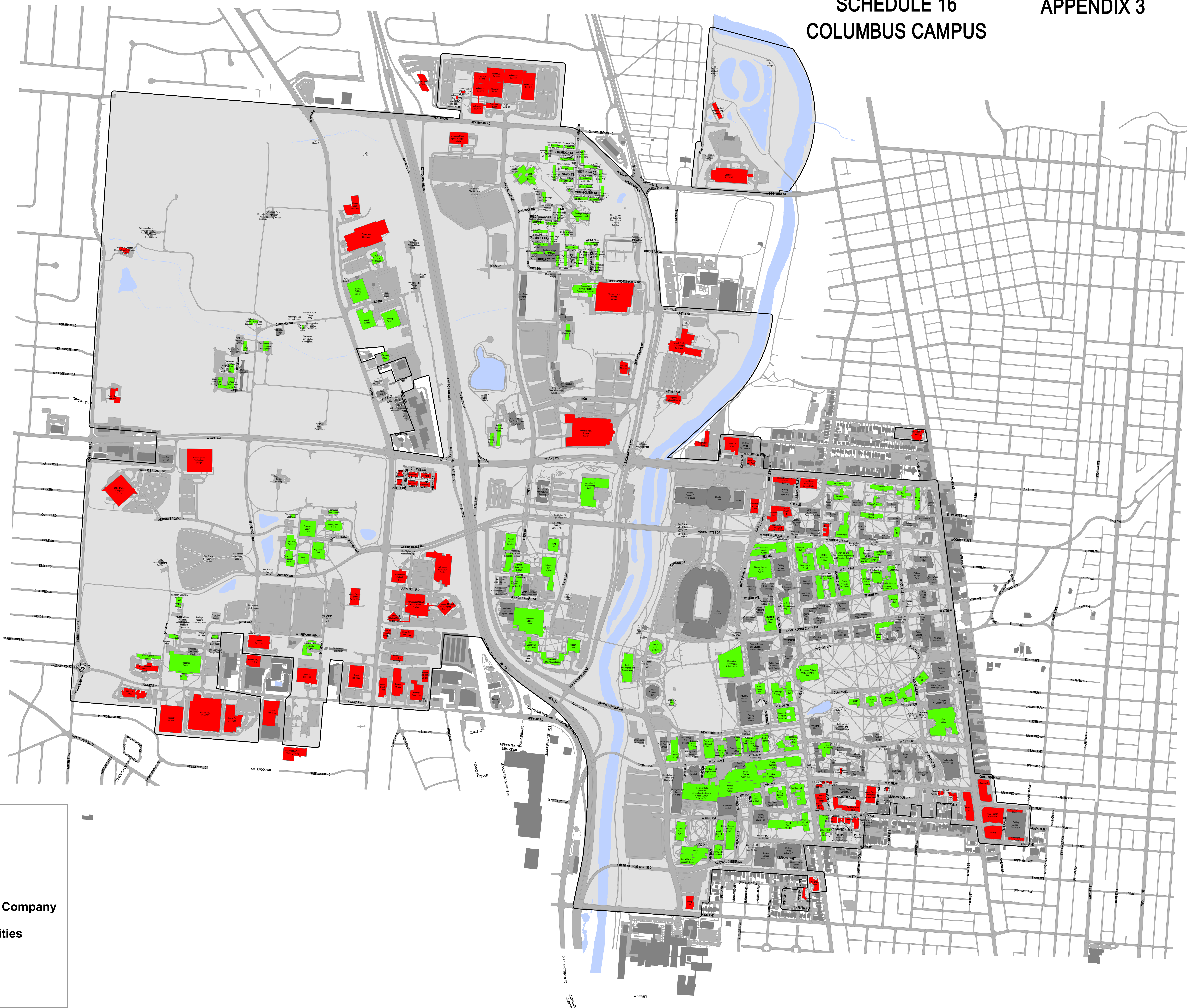
University Building Designations		Street Address	Gross Square Footage	Primary Building Use
No.	Name			
1257	Poly House - Hoop Greenhouse A	680 Vernon Tharp St	661	Agricultural
1258	Poly House - Hoop Greenhouse C	680 Vernon Tharp St	1,575	Agricultural
1259	Poly House - Hoop Greenhouse B	680 Vernon Tharp St	1,575	Agricultural
1260	Kinnear Rd, 1245-1255	1245 Kinnear Rd	59,978	SciTech
1263	Bill Davis Baseball Stadium Ticket Booth	650 Borrer Dr	100	
1264	Child Care Center Garage	725 Ackerman Rd	532	
1270	Poly House - Hoop Greenhouse A	680 Vernon Tharp St	2,350	Agricultural
1301	Waterman Farm - Hoop Hay Storage	2493 Carmack Rd	1,344	Farm
1302	Waterman Farm - Hoop Bio Storage	2451 Carmack Rd	936	Farm
1303	Waterman Farm - Cow Feeding Shed	2435 Carmack Rd	4,320	Farm
1304	Waterman Farm - Storage Shed 1	2511 Carmack Rd	80	Farm
1305	Waterman Farm - Storage Shed 2	2535 Carmack Rd	48	Farm
1306	Waterman Farm - Arched Greenhouse 1	2532 Carmack Rd	707	Farm
1307	Waterman Farm - Arched Greenhouse 2	2536 Carmack Rd	1,456	Farm
1316	Waterman Farm - Pump House	2500 Carmack Rd	1,200	Farm
1901	Gas House 1	1224 Kinnear Rd	455	Facilities
1902	Gas House 2	2588 Kenny Rd	165	Facilities
1903	Gas House 3	2827 Kenny Rd	65	Facilities
1910	Gas House 10	2726 Defiance Dr	100	Facilities
1911	Gas House 11	2773 Defiance Dr	104	Facilities
1912	Gas House 12	2410 Olentangy River Rd	67	Facilities
1921	Gas House 21	930 Kinnear Rd	120	Facilities
1951	Mirror Lake Pump House	Mirror Lake	40	Pump House
2241	Gas House 19	650 Ackerman Rd	236	Facilities
2432	Ackerman Rd, 640	640 Ackerman Rd	35,468	Patient Care
2433	Ackerman Rd, 670	670 Ackerman Rd	33,642	Patient Care
2434	Ackerman Rd, 680	680 Ackerman Rd	29,315	Patient Care
2435	Ackerman Rd, 600	600 Ackerman Rd	68,051	Patient Care
2436	Ackerman Rd, 630	630 Ackerman Rd	67,904	Patient Care
2437	Ackerman Rd, 610	610 Ackerman Rd	57,975	Patient Care
2441	Ackerman Rd, 690 - Middle Storage	690 Ackerman Rd	637	Storage
2442	Ackerman Rd, 690 - Shelter House	690 Ackerman Rd	1,449	Storage
2565	Fisher Commons - Building 1	807-859 Chervil Dr	18,342	Student Housing
2565	Fisher Commons - Building 2	863-917 Chervil Dr	18,342	Student Housing
2565	Fisher Commons - Building 3	2203-2229 Gromwell Dr	11,640	Student Housing
2565	Fisher Commons - Building 4	2171-2197 Gromwell Dr	11,640	Student Housing
2565	Fisher Commons - Building 5	866-920 Nettle Dr	18,342	Student Housing
2565	Fisher Commons - Building 6	806-860 Nettle Dr	18,342	Student Housing
2565	Fisher Commons - Garage 7	101-105 Brome Dr	1,298	Student Housing
2565	Fisher Commons - Garage 8	106-107 Brome Dr	1,298	Student Housing
2565	Fisher Commons - Garage 9	108-112 Brome Dr	1,298	Student Housing



Legend

- Columbus Campus buildings
- Paved surfaces
- University property
- Rivers and ponds

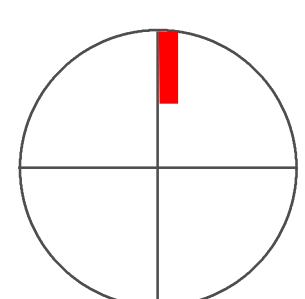


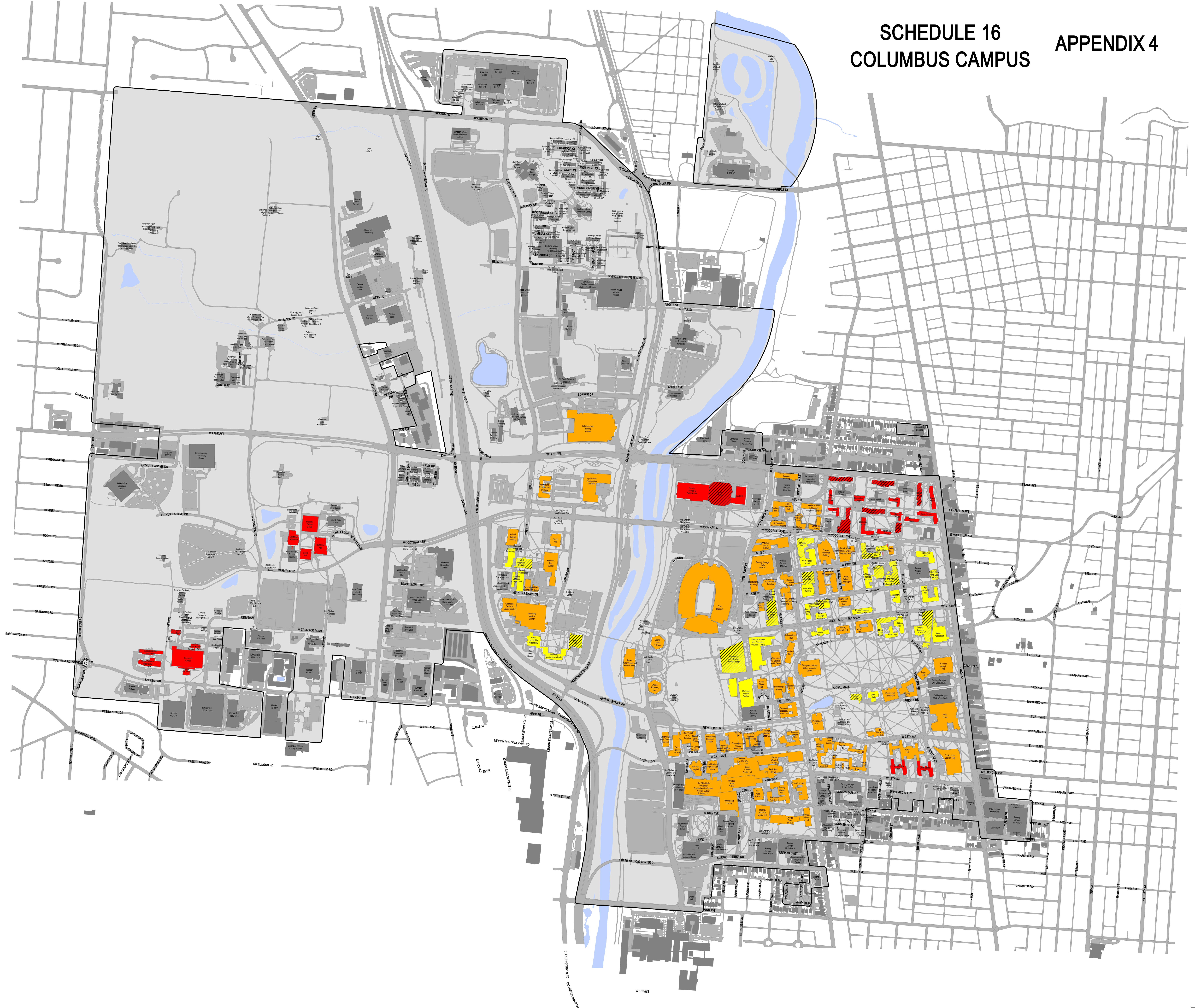


Legend

Gas

-  No
-  Directly Served by a Local Utility Company
-  Served by University Utility Facilities
-  Pavement
-  University Property





Legend

McCracken Steam

- Heating Hot Water Generation
- McCracken Steam
- McCracken Steam- HHW

Heating District System

- Heating Hot Water Generation
- District System- HHW
- No
- Pavement
- University Property

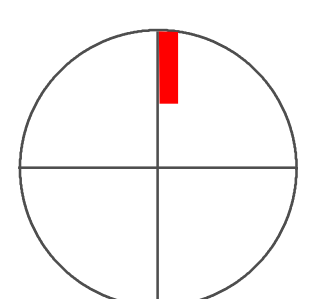


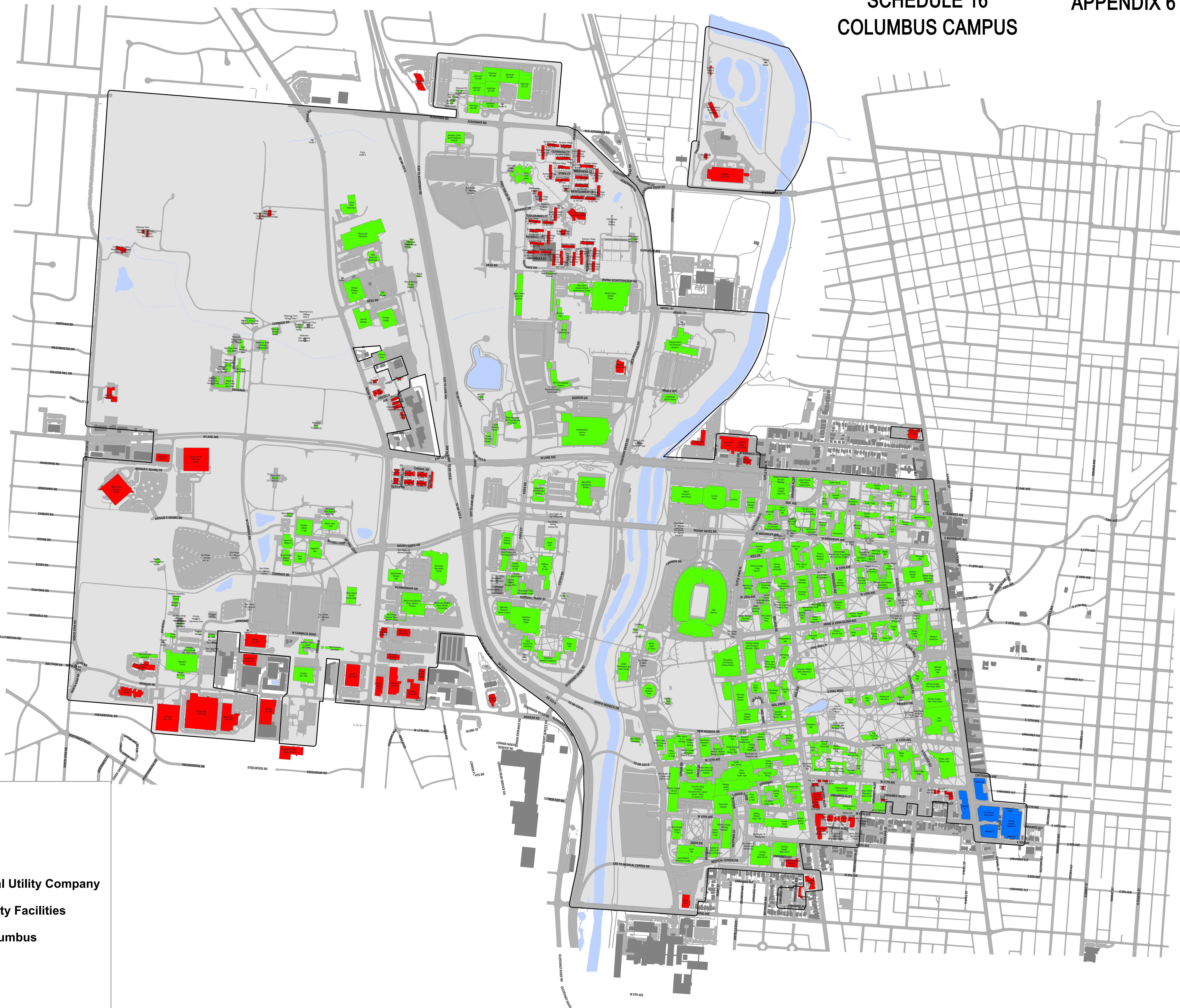
Legend

Chilled Water

- No
- District Utility Systems within the Columbus Campus
- Served by University Utility Facilities

- Pavement
- University Property





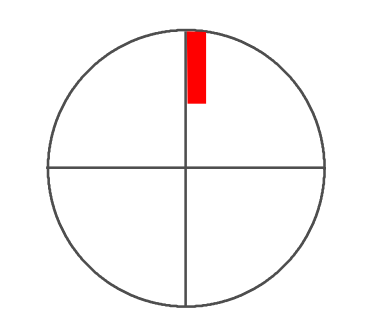
Legend

Electricity

- No
- Directly Served by a Local Utility Company
- Served by University Utility Facilities
- Served by the City of Columbus

Pavement

- University Property



SCHEDULE 17
UNDERGROUND TUNNELS

[See Attached]

SCHEDULE 18

FORM OF MCCRACKEN SUBLEASE

THIS SUBLEASE (this "Sublease") is made and entered into as of _____, _____, by and between [_____] a [_____] ("Sublandlord") and The Ohio State University ("Subtenant").

Background

- A.** Sublandlord, as concessionaire, and Subtenant are parties to that certain Long-Term Lease and Concession Agreement for The Ohio State University Utility System dated _____, _____ (as may be amended, the "Master Lease"), a copy of which is attached hereto as Exhibit C. Capitalized terms, unless otherwise defined herein, shall have the meaning set forth in the Master Lease.
- B.** Pursuant to the Master Lease, Sublandlord leases from Subtenant the Utility Facilities and the Utility System Land, including the McCracken Power Plant located at 304 Annie & John Glenn Ave., Columbus, OH 43210, also known as University Building 0069.
- C.** Sublandlord desires to sublease to Subtenant a portion of the McCracken Power Plant consisting of approximately 21,818 square feet, as shown on Exhibit A attached hereto (the "Sublease Premises").

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Terms

- SUBLEASE PREMISES.** For the rent and upon the agreements contained in this Sublease, Sublandlord subleases to Subtenant and Subtenant subleases from Sublandlord the Sublease Premises. Subtenant acknowledges and agrees that it shall take possession of the Sublease Premises in an "as-is" condition, without any warranty as to the condition thereof.
- TERM.** The term of this Sublease (the "Term") shall be three (3) years, commencing on the date hereof, unless terminated earlier pursuant to any provision hereof, provided that if the Master Lease terminates prior to the end of the Term, this Sublease shall be terminated as of the same date as the Master Lease. Subtenant shall have the option to extend the Term, upon the same terms and conditions contained herein, for up to two (2) consecutive renewal periods of two (2) years by providing written notice to Sublandlord of its election to exercise such option at least one (1) month prior to the then-scheduled expiration of the Term.
- RENT.** The annual rent for the Term, including any extensions thereof, shall be One Dollar (\$1.00) (the "Rent"). Rent shall be payable for each year of the Term on or before the anniversary of the date hereof to Sublandlord at its address set forth in Section 18.

Subtenant shall have the right to prepay the annual rent at any time in Subtenant's sole discretion.

4. **UTILITIES AND SERVICES.** At no additional cost to Subtenant, Sublandlord shall furnish the following utilities and services to the Sublease Premises in at least the same quality and quantity as is being provided on the date hereof: (i) heating and air conditioning; (ii) electrical service; (iii) water and plumbing; and (iv) elevator service. If any of the foregoing services are interrupted, curtailed or stopped, Sublandlord shall use all best efforts to cause them to be restored as soon as reasonably practicable. If Sublandlord fails to commence such restoration within two (2) days and diligently complete such restoration, Subtenant may cause such restoration, and Sublandlord shall reimburse Subtenant for the costs thereof within thirty (30) days after receipt of an invoice therefor.

USE OF PREMISES; ACCESS. Subtenant shall have the right to occupy and use the Sublease Premises for any lawful purpose, including without limitation general office use, provided that Subtenant shall not use or permit the use of the Sublease Premises for the Utility System Purposes. Subtenant shall comply with all federal, state and municipal statutes, laws, ordinances, codes, orders, rules and regulations (collectively, "Laws") applicable to Subtenant's particular use or occupancy of the Sublease Premises, provided that Subtenant shall not be obligated and Sublandlord shall promptly perform any alteration, improvement or replacement required to be performed in order to cause the Sublease Premises or the McCracken Power Plant to comply with Laws. Subtenant shall have access to the Sublease Premises and Common Areas twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year. Except as expressly set forth herein, Subtenant shall not have the right to use or access any space in the McCracken Power Plant pursuant to this Sublease other than the Sublease Premises and the Common Areas, and such use and access by Subtenant shall not interfere with Sublandlord's business operations in the McCracken Power Plant. Throughout the Term, to the extent practicable, Sublandlord shall cause the Sublease Premises to be separated from the remainder of the McCracken Power Plant, either by demising wall or by some other form of barrier, at Sublandlord's sole cost and expense. For the avoidance of doubt, Sublandlord shall have the right, subject to the terms and conditions of the Master Lease, to alter or improve the McCracken Power Plant (other than the Sublease Premises), provided such alterations or improvements do not materially, adversely affect Subtenant's use or occupancy of the Sublease Premises.

COMMON AREAS. Subtenant shall have the nonexclusive right, in common with other occupants of the McCracken Power Plant, to use the public and common areas of the McCracken Power Plant that are reasonably necessary for Subtenant's use of and access to the Sublease Premises (collectively, the "Common Areas"), including, but not limited to, those Common Areas depicted on Exhibit B. Sublandlord shall operate, manage, equip, light, repair and maintain the Common Areas for their intended purposes in such manner as Sublandlord shall in Sublandlord's reasonable discretion determine consistent with other similarly situated properties so long as such actions do not adversely affect the overall character of the Common Areas or substantially adversely affect Subtenant's rights to use the Common Areas.

7. **IMPROVEMENTS.** Subtenant shall have the right, without the consent of Sublandlord, to make any alterations, modifications, changes or improvements to the Sublease Premises (collectively, "Improvements") deemed appropriate or desirable by Subtenant, including without limitation installing locks, key card readers and other security measures and telephone, computer, data and other communication cabling and associated equipment and conduits, provided that Subtenant must obtain Sublandlord's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) for any Improvements that are likely to materially and adversely affect the structural integrity or the utility or safety systems of the McCracken Power Plant (collectively, "Structural Improvements"), and provided further that, upon written notice from Subtenant, Sublandlord agrees to work cooperatively and promptly with Subtenant to assist Subtenant in completing any Structural Improvements consented to by Sublandlord. Subtenant shall have the option, but not the obligation, to remove any Improvements at the expiration or termination of this Sublease, provided that Subtenant shall reasonably repair any damage caused by such removal. Subtenant shall have the right to use all existing fiber optic or other conduits in the McCracken Power Plant, provided that Subtenant's use shall not unreasonably interfere with Sublandlord's use thereof.
8. **SIGNAGE.** Subtenant shall have the right to install (a) any signage in the Sublease Premises, without the consent of Sublandlord, (b) elsewhere in McCracken Power Plant such directory signage as Subtenant determines is reasonably necessary, provided such signage shall not interfere with Sublandlord's operations.

REPAIRS, MAINTENANCE AND SERVICE.

- (a) Sublandlord shall maintain and promptly make all repairs, improvements and replacements necessary to the keep the McCracken Power Plant (including without limitation the roof, structural elements, Common Areas, facilities, elevators, HVAC, plumbing, life safety and support systems, sprinklers, and generators) in good repair and condition. Sublandlord's obligations hereunder shall include landscaping, ice and snow removal and janitorial service in the Common Areas. Sublandlord shall use reasonable efforts to perform its repair and maintenance obligations at such times and in such manner so as not to unreasonably disturb Subtenant's business operations in the Sublease Premises. If following notice from Subtenant of needed repairs or maintenance, Sublandlord fails to initiate them within ten (10) days after receipt of written notice thereof and diligently complete such repairs or maintenance, Subtenant may perform such repairs or maintenance and upon completion, Sublandlord shall reimburse Subtenant for the costs thereof within thirty (30) days after receipt of an invoice therefor.
- (b) Subtenant shall be responsible for maintenance and repair of (i) except for Sublandlord's obligations under Section 9(a), the Sublease Premises, including any janitorial services for the Sublease Premises and (ii) notwithstanding anything to the contrary contained in Section 9(a), building facilities and systems which are solely located within the Sublease Premises and exclusively serve the Sublease Premises.

1. **DAMAGE OR DESTRUCTION.** If in the reasonable opinion of Subtenant, the McCracken Power Plant or Sublease Premises are so damaged or destroyed by fire, flood, earthquake, the elements, casualty, war, riot, public disorder, acts authorized or unauthorized by the government (including a condemnation proceeding) or any other cause or happening so as to render the Sublease Premises unusable for Subtenant's operations, as determined by Subtenant acting in good faith, this Sublease shall terminate upon written notice from Subtenant delivered within thirty (30) days after such casualty. If Subtenant does not terminate this Lease in accordance with this Section 10, Sublandlord shall promptly restore the Sublease Premises to the condition that existed prior to such casualty.

11. **CONDEMNATION.** Subtenant shall have the right to terminate this Sublease if a part of the Sublease Premises or McCracken Power Plant is taken by exercise of the power of eminent domain during the Term so as to render the Sublease Premises unusable for Subtenant's operations, as determined by Subtenant acting in good faith. Subtenant shall exercise such termination right by giving written notice to the other within thirty (30) days after the date of such taking. If Subtenant exercises such right to terminate this Lease in accordance with this Section 11, this Sublease shall terminate as of the date of such taking. If Subtenant does not exercise such right to terminate this Sublease in accordance with this Section 11, this Sublease shall terminate as to the portion of the Sublease Premises so taken as of the date of such taking and shall remain in full force and effect as to the portion of the Sublease Premises not so taken. If all of the Sublease Premises is taken by exercise of the power of eminent domain during the Term, this Sublease shall terminate as of the date of such taking.

12. **INSURANCE.**
 - (a) At all times during the Term, Sublandlord shall maintain all of the following insurance coverages: (i) "special form" property coverage insuring the full insurable replacement value of the McCracken Power Plant; (ii) commercial general liability insurance written on an occurrence basis (including bodily injury, broad form property damage and blanket contractual liability), insuring Sublandlord's liability for loss of or damage to property and injury to or death of third parties with a combined single limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence; (iii) worker's compensation and employer's liability insurance with respect to all persons employed by Sublandlord at the McCracken Power Plant in amounts not less than as prescribed by law; and (iv) automobile liability insurance covering vehicles owned or hired by Sublandlord with limits not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the annual aggregate. With respect to each of the above insurance policies, Sublandlord shall (A) be solely responsible for paying any deductible provided for in the policy; (B) notify Subtenant at least thirty (30) days prior to the effectiveness of any cancellation or material change in scope or coverage amount of a policy; (C) ensure that each such insurance policy shall be issued by insurance companies licensed to sell such insurance in the State of Ohio; and (D) name Subtenant as an additional insured.

(b) Subtenant shall (i) insure its improvements and personal property within the Sublease Premises, (ii) insure or self-insure for liability loss, injury or death claims within the Sublease Premises, which insurance shall name Sublandlord as an additional insured, and (iii) carry worker's compensation insurance as required by Ohio law. Notwithstanding anything to the contrary herein, Subtenant may elect to self-insure to meet all or any of the foregoing requirements. Subtenant shall provide, at Sublandlord's written request, certificates of insurance evidencing Subtenant's required coverages. Sublandlord's insurance shall be primary and noncontributory to any of Subtenant's self-insurance or insurance.

13. **WAIVER OF SUBROGATION.** Sublandlord hereby expressly waives any right of recovery against Subtenant. Each of Sublandlord and Subtenant shall place Sublandlord's and Subtenant's respective insurance with companies that will agree to acknowledge, by endorsement to the policies of the insured if necessary, that the insurance will not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the property described therein.

14. **DEFAULT.** It shall be a "Default" by Subtenant under this Sublease if Subtenant fails to perform any provision of this Sublease and such failure is not cured within thirty (30) days after written notice thereof is given to Subtenant (or promptly if the failure involves a hazardous or dangerous condition), provided that in the event such matter does not involve a hazardous or dangerous condition and cannot be reasonably cured within such thirty (30) day period despite Subtenant's diligent efforts then Subtenant shall be permitted such reasonable time as reasonably required to cure such default provided that Subtenant has commenced such cure within the thirty (30) day period and diligently prosecutes such cure to completion. If a Default by Subtenant occurs, Sublandlord, at Sublandlord's sole option, may, without notice, terminate this Sublease, or without notice and without terminating this Sublease, reenter and retake possession of the Sublease Premises by appropriate legal process, and in any such event, Sublandlord may dispossess Subtenant and its property from the Sublease Premises by appropriate action.

1 . **SUBORDINATION.**

(a) This Sublease is and shall be expressly subject and subordinate at all times to the Master Lease; provided, however, that the terms and conditions of the Master Lease shall not apply to this Sublease. To the extent that Subtenant has any rights or obligations under the Master Lease with respect to the McCracken Power Plant or the Sublease Premises, this Sublease shall not modify, amend or abrogate any such rights or obligations. Subtenant covenants and agrees that it will not take any action that would cause Sublandlord to be in default under the Master Lease, provided that, if it does so, Subtenant agrees that it shall not declare Sublandlord in default under the Master Lease.

(b) On or before the execution of this Sublease, Sublandlord shall obtain a subordination, non-disturbance and attornment agreement for the benefit of Subtenant in recordable form and reasonably acceptable to Subtenant ("SNDA") from the holder of the leasehold mortgage. Throughout the Term and in order for

this Sublease to be subordinate to any future leasehold mortgage or other method of financing or refinancing, Sublandlord shall obtain a SNDA from any future holder of any leasehold mortgage or other method of financing or refinancing. Upon obtaining a SNDA from the holder of such leasehold mortgage or other method of financing or refinancing, Subtenant agrees that its rights hereunder are subordinate to the lien of any leasehold mortgage or any other method of financing or refinancing now or hereafter placed against the Sublease by Sublandlord and to any and all renewals, replacements, consolidations and extensions thereof.

- 1 . **HOLDOVER.** In the event that Subtenant retains possession of the Sublease Premises or any part thereof after the termination of the Term by lapse of time or otherwise, Subtenant shall pay Sublandlord the annual Rent at 200% of the rate payable hereunder, computed on a per-month basis, for each month or part thereof (without reduction for any such partial month) that the Subtenant thus remains in possession. Subtenant shall not be liable to Sublandlord for any further damages as a result of such holding over

17. **SURRENDER.** Upon termination of the Term or Subtenant's right to possession of the Sublease Premises, Subtenant shall return the Sublease Premises to Sublandlord in substantially the same order and condition as existed on the commencement of the Term, ordinary wear and damage by fire or other casualty excepted. Subtenant shall remove its furniture, equipment, movable trade fixtures and all other items of personal property from the Sublease Premises prior to the termination of the Term or Subtenant's right to possession of the Sublease Premises. If Subtenant does not remove such items, Subtenant shall be conclusively presumed to have conveyed the same to Sublandlord without further payment or credit by Sublandlord to Subtenant.

18. **NOTICES.** All notices, other communications and approvals required or permitted by this Sublease shall be in writing, shall state specifically that they are being given pursuant to this Sublease and shall be delivered, sent by facsimile (with hard copy sent via mail), nationally recognized overnight courier service, certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

To Subtenant: The Ohio State University
Finance Department
108 Bricker Hall
190 N. Oval Mall
Columbus, Ohio 43210
Attention: Chief Financial Officer

with a copy to: The Ohio State University
Office of the General Counsel
1590 N High Street, Suite 500
Columbus, Ohio 43201
Attention: General Counsel

with a copy to: The Ohio State University
Planning and Real Estate Department
200 McCracken Power Plant
2003 Millikin Road
Columbus, Ohio 43210
Attention: Director of Real Estate

To Sublandlord: [_____]
[_____]
[_____]
[_____]

with a copy to: [_____]
[_____]
[_____]
[_____]

or such other persons or addresses as either party hereto may from time to time designate by notice to the other. A notice, other communication or approval shall be deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the 4th Business Day after mailing if sent by U.S. registered or certified mail. Each party shall use commercially reasonable efforts to deliver an electronic copy of each notice, other communication or approval provided in accordance with the foregoing via email to (A) in the case of the Subtenant, [_____] or (B) in the case of the Sublandlord, [_____].

1. **TERMINATION OPTION; REDUCTION OPTION.** Subtenant shall have the option to terminate this Sublease at any time by providing at least sixty (60) days' prior written notice to Sublandlord of such election, in which case following the effective date of such termination both parties shall be released from all obligations under this Sublease except to the extent such obligation expressly survives the termination of this Sublease. Subtenant shall have the option, one or more times during the Term, to reduce the size of the Sublease Premises by providing at least sixty (60) days' prior written notice to Sublandlord of such election and the space which will be removed from the Sublease Premises on the effective date of such election (the "Reduction Space") and this Sublease shall be deemed terminated with respect to the Reduction Space on such effective date, provided that Subtenant shall surrender such space in accordance with the requirements of Section 17.

20. **QUIET ENJOYMENT.** Sublandlord hereby covenants and agrees that Subtenant shall at all times during the continuance hereof have peaceable and quiet enjoyment and possession of the Sublease Premises without hindrance from Sublandlord or any person or persons lawfully claiming the Sublease Premises.

21. **SUB-SUBLETTING.** Subtenant shall have the right, without the prior written consent of Sublandlord, to sub-sublease all or part of the Sublease Premises, and Subtenant shall use commercially reasonable efforts to provide Sublandlord written notice after the effectiveness of such sub-sublease.
22. **GROSS LEASE INTENDED.** It is the intention of the parties that Landlord shall receive the Rent specified in Section 3 as a gross rental, free from all taxes, charges, expenses, damages and deductions of every description, and that Landlord shall pay all taxes, charges, expenses, damages and deductions which, except for this Agreement, would have been chargeable against the Sublease Premises or Subtenant.
23. **SUCCESSORS AND ASSIGNS.** The terms, conditions and agreements of this Sublease and all rights and obligations herein given to or imposed upon the parties hereto shall bind and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties hereto.
24. **BROKER'S COMMISSION.** Each party represents to the other that it has not dealt with any broker in connection with this Sublease and agrees to indemnify and hold such other party harmless from all damages, liabilities and expenses (including reasonable attorneys' fees) arising from any claims or demands of any broker or brokers or finders for any commission alleged to be due such broker or brokers or finders in connection with its participating in effecting this Sublease.

2 . **MISCELLANEOUS.**

- (a) **Governing Law.** This Sublease shall be governed by, and interpreted and enforced in accordance with, the Laws in force in the State of Ohio (excluding any conflict of laws rule or principle which might refer such interpretation to the Laws of another jurisdiction).
- (b) **Submission to Jurisdiction.** Any action or proceeding against any party hereto relating in any way to this Sublease may be brought and enforced in the state courts in the State of Ohio in Franklin County, and each of Sublandlord and Subtenant hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Service of process on Subtenant may be made, either by registered or certified mail addressed as provided for in Section 18. Service of process on Sublandlord may be made either by registered or certified mail addressed as provided for in Section 18 or by delivery to Sublandlord's registered agent for service of process in the State of Ohio. If Sublandlord is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents which may be in its possession by reason of this Sublease, Sublandlord, unless prohibited by Law, shall give prompt notice to Subtenant. Subtenant may contest such process by any means

available to it before such documents are submitted to a court or other third party; provided, however, that Sublandlord shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the subpoena or request is quashed or the time to produce is otherwise extended.

- (c) Further Acts. The parties hereto shall do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Sublease. Without limiting the foregoing, each party hereto will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and assurances and take such further actions as may be reasonably requested by the other party hereto in order to cure any defect in the execution and/or delivery of this Sublease.
- (d) Independent Provisions. Any provision of this Sublease which is contrary to a Law, which the parties cannot legally waive or contract against (such, for example, as labor laws and anti-trust laws) is and shall be void and not binding on either party hereto; provided, however, that the invalidity or unenforceability of any provision of this Sublease shall not affect or impair any other provision of this Sublease.
- (e) Entire Agreement. This Sublease and the Master Lease represents the complete agreement between Sublandlord and Subtenant with respect to Subtenant's subleasing of the Sublease Premises. No modification or amendment of or waiver under this Sublease shall be binding upon Sublandlord or Subtenant unless in writing signed by Sublandlord and Subtenant.
- (f) Interest. Any amount payable under this Sublease and not paid when due shall bear interest at a variable nominal rate per annum equal on each day to the Bank Rate then in effect, from the date such payment is due until payment and both before and after judgment.
- (g) No Partnership or Third Party Beneficiaries. Except as expressly provided herein to the contrary, nothing contained in this Sublease shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between Sublandlord and Subtenant, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any person not a party to this Sublease.
- (h) Counterparts. This Sublease may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Sublease shall be effective when it has been executed by each party hereto and delivered to both parties hereto. To evidence the fact that it has executed this Sublease, a party hereto may send a copy of its executed counterpart to the other party hereto by facsimile or electronic transmission. Such party hereto shall be deemed to have executed and delivered this Sublease on the date it sent such facsimile transmission. In such event, such party hereto shall forthwith deliver to

the other Party an original counterpart of this Sublease executed by such party hereto.

- (i) Amendment. This Sublease may be amended, changed or supplemented only by a written agreement signed by the Parties.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the day and year first above written.

[_____]

By: _____
Name: _____
Title: _____

THE OHIO STATE UNIVERSITY

By: _____
Name: _____
Title: _____

EXHIBIT A

SUBLEASE PREMISES

[See Attached]

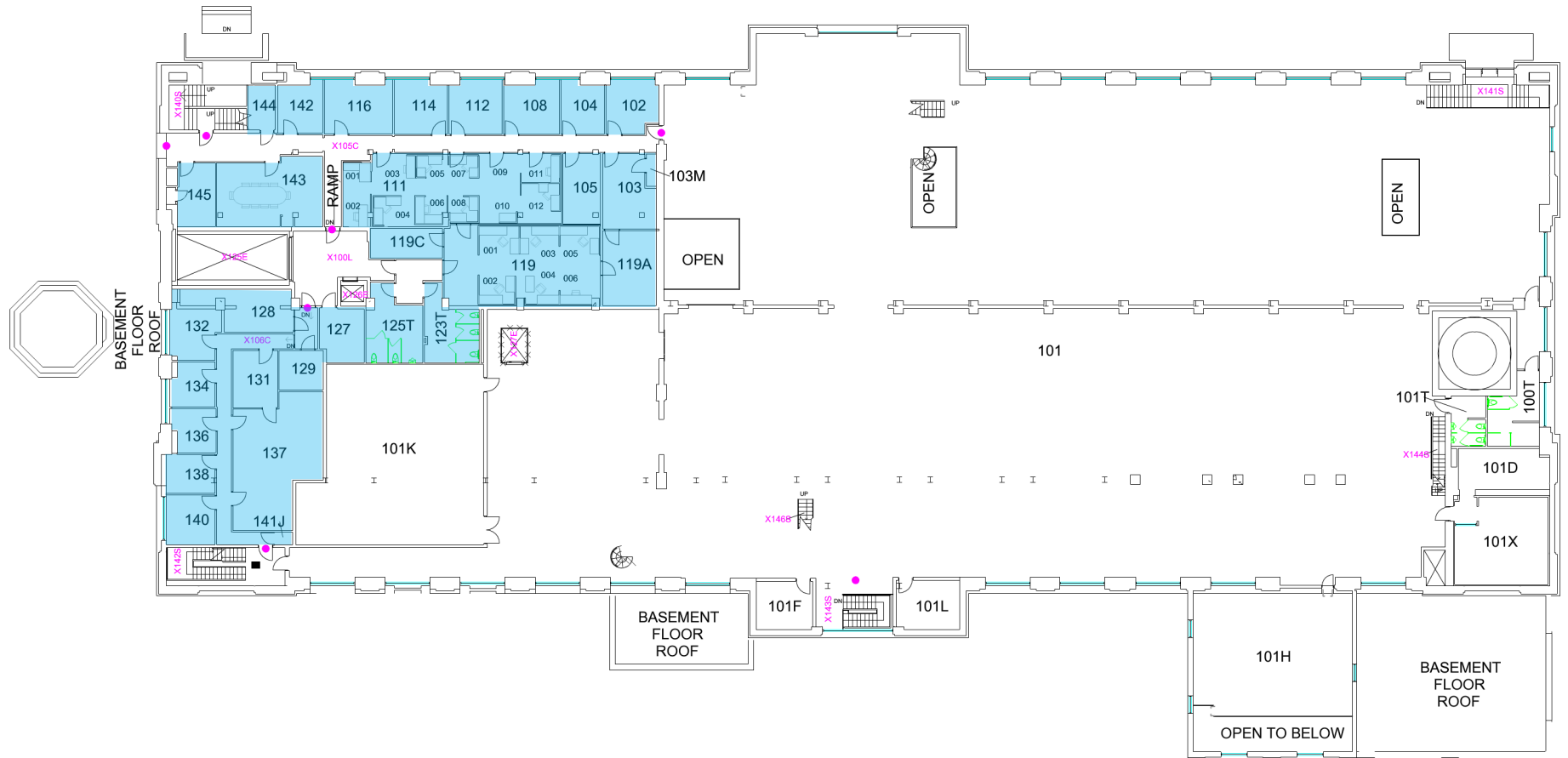
McCracken Power Plant - **Basement Floor**

Sublease Premises - ASF 4,939.8



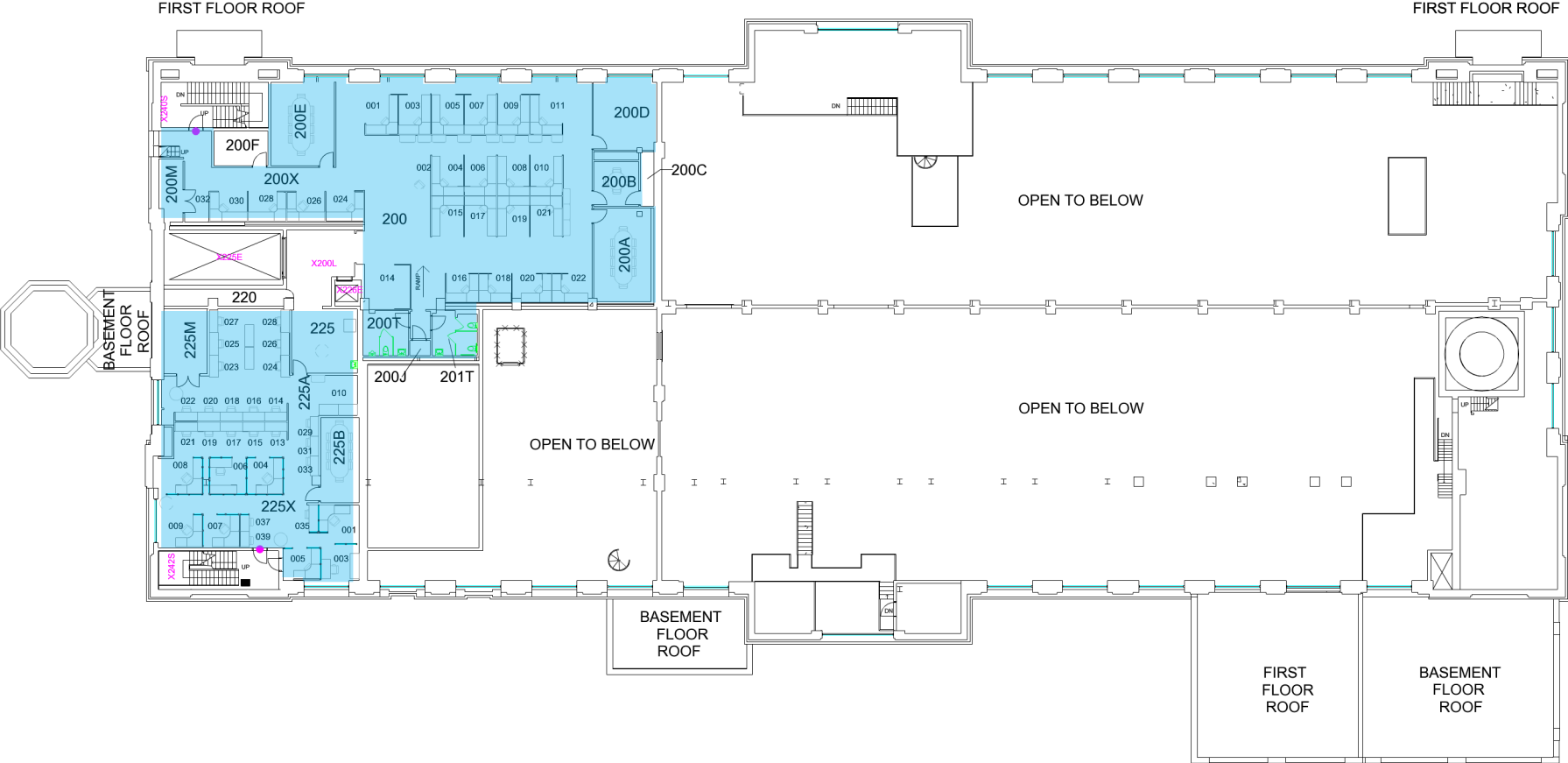
McCracken Power Plant - **First Floor**

Sublease Premises - ASF 5,767.7



McCracken Power Plant - **Second Floor**

Sublease Premises - ASF 6,749.5



McCracken Power Plant - **Third Floor**

Sublease Premises - ASF 4,361.1

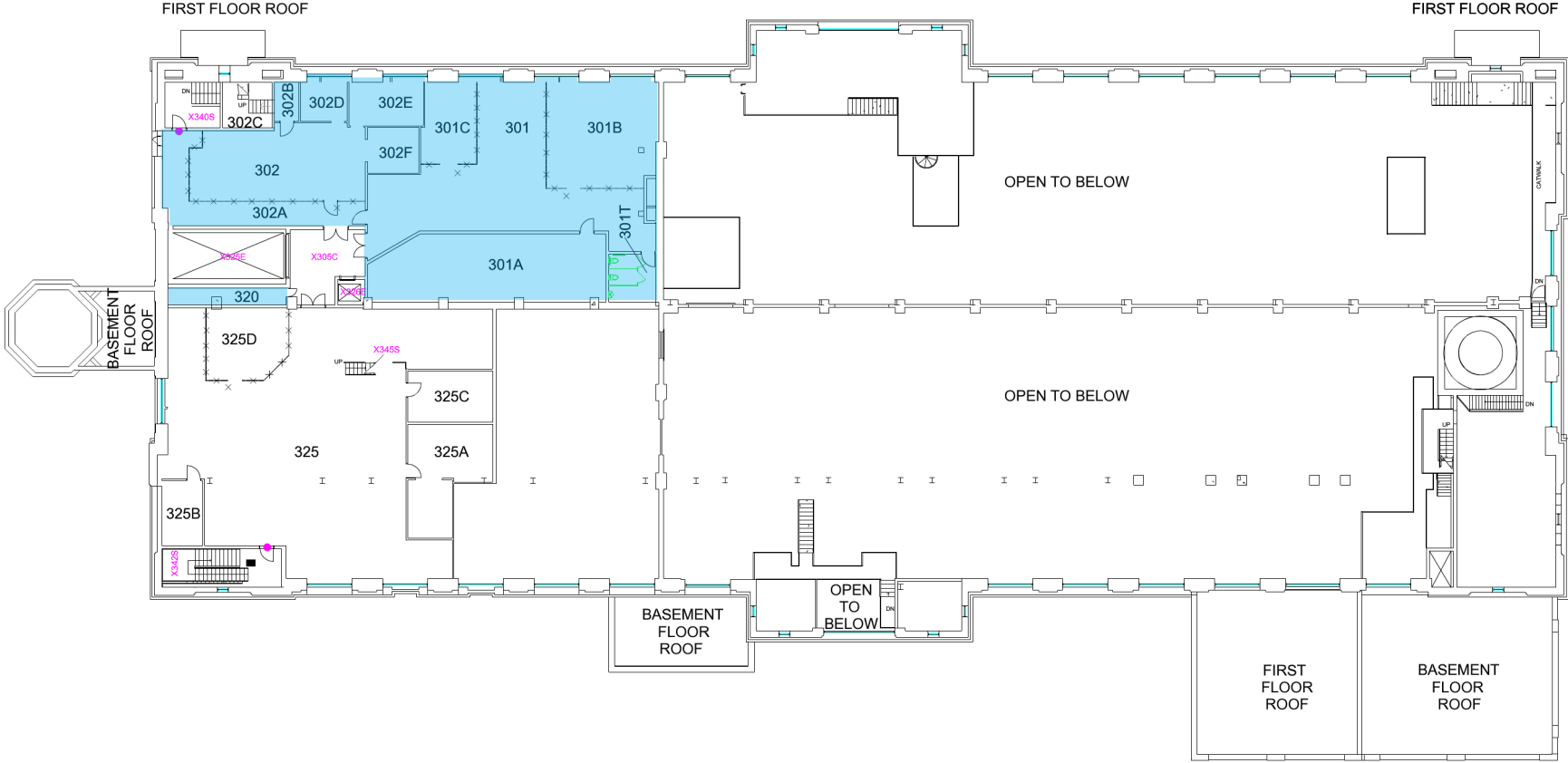


EXHIBIT B

COMMON AREAS

[See Attached]

McCracken Power Plant - Basement Floor

 Sublease Premises - ASF 4,939.8

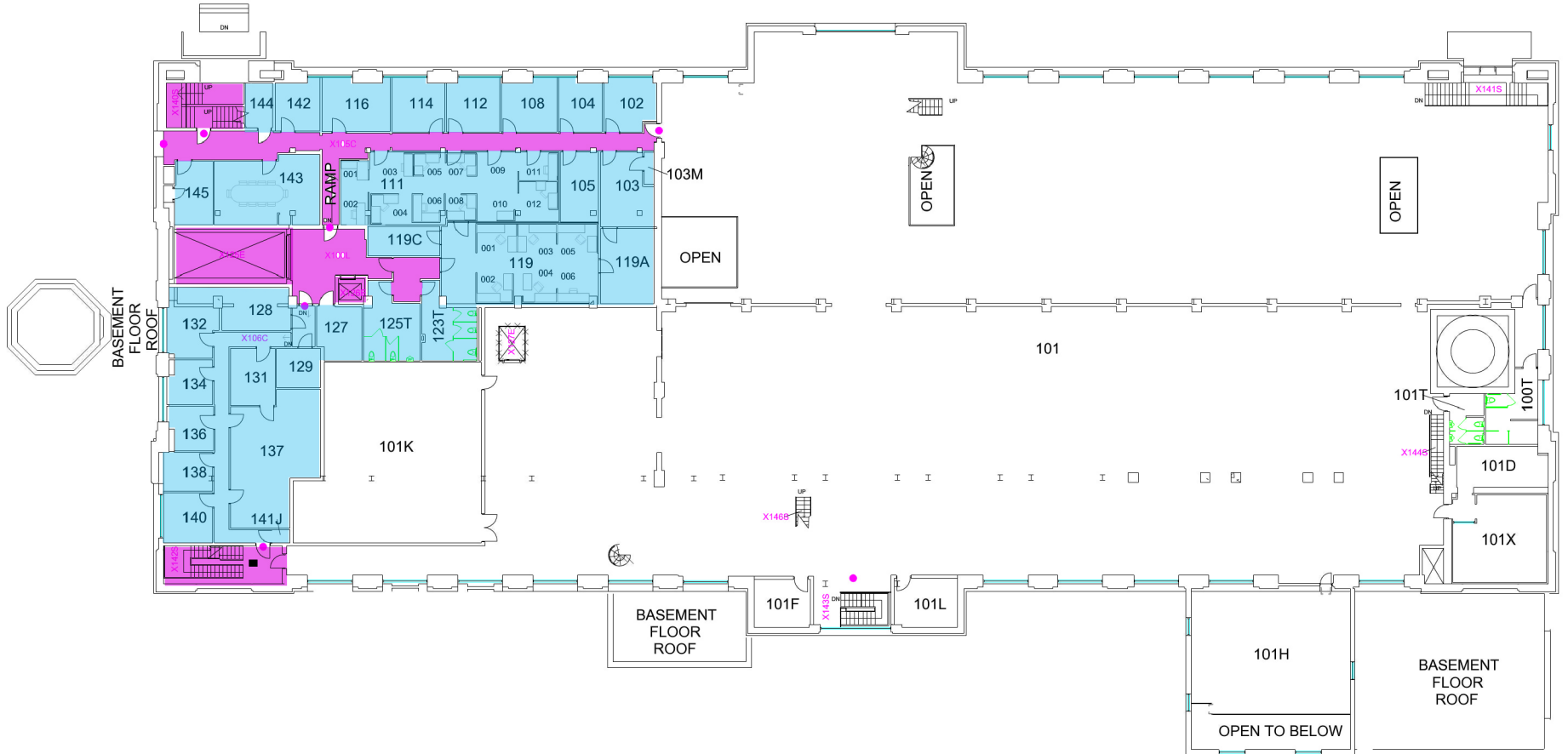
 Common Areas



McCracken Power Plant - First Floor

 Sublease Premises - ASF 5,767.7

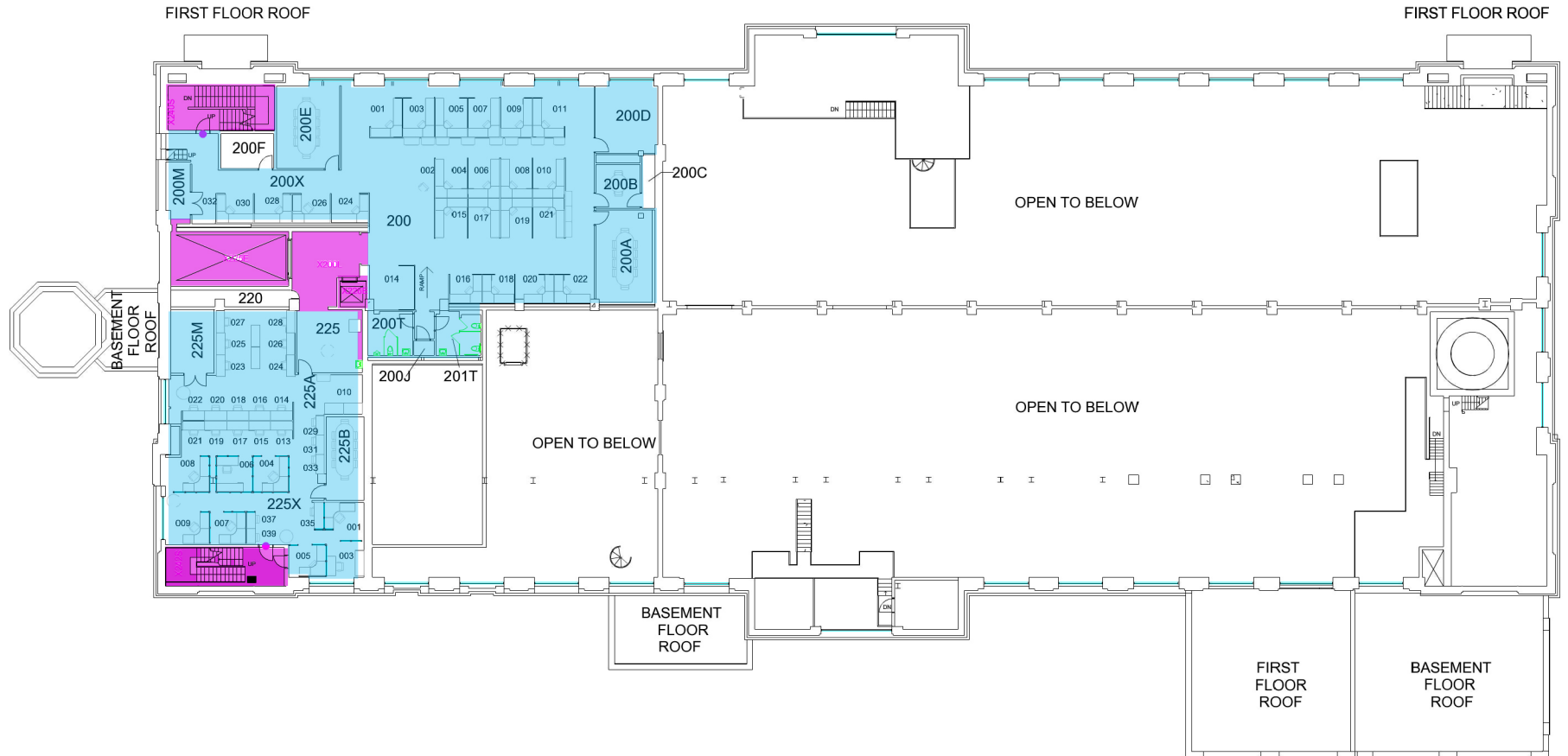
 Common Areas



McCracken Power Plant - Second Floor

 Sublease Premises - ASF 6,749.5

 Common Areas



McCracken Power Plant - Third Floor

 Sublease Premises - ASF 4,361.1

 Common Areas

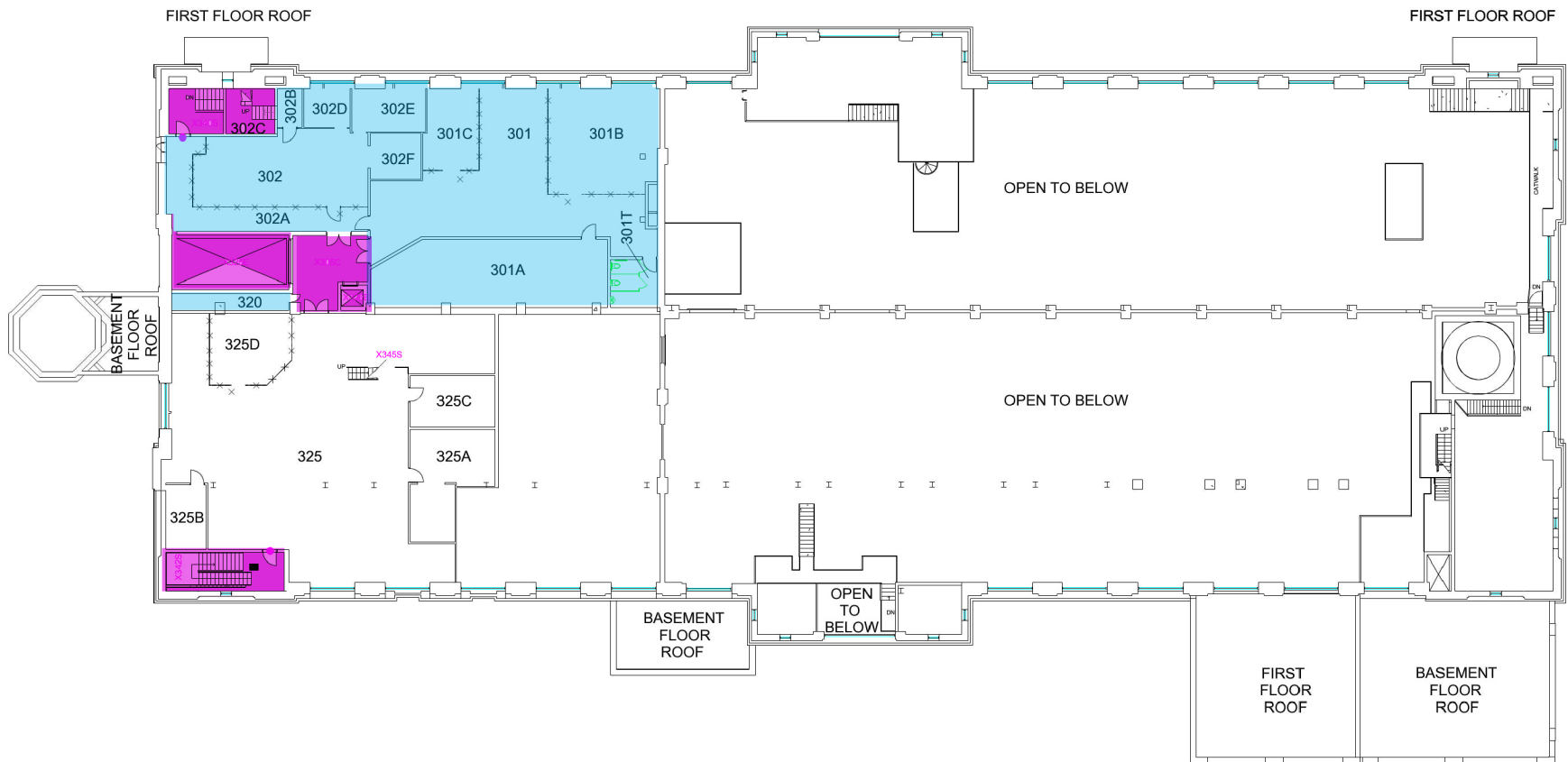


EXHIBIT C
MASTER LEASE
[See Attached]

SCHEDULE 19

ENERGY USE INTENSITY PARAMETERS

Section 1. DEFINITIONS.

“Baseline Annual EUI” means the initial annual Energy Use Intensity to which the tenth annual Energy Use Intensity will be compared in order to determine Concessionaire’s performance in connection with the 10-Year EUI KPI Calculation requirement (as defined in Schedule 15) pursuant to the Concession Agreement.

“British Thermal Unit” or “BTU” means a standard unit of measurement of the heat energy in a fuel. One BTU is the amount of heat necessary to raise the temperature of one pound of water by one degree Fahrenheit, equivalent to 1,055.06 joules.

“Building Performance Record” or “BPR” means a database, maintained by Concessionaire, of building performance information including, at a minimum: Building Type(s), building gross square footage (GSF), and, where such information is available, the building-level Energy Use Intensity values, to which the University shall have access at any time. The BPR must include all EUI Buildings, but may also include buildings or other facilities on the Columbus Campus that are not designated EUI Buildings.

“Building Type” means the functional designation of a building or facility, which designations are identified by CBECS. Each building or facility will have at least one Building Type designation and may have more than one designation, as determined by the University in its reasonable discretion.

“CBECS” means the Commercial Buildings Energy Consumption Survey and the associated information as released from time to time by the United States Department of Energy, Energy Information Administration or, if such survey is discontinued, such comparable survey as determined by the University in its sole discretion.

“CCF” means centum cubic feet or hundred cubic feet, and is a standard unit of volume measure for the consumption of natural gas.

“CHP Electricity Consumption” means the metered electricity output from a combined heat and power generation facility (CHP) installed on the Columbus Campus for any given period, net of any electricity used for the operation of the CHP facility.

“CHP Natural Gas Consumption” means the natural gas equivalent of the thermal output of a CHP installed on the Columbus Campus for any given period. The natural gas equivalent is calculated as follows:

$$NG_e = \frac{M_{ti} (h_s - h_r)}{\eta}$$

Where:

- NG_e is the natural gas equivalent
- M_{ti} is the mass flow of the thermal supply in lbs/hour for each hour
- h_s is the enthalpy in Btu/lb of the thermal energy supplied for each hour
- h_r is the enthalpy in Btu/lb of the thermal energy returned for each hour
- η is the efficiency of energy conversion as a % of higher heating value, which is fixed at 85%

“CHP Natural Gas Input” means the metered volume of natural gas used by a CHP facility installed on the Columbus Campus for any given period.

“CNG Consumption” means the total metered volume of natural gas used in the production of compressed natural gas on the Columbus Campus for any given period.

“Construction Utilities Electricity Consumption” means metered construction electricity drawn from Utility Facilities at or behind an EDC Meter or Main Electric Power Meter on the Columbus Campus for any given period.

“Construction Utilities Natural Gas Consumption” means metered construction natural gas drawn from Utility Facilities at or behind an LDC Building Meter or a Main Gas Meter on the Columbus Campus for any given period.

“Distributed Generation Consumption” means usage from any permanently installed and metered distributed electricity generation, including generation from renewable fuel sources, directly connected to the Utility Facilities of the Columbus Campus, an EUI Building, or any other load behind an EUI Meter for any given period.

“EDC Building Meters” means the local electricity distribution company’s billing meters used to measure the electricity consumption of a building on the Columbus Campus which is not served electricity by Utility Facilities.

“Energy Use Intensity” means the ratio of the energy consumed by the Columbus Campus to the area in gross square footage of the EUI Buildings on the Columbus Campus over a specified period.

“EUI Building” means each of the uniquely identified buildings and facilities on the Columbus Campus on Appendix 1 to this Schedule 19, which list may be revised by the University at any time in its reasonable discretion to (i) include newly constructed buildings or facilities on the Columbus Campus and (ii) exclude buildings or facilities that have been demolished or vacated. For the avoidance of doubt, the list of EUI Buildings may be a subset of all the buildings and facilities on the Columbus Campus.

“EUI Meters” means the EDC Building Meters, Main Gas Meters, LDC Building Meters, and Main Electric Power Meters, collectively.

“Exported Electricity” means the metered electricity generated on the Columbus Campus that is sold or otherwise settled with a third party for export outside of the Columbus Campus.

“LDC Building Meters” means the local natural gas distribution company’s billing meters used to measure the natural gas consumption of a building on the Columbus Campus which is not served natural gas by Utility Facilities.

“Main Electric Power Meters” means the electricity and/or power meters at the interfaces of the local electricity distribution company and the Utility Facilities on the Columbus Campus used to measure the University’s electricity consumption on the Columbus Campus for all buildings and other facilities connected to the Utility Facilities.

“Main Gas Meters” means the natural gas billing meters at the interfaces of the local natural gas distribution company and the Utility Facilities on the Columbus Campus used to measure the University’s natural gas consumption on the Columbus Campus for all buildings and other facilities connected to the Utility Facilities.

“Therm” means a unit of heat equivalent to 100,000 BTUs or 1.054×10^8 joules.

“Total Area” means the total area as calculated pursuant to Section 4 of this Schedule 19.

Section 2. COLUMBUS CAMPUS EUI CALCULATION.

- (a) The measurement of energy for the purposes of calculating the Energy Use Intensity will generally follow the 2014 Guideline 14, and the associated annexes, of the American Society of Heating, Refrigerating and Air- Conditioning Engineers, (ASHRAE), *Measurement of Energy, Demand and Water Savings*, using the “Whole Building Prescriptive Path” approach (the “ASHRAE Guidelines”), except to the extent expressly set forth herein.
- (b) Initial Columbus Campus Baseline EUI:
 - (i) No later than 30 days after Closing, the University will provide the monthly readings from the EUI Meters and the monthly Total Areas for each month in the Fiscal Year ending on June 30, 2017. The Concessionaire may propose corrections to the initial Columbus Campus Baseline EUI Total Area at any time prior to June 30, 2018, the acceptance of such proposed corrections will be subject to University approval, in its sole discretion.
 - (ii) The Concessionaire will calculate the Columbus Campus Baseline EUI in accordance with this Schedule 19, and submit the detailed calculations to and discuss the results with the University no later than 60 days after Closing.
 - (iii) If the Energy Use Intensity calculation is compliant with this Schedule 19, and generally adheres to the ASHRAE Guidelines, and as adjusted by Section 3 of this Schedule 19, as determined by the University in its reasonable discretion, the University will accept the Columbus Campus Baseline EUI as submitted by Concessionaire.
 - (iv) If in the University’s reasonable discretion, the Energy Use Intensity calculation submitted by Concessionaire is not compliant with this Schedule 19, as adjusted by Section 3, and/or does not generally adhere to the ASHRAE Guidelines, the University retains the right to present the same readings from the EUI Meters and Total Area data to a third-party energy savings calculation company for an independent calculation of the Columbus Campus Baseline EUI. In such case, no later than 120 days after Closing, the University will establish the initial Columbus Campus Baseline EUI from either the calculation submitted by Concessionaire or the calculation submitted by the independent third-party, as determined by the University in its reasonable discretion. The University agrees that it shall permit Concessionaire the right to meet at least once with such independent third-party in order to discuss Concessionaire’s calculation.
 - (v) In the event, the University uses the Columbus Campus EUI Baseline calculated by the independent third-party, the University will apply the same methodology to the 10-Year EUI KPI Calculation (as defined in Schedule 15).
- (c) For Energy Use Intensity calculations related to the 10-Year EUI KPI Calculation (as defined in Schedule 15), the Energy Use Intensity energy inputs are limited to electricity and natural gas.
- (d) For Energy Use Intensity calculations related to the Annual EUI KPI Calculation (as defined in Schedule 15), the Energy Use Intensity energy inputs are limited to electricity and natural gas, unless changed pursuant to Section 6 of this Schedule 19.

- (e) The Energy Use Intensity shall be the ratio of the energy consumed by the Columbus Campus to the Total Area of all the EUI Buildings.

$$EUI_i = \frac{\sum mi}{TA_i}$$

Where:

- ***EUI_i*** is the Energy Use Intensity for the period ***i***
- **$\sum mi$** is the sum of Weather Adjusted Net Energy Consumption, expressed in BTUs, captured by the EUI Meters ***m*** for the period ***i***
- ***TA_i*** is the total area ***TA*** at the end of the period ***i***

The expression set forth above is an illustrative mathematical explanation of the Energy Use Intensity formula, which, in the event of a conflict between the remainder of the Schedule 19 and such formula, the formula set forth above shall control.

- (f) The Concessionaire shall calculate the Energy Use Intensity for each month of each Fiscal Year during the Term in accordance with this Schedule 19.
- (g) The Energy Use Intensity for purposes of the Annual EUI KPI Calculation (as defined in Schedule 15) for each Fiscal Year will be the sum of the monthly Energy Use Intensity scores for each month in such Fiscal Year. No later than 60 Days following the end of any Fiscal Year, Concessionaire will determine the Energy Use Intensity for the Annual EUI KPI Calculation for such Fiscal Year and deliver such calculations, inclusive of the monthly Energy Use Intensity calculations, to the University.
- (h) Weather Adjusted Net Electricity Consumption Calculation (all of which shall be calculated in kilowatt hours) shall be calculated as follows for a particular period:
- (i) Determine the total usage in kilowatt hours from all EDC Building Meters and Main Electric Power Meters for the applicable period (“Gross Electricity Consumption”);
 - (ii) Add to the Gross Electricity Consumption, the Distributed Generation Consumption, and the CHP Electricity Consumption for the applicable period (such sum, the “Adjusted Electricity Consumption”);
 - (iii) Subtract from the Adjusted Electricity Consumption, the Construction Utilities Electricity Consumption for the applicable period, and all Exported Electricity (such difference, the “Adjusted Net Electricity Consumption”);
 - (iv) Convert the Adjusted Net Electricity Consumption to BTUs in accordance with Section 5 of this Schedule 19; and
 - (v) Weather normalize the converted Adjusted Net Electricity Consumption in accordance with ASHRAE Guidelines and as adjusted pursuant to Section 3 of this Schedule 19 (as normalized, the “Weather Adjusted Net Electricity Consumption”).
- (i) Weather Adjusted Net Natural Gas Consumption Calculation (all of which shall be calculated in BTUs) shall be calculated as follows for a particular period:
- (i) Determine the total usage in BTUs from all Main Gas Meters and LDC Building Meters for the applicable period (“Gross Natural Gas Consumption”);

- (ii) Add to the Gross Natural Gas Consumption the CHP Natural Gas Consumption for the applicable period (such sum, the “Adjusted Natural Gas Consumption”);
 - (iii) Subtract from the Adjusted Natural Gas Consumption, the Construction Utilities Natural Gas Consumption, the CHP Natural Gas Input, and the CNG Consumption for the applicable period (such difference, the “Adjusted Net Natural Gas Consumption”);
 - (iv) Convert the Adjusted Net Natural Gas Consumption to BTUs in accordance with Section 5 of this Schedule 19; and
 - (v) Weather normalize the converted Adjusted Net Natural Gas Consumption in accordance with ASHRAE Guidelines and as adjusted pursuant to Section 3 of this Schedule 19 (as normalized, the “Weather Adjusted Net Natural Gas Consumption”).
- (j) Weather Adjusted Net Energy Consumption
- (i) Add the Weather Adjusted Net Electricity Consumption and the Weather Adjusted Net Natural Gas Consumption (such sum, the “Weather Adjusted Net Energy Consumption”).
 - (ii) Divide the Weather Adjusted Net Energy Consumption by the Total Area for the applicable period, which quotient shall be the Energy Use Intensity for such period.

Section 3. WEATHER NORMALIZATION.

- (a) Outdoor air temperature will be the only independent variable used in the calculation of the Weather Adjusted Net Natural Gas Consumption and the Weather Adjusted Net Electricity Consumption for the Energy Use Intensity used in the 10-Year EUI KPI Calculation (as defined in Schedule 15).
- (b) Outdoor air temperature will be the only independent variable used in the calculation of the Weather Adjusted Net Natural Gas Consumption and the Weather Adjusted Net Electricity Consumption for the Energy Use Intensity used in the Annual EUI KPI Calculation (as defined in Schedule 15), unless changed pursuant to Section 6 of this Schedule 19.
- (c) Weather data shall be obtained from National Oceanic and Atmospheric Administration, U.S. Department of Commerce, National Climate Data Center, and specifically from the land-based weather station at The Ohio State University Airport, with station ID GHCND: USW00004804, provided that if such station no longer exists at any point during the Term, the University shall have the right, by written notice to Concessionaire, to identify a replacement station.
 - (i) If the data station reports are missing data for one or more days, missing data can be replaced by averaging the preceding and following days together, in accordance with the United States Environmental Protection Agency, Energy Star Portfolio Manager practices or by any other practice recommended by such agency or its successor agency.
 - (ii) If the data station reports are missing data for an entire month or more, use of another station or another accurate resource for local average daily temperature may be substituted, which substitution shall be subject to the University’s Approval.
- (d) Heating Degree Days and Cooling Degree Days will measure the deviation from an average daily temperature of 65 degrees Fahrenheit or 18 degrees Celsius.
- (e) To account for net bias error (as more fully described in the ASHRAE Guidelines), Concessionaire is required to use a weighted regression technique, wherein each data point (day) in a time period (month) is weighted by the length of the time period from that point.

Section 4. CALCULATION OF TOTAL AREA.

- (a) The baseline Total Area for the Fiscal Year ending June 30, 2017 shall be the sum of the areas, in gross square feet, for each EUI Building listed on Appendix 1 to this Schedule 19, provided that the University shall have the right, in its reasonable discretion, to revise such Appendix 1 prior to the Fiscal Year ending June 30, 2017. The Concessionaire will use Appendix 1 to this Schedule 19 to enter the initial gross square feet listed for each EUI Building into the BPR.
- (b) For each subsequent Fiscal Year, the Total Area shall be the sum of the areas, in gross square feet, for each EUI Building on the BPR, subject to changes to the list of EUI Buildings and/or corrections in the gross square footages of EUI Buildings made pursuant to this Schedule 19.
- (c) Modifications to the Total Area:
 - (i) The current gross square footage, and the history of any changes to the same, of each EUI Building will be recorded and updated as necessary in the Building Performance Record by Concessionaire, provided that (i) Concessionaire shall submit any such changes to the University for its Approval, which may be withheld in its sole discretion and (ii) Concessionaire shall make such reasonable changes as directed by the University, which the University shall provide promptly after becoming aware of any such change.
 - (ii) The gross square footage of a newly constructed EUI Building or the addition of new gross square footage to an existing EUI Building shall be added to the Total Area beginning with the first Fiscal Year after such EUI Building or EUI Building addition has been substantially occupied and operational for six (6) months or more prior to the start of such Fiscal Year. For example, a newly constructed EUI Building is first occupied and operational on February 1, 2019, the associated gross square footage of such EUI Building shall be added to the Total Area beginning in the Fiscal Year beginning on July 1, 2020. The energy consumption for any addition of EUI Building gross square footage which has not yet been added to the Total Area will be considered as Construction Utilities Consumption.
 - (iii) Any renovation or demolition resulting in a reduction to the gross square footage of an existing EUI Building or the entire removal of an existing EUI Building shall be subtracted from Total Area beginning in the month immediately following the month in which such reduction in gross square footage or removal of an EUI Building resulted in cessation of Utility Services to the gross square footage in question.

Section 5. ENERGY UNIT CONVERSION.

- (a) All units of energy will be converted to and expressed in BTUs for the purposes of the Energy Use Intensity calculations pursuant to this Schedule 19.
 - (i) The specific conversion for electricity will be 3,412 BTUs per kWh.
 - (ii) For natural gas, the energy unit conversion will be the delivering utility's declared BTU per unit of volume in higher heating value content for the billing period. In the absence of a declared BTU value from the delivering utility, the conversion factor will be the annual "Ohio Heat Content of Natural Gas Deliveries to Consumers" for the most recent previous calendar year published by the U.S. Department of Energy, U.S. Energy Information Administration (EIA), (current EIA Series ID: NG.NGA_EPG0_VGTH_SOH_BTUCF.A.).

Section 6. BUILDING-LEVEL EUI.

- (a) Beginning with the Fiscal Year ending on June 30, 2020, Concessionaire shall calculate and record the Energy Use Intensity value for each EUI Building on the Columbus Campus for which the necessary metering data is available (the "Building-Level EUI"). These Energy Use Intensity values will be recorded in the BPR. The Building-Level EUI calculation will be calculated for each EUI Building in the same manner as set forth in Section 2 of this Schedule 19.
- (b) For the avoidance of doubt, the Building-Level EUI is not a consideration for the 10-Year EUI KPI Calculation, nor the Annual EUI KPI Calculation (both as defined in Schedule 15), nor shall it be determinative of any of Concessionaire's rights or obligations under this Agreement.
- (c) Building-Level EUI does not have an associated Key Performance Indicator in Schedule 15.

Section 7. BUILDING TYPE.

- (a) As of Closing, Building Type is not a consideration for the calculation of Energy Use Intensity or any of the Key Performance Indicators related to Energy Use Intensity as calculated in Schedule 15.
- (b) Appendix 1 to this Schedule 19 includes one initial Building Type designation for each EUI Building on the Columbus Campus. At any point during the Term, including as Concessionaire progresses on the smart meter deployment, Concessionaire may propose modifications to the initial Building Type designations provided on Appendix 1. The University, in its sole discretion, will accept or reject such proposed modifications.
- (c) An EUI Building must have a minimum of one and may have a maximum of three Building Type designations. If an EUI Building has more than one Building Type designation, the Total Area of the building must be allocated to each Building Type such that the total allocation equals one hundred percent (100%) of such EUI Building's gross square footage.
- (d) The Building Type designations must be among those Building Types from the CBECS list of building types. Appendix 2 to this Schedule 19 is a table of the CBECS Building Type designations correlated to examples of specific Columbus Campus buildings and building functions. This table is for guidance purposes only, and to aid in the designation of a Building Type for each EUI Building and shall not be binding on the University.
- (e) If CBECS changes the Building Type designations, the University and Concessionaire may collaborate to determine what, if any, changes should be made to the EUI Building Type designations. The decision to make changes will be at the sole discretion of the University.

Section 8. ENERGY USE INTENSITY CALCULATION MODIFICATIONS.

- (a) Following the completion of the smart meter deployment pursuant to this Agreement, the University and the Concessionaire shall collaborate in good faith to consider modifications of the Energy Use Intensity methodology used in the Annual EUI KPI Calculation (as defined in Schedule 15) including the incorporation of Building Types, changes in Building Types, and/or other independent variables into the Energy Use Intensity calculation, provided that both Parties' obligation shall be to engage in such discussions in good faith and neither Party shall be obligated to agree to any changes thereto.
- (b) If the University and Concessionaire jointly agree to incorporate additional independent

variables or make other modifications of the Annual EUI KPI Calculation methodology, the Parties shall implement any adjustments to the Annual EUI KPI Calculation methodology (as defined in Schedule 15) that the University and Concessionaire jointly agree are necessary to reflect the incorporation of such independent variables or other modifications.

- (c) If Building Types or other modifications are to be incorporated into the Annual EUI KPI Calculations described in Schedule 15, as a condition precedent to the effectiveness of such modifications the University and Concessionaire must also jointly agree to:
 - (i) The establishment of a new baseline Energy Use Intensity for each applicable Fiscal Year for the Annual EUI KPI Calculation (as defined in Schedule 15), for use in future Annual EUI KPI Calculations; and
 - (ii) The method for comparing future Annual EUI KPI Calculations to any applicable prior Annual EUI KPI Calculations.
- (d) Regardless of any modifications to the Annual EUI KPI Calculation methodology made pursuant to this Schedule 19, the EUI Meters will continue to be the source of measurement and recording of the energy inputs for the Annual EUI KPI Calculation and the 10-Year EUI KPI Calculation.

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
1	1	Bricker, John W, Hall	74,140	Administration	Office	100%
2	3	Agricultural Administration Building	100,228	Academic / Admin	Education	100%
3	4	Eighteenth Ave, 209 W	25,034	Academic	Education	100%
4	5	Eighteenth Avenue Library	99,126	Library	Public Assembly	100%
5	7	Mathematics Tower	61,621	Academic	Education	100%
6	8	Dairy Loose Housing Barn	18,606	Agricultural	Warehouse and Storage	100%
7	9	ElectroScience Laboratory	30,205	Research	Health Care - Outpatient	100%
8	10	Biological Sciences Greenhouses	35,173	Agricultural	Other	100%
9	11	Arps, George F, Hall	129,371	Academic	Education	100%
10	12	Ornamental Plant Germplasm Center	18,258	Agricultural	Other	100%
11	14	Jennings, Edward H, Hall	112,502	Academic / Research	Education	100%
12	17	Knowlton, Austin E, Hall	174,422	Academic	Education	100%
13	18	Campbell, Elizabeth Owens, Hall	115,204	Academic	Education	100%
14	22	Longaberger Alumni House	57,049	Conference Center	Public Assembly	100%
15	23	Dairy Research Barn	11,231	Agricultural	Warehouse and Storage	100%
16	24	Postle, Wendell D, Hall	278,307	Academic / Research	Education	100%
17	25	Derby Hall	115,260	Academic / Admin	Education	100%
18	26	Caldwell Laboratory	100,348	Academic / Research	Education	100%
19	28	Faculty Club	32,711	Academic	Public Assembly	100%
20	29	Women's Field House	5,353	Athletics	Public Assembly	100%
21	30	Denney, Joseph Villiers, Hall	103,832	Academic	Education	100%
22	34	Refuse Vehicle Storage Building	2,880	Facilities	Warehouse and Storage	100%
23	37	Hagerty Hall	142,496	Academic	Education	100%
24	38	Hamilton Hall	141,461	Academic / Research	Education	100%
25	39	Hayes Hall	43,608	Academic	Education	100%
26	40	Fechko Alumnae Scholarship House	6,396	Student Housing	Lodging	100%
27	41	Lazenby Hall	66,558	Academic	Education	100%
28	42	Hughes Hall	60,883	Academic	Education	100%
29	43	Refuse Station	1,805	Facilities	Warehouse and Storage	100%
30	46	Journalism Building	84,561	Academic	Education	100%
31	47	Mershon Center	36,761	Academic / Admin	Education	100%
32	48	Pennsylvania Place	11,289	Student Housing	Lodging	100%
33	49	Drinko, John Deaver, Hall	211,421	Academic	Education	100%
34	50	Thompson, William Oxley, Memorial Library	301,907	Library	Public Assembly	100%
35	52	Younkin Success Center	68,619	Student Life	Public Assembly	100%
36	53	McPherson Chemical Laboratory	117,599	Academic / Research	Education	100%
37	54	Mendenhall Laboratory	126,300	Academic / Admin	Education	100%
38	55	Mershon Auditorium	120,223	Auditorium	Public Assembly	100%
39	56	Converse, George L, Hall	58,786	Academic	Education	100%
40	59	Fry, Glenn Ansel, Hall	75,040	Academic / Research	Education	100%
41	60	Orton Hall	39,797	Academic / Admin	Education	100%
42	61	Page Hall	64,665	Academic	Education	100%
43	63	Cockins, Edith, Hall	59,866	Academic	Education	100%
44	64	Parker Food Science and Technology Building	78,214	Academic	Education	100%
45	65	Smith, Alpheus, Laboratory	218,839	Academic / Research	Education	100%
46	66	Plumb Hall	45,196	Academic	Education	100%
47	67	Pomerene Hall	73,603	Academic	Education	100%
48	69	McCracken Power Plant	110,142	Facilities / Admin	Other	100%
49	70	Physics Research Building	238,732	Academic / Research	Health Care - Outpatient	100%
50	72	Enarson, Harold L, Classroom Building	88,768	Academic	Education	100%
51	73	Research Center	98,131	Research	Education	100%
52	76	St John Arena	217,262	Athletics	Public Assembly	100%
53	77	Central Service Building	15,136	Facilities	Office	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
54	78	Maintenance Building	51,289	Facilities	Warehouse and Storage	100%
55	79	OSU Electric Substation	13,520	Facilities	Other	100%
56	80	Sisson Hall	55,501	Academic / Research	Education	100%
57	81	Schottenstein, Jerome, Center	604,784	Athletics	Public Assembly	100%
58	82	Ohio Stadium	808,359	Athletics	Public Assembly	100%
59	83	Parking Garage - Northwest	228,196	Parking Garage		
60	84	Stillman Hall	67,284	Academic	Education	100%
61	85	Hale, Frank W, Jr, Hall	47,001	Academic / Admin	Office	100%
62	86	French, Thomas E, Field House	88,424	Athletics	Warehouse and Storage	100%
63	87	Townshend Hall	64,370	Academic	Education	100%
64	88	Parking Garage - Tuttle Park Pl	365,188	Parking Garage		
65	89	Doan, Charles Austin, Hall	673,130	Patient Care	Health Care - Outpatient	100%
66	90	Ramseyer Hall	86,387	Academic	Education	100%
67	91	Nicklaus Museum	25,457	Athletics	Public Assembly	100%
68	92	Jesse Owens Memorial Stadium	27,987	Athletics	Public Assembly	100%
69	93	Owens Stadium - Meet Management Building	1,568	Athletics	Office	100%
70	94	North Star Road, 2470	16,413	Office	Office	100%
71	95	Baker Hall	227,010	Student Housing	Lodging	100%
72	97	Bradley, Carolyn, Hall	70,349	Student Housing	Lodging	100%
73	98	Canfield Hall	61,231	Student Housing	Lodging	100%
74	99	Siebert Hall	85,839	Student Housing	Lodging	100%
75	100	Mack Hall	78,880	Student Housing	Lodging	100%
76	102	Oxley Hall	31,148	Academic	Education	100%
77	103	Paterson, Alma W, Hall	64,303	Student Housing	Lodging	100%
78	105	Kennedy, June F, Commons	36,868	Student Housing	Food Service	100%
79	106	Sullivant, Joseph, Hall	135,883	Academic	Education	100%
80	107	Watts Hall	35,504	Academic / Research	Education	100%
81	108	Buckeye Field	17,634	Athletics	Public Assembly	100%
82	112	Biomedical Research Tower	412,630	Research	Health Care - Outpatient	100%
83	113	Davis Heart and Lung Research Institute	139,528	Research	Health Care - Outpatient	100%
84	127	Smith, Thomas, Electrical Substation	24,456	Facilities	Other	100%
85	129	Corrosive Storage	398	Storage	Warehouse and Storage	100%
86	130	Power House	9,112	Facilities	Warehouse and Storage	100%
87	131	Aronoff, Stanley J, Laboratory	108,644	Academic / Research	Education	100%
88	132	Herrick Dr, 393	3,137	Research	Health Care - Outpatient	100%
89	133	Waterman Storage Facility	5,450	Research	Warehouse and Storage	100%
90	134	West Campus Substation	11,000	Facilities	Other	100%
91	135	Zoology Storage	2,044	Storage	Warehouse and Storage	100%
92	136	Veterinary Medicine Academic	113,459	Academic	Education	100%
93	144	Psychology Building	132,712	Academic	Education	100%
94	145	Nineteenth Ave, 140 W	83,437	Academic / Research	Education	100%
95	146	Bolz, Harold A, Hall	82,179	Academic	Education	100%
96	147	Newman and Wolfrom Laboratory of Chemistry	62,058	Lab	Education	100%
97	148	Scott, Peter L and Clara M, Laboratory	262,375	Academic / Research	Education	100%
98	149	Hopkins, James R, Hall	110,220	Academic	Education	100%
99	150	Evans, William Lloyd, Laboratory	117,574	OSUWMC	Education	100%
100	151	Fontana, Mars G, Laboratories	32,462	Academic / Research	Education	100%
101	152	Chemical Engineering Storage	600	Storage	Warehouse and Storage	100%
102	153	Poultry Breeding House 3	10,229	Agricultural	Warehouse and Storage	100%
103	154	Poultry Brooding House 2	5,661	Agricultural	Warehouse and Storage	100%
104	155	Radiation Dosimetry Calibration Facility	5,603	Research	Office	100%
105	156	Animal Science Building	55,889	Academic	Education	100%
106	157	Wiseman Hall	82,032	Academic / Research	Education	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
107	158	Reactor Building	3,856	Research	Other	100%
108	160	Student Academic Services Building	137,250	Office	Office	100%
109	161	Ohio Union	317,694	Student Housing	Public Assembly	100%
110	163	Tzagournis, Manuel, Medical Research Facility	80,417	Academic / Research	Education	100%
111	165	Harding Hospital	114,199	Patient Care	Health Care - Inpatient	100%
112	170	Parking Garage - SafeAuto Hospitals	365,530	Parking Garage		
113	171	Dodd Hall	86,802	Patient Care	Health Care - Outpatient	100%
114	174	Animal House Kinnear Research Center	6,131	Agricultural	Other	100%
115	176	Starling Loving Hall	149,403	Academic / Research	Education	100%
116	178	Pesticide Handling Facility	1,740	Facilities	Warehouse and Storage	100%
117	179	Waterman Farm - Laboratory Headquarters	8,444	Research	Office	100%
118	180	Goss, Leonard W, Laboratory	67,943	Academic / Research	Education	100%
119	182	Haverfield House	30,267	Student Housing	Lodging	100%
120	184	Barrett House	35,829	Student Housing	Lodging	100%
121	185	Halloran House	30,269	Student Housing	Lodging	100%
122	186	Norton House	35,831	Student Housing	Lodging	100%
123	187	Mathematics Building	28,893	Academic	Education	100%
124	189	Drackett Tower	138,600	Student Housing	Lodging	100%
125	190	Morrison Tower	99,934	Student Housing	Lodging	100%
126	191	Nationwide and Ohio Farm Bureau 4-H Center	45,189	Conference Center	Public Assembly	100%
127	193	Eleventh Ave, 33 W	26,386	Office	Office	100%
128	194	Houck House	37,790	Student Housing	Lodging	100%
129	200	Research Foundation Building	53,095	Academic	Office	100%
130	211	Adventure Recreation Center	86,070	Student Housing	Lodging	100%
131	213	Center for Integrative Medicine	9,460	Patient Care	Office	100%
132	214	Kenny Rd, 2006-2030	27,283	Patient Care	Health Care - Outpatient	100%
133	215	Sandefur Wetland Pavilion	788	Agricultural	Warehouse and Storage	100%
134	217	Recreation Field Support and Utility	4,850	Athletics	Warehouse and Storage	100%
135	218	Recreation Service Building	1,862	Athletics	Warehouse and Storage	100%
136	221	Waterman Farm - Heifer Barn	4,800	Agricultural	Warehouse and Storage	100%
137	222	Heffner Wetland Research and Education	9,157	Research	Education	100%
138	223	Plant Materials Building	4,511	Agricultural	Education	100%
139	224	Plant Materials Greenhouse	1,998	Agricultural	Other	100%
140	226	Kinnear Rd, 930 - Storage	12,034	Office	Office	100%
141	227	Kinnear Road, 930	41,919	Office	Office	100%
142	228	Bill Davis Baseball Stadium	30,233	Athletics	Public Assembly	100%
143	229	Ice Rink	33,845	Athletics	Public Assembly	100%
144	230	Field Hockey and Outdoor Tennis Office	938	Athletics	Office	100%
145	231	Zoology Research Laboratory	800	Research	Other	100%
146	232	Kenny Road, 1900	31,269	Admin	Office	100%
147	234	Aquatic Ecology Laboratory Storage	450	Research	Warehouse and Storage	100%
148	241	Ackerman Rd, 650	42,074	Admin	Office	100%
149	242	Ackerman Rd, 660	137,836	Patient Care	Office	100%
150	244	Ackerman Rd, 690 - Grounds Storage (0244)	1,611	Storage	Warehouse and Storage	100%
151	245	Physical Activity and Education Services - PAES	163,899	Academic	Public Assembly	100%
152	246	Recreation and Physical Activity Center	279,848	Student Housing	Public Assembly	100%
153	247	McCorkle Aquatic Pavilion	127,491	Athletics	Public Assembly	100%
154	248	Cheml & Biomolecular Engineering and Chemistry	236,537	Academic / Research	Education	100%
155	249	Fisher, Max M, Hall	132,056	Administration	Office	100%
156	250	Gerlach, John B, Graduate Programs Building	69,508	Academic / Admin	Education	100%
157	251	Schoenbaum Undergrad Program Bldg	62,748	Academic / Admin	Education	100%
158	252	Mason, Raymond E, Hall	68,150	Academic	Education	100%
159	253	Pfahl, John K, Executive Education Building	57,619	Academic / Admin	Food Service	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
161	255	Coffey Rd Sports Center	402	Athletics	Public Assembly	100%
162	257	Maintenance Storage Shed	502	Storage	Warehouse and Storage	100%
163	260	Mendoza House	41,691	Student Housing	Lodging	100%
164	261	Archer, John F, House	34,970	Student Housing	Lodging	100%
165	263	Service Building Annex	58,566	Facilities	Warehouse and Storage	100%
166	265	MacQuigg Laboratory	76,345	Academic / Research	Education	100%
167	266	Riffe, Vernal G, Jr, Building	130,130	Lab	Education	100%
168	267	Jones Tower	177,001	Student Housing	Lodging	100%
169	268	Taylor Tower	143,051	Student Housing	Lodging	100%
170	270	Woody Hayes Athletic Center	219,343	Athletics	Warehouse and Storage	100%
171	271	Lincoln, Abraham, Tower	322,374	Student Housing	Lodging	100%
172	272	Morrill, Justin S, Tower	324,185	Student Housing	Lodging	100%
173	273	Parks, Lloyd M, Hall	119,237	Academic / Research	Education	100%
174	274	Hitchcock Hall	118,612	Academic	Education	100%
175	275	Newton, Mildred E, Hall	80,833	Academic / Research	Education	100%
176	276	Biological Science Building	180,694	Academic / Research	Education	100%
177	277	Graves, Grant O, Hall	223,221	Academic / Research	Education	100%
178	278	Parking Garage - Arps	323,468	Parking Garage		
179	279	Dreese Laboratories, Erwin E	185,430	Academic	Education	100%
180	280	Baker Systems Engineering Building	114,930	Academic	Education	100%
181	281	Meiling, Richard Lewis, Hall	76,545	Administration	Office	100%
182	282	Galbreath, Daniel M, Equine Center	40,822	Veterinary	Health Care - Outpatient	100%
183	283	Parking Garage - Biological Science Building	19,086	Parking Garage		
184	284	Fawcett Center for Tomorrow, Novice G	178,184	Admin / Conference	Public Assembly	100%
185	287	Parking Garage - Neil Ave	364,546	Parking Garage		
186	289	Laundry Building	52,931	Facilities	Warehouse and Storage	100%
187	290	Printing Facility	42,623	Office	Service	100%
188	293	Cunz, Dieter, Hall	68,100	Academic	Education	100%
189	294	Wilce, John W, Student Health Center	50,179	Student Life	Health Care - Outpatient	100%
190	295	Howlett, Freeman S, Hall	62,605	Academic	Education	100%
191	296	Drake Performance and Event Center	115,835	Academic	Public Assembly	100%
192	297	Howlett Greenhouses	41,484	Agricultural	Other	100%
193	298	Agricultural Engineering Building	120,345	Agricultural	Education	100%
194	299	Veterinary Medical Center	222,496	Veterinary	Health Care - Outpatient	100%
195	302	Prior, John A, Hall	147,486	Academic	Education	100%
196	303	McCampbell, Eugene F, Hall	133,041	Patient Care / Research	Health Care - Outpatient	100%
197	304	Athletic Maintenance	10,109	Athletics	Warehouse and Storage	100%
198	306	Atwell, Robert J, Hall	98,273	Academic / Research	Education	100%
199	307	Bevis Hall	79,916	Academic	Education	100%
200	308	Rightmire Hall	97,655	Academic / Research	Education	100%
201	309	Pressey, Sidney L, Hall	77,779	Academic	Education	100%
202	310	Scott Hall, William H	62,345	Academic / Research	Education	100%
203	311	Mount, John T, Hall	72,186	Academic	Education	100%
204	316	Waterman Farm - Dairy Calf Barn	7,698	Agricultural	Warehouse and Storage	100%
205	317	Waterman Farm - Main Dairy Barn	23,703	Agricultural	Warehouse and Storage	100%
206	321	Learning Gardens Storage Shed	210	Agricultural	Warehouse and Storage	100%
207	337	Dulles, Foster Rhea, Hall	42,300	Academic	Education	100%
208	338	Independence Hall	15,891	Academic	Education	100%
209	339	University Hall	78,718	Academic	Education	100%
210	340	Kottman, Roy M, Hall	167,040	Academic	Education	100%
211	345	Biocontainment Laboratory	2,862	Research	Health Care - Outpatient	100%
212	347	Jesse Owens Recreation Center North	23,728	Student Activity	Public Assembly	100%
213	348	Jesse Owens Recreation Center South	23,535	Student Activity	Public Assembly	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
214	349	Jesse Owens Tennis Center West	23,535	Student Activity	Public Assembly	100%
215	350	Library Book Depository	38,544	Administration	Warehouse and Storage	100%
216	353	Ross Heart Hospital	306,801	Patient Care	Health Care - Inpatient	100%
217	354	Rhodes, James A, Hall	507,803	Patient Care	Health Care - Inpatient	100%
218	355	Weigel, Eugene J, Hall	47,042	Academic	Education	100%
219	356	Twelfth Ave, 395 W	90,747	Administration	Office	100%
220	357	Northwood-High Building	41,171	Patient Care/Acad	Health Care - Outpatient	100%
221	358	Sherman, Hoyt L, Studio Art Center	22,471	Academic	Education	100%
222	360	Blankenship, Michael, Hall	58,109	Administration	Public Order and Safety	100%
223	362	Bulk Chemical Warehouse	15,512	Storage	Warehouse and Storage	100%
224	363	Comprehensive Cancer Center, OSU	74,390	Academic / Research	Education	100%
225	371	Celeste, Richard F, Laboratory of Chemistry	110,310	Lab	Education	100%
226	372	Brain & Spine Hospital, Tenth Ave, 300 W	258,797	Patient Care	Health Care - Inpatient	100%
227	373	Kinnear Rd, 1100	48,532	Administration	Office	100%
228	375	The Ohio State University Comprehensive Cancer Center - Arthur G. James Cancer Hospital & Richard J. Solove Research Institute	1,186,252	Patient Care/Research	Health Care - Inpatient	100%
229	376	Chilled Water Plant, East Regional	23,450	Facilities	Other	100%
230	377	Generator Building	5,355	Facilities	Other	100%
231	379	Telecommunications Network Center	45,297	Facilities	Other	100%
232	381	Stores and Receiving	125,050	Administration	Warehouse and Storage	100%
233	382	Davis Medical Research Center	43,459	Patient Care	Health Care - Outpatient	100%
234	384	Rothenbuhler Honey Bee Research Laboratory	6,359	Research	Education	100%
235	385	Child Care Center	43,358	Administration	Office	100%
236	386	Wexner Center for the Arts	131,071	Museum	Public Assembly	100%
237	387	Parking Garage - Twelfth Ave	234,895	Parking Garage		
238	388	Chiller Plant, South Campus Central	83,056	Facilities	Other	100%
239	390	Water Treatment Building	14,991	Facilities	Other	100%
240	394	Biotechnology Support Facility	24,433	Research	Other	100%
241	800	Buckeye Village Community Center	27,086	Student Housing	Lodging	100%
242	801	Buckeye Village A	6,675	Student Housing	Lodging	100%
243	802	Buckeye Village B	8,751	Student Housing	Lodging	100%
244	803	Buckeye Village C	10,433	Student Housing	Lodging	100%
245	804	Buckeye Village D	12,620	Student Housing	Lodging	100%
246	805	Buckeye Village E	8,691	Student Housing	Lodging	100%
247	806	Buckeye Village F	10,522	Student Housing	Lodging	100%
248	807	Buckeye Village G	10,428	Student Housing	Lodging	100%
249	808	Buckeye Village H	12,540	Student Housing	Lodging	100%
250	809	Buckeye Village J	8,662	Student Housing	Lodging	100%
251	810	Buckeye Village K	8,664	Student Housing	Lodging	100%
252	811	Buckeye Village L	10,679	Student Housing	Lodging	100%
253	812	Buckeye Village M	10,678	Student Housing	Lodging	100%
254	813	Buckeye Village N	6,655	Student Housing	Lodging	100%
255	814	Buckeye Village P	6,647	Student Housing	Lodging	100%
256	815	Buckeye Village R	10,677	Student Housing	Lodging	100%
257	816	Buckeye Village Laundry	792	Student Housing	Lodging	100%
258	817	Buckeye Village S	10,678	Student Housing	Lodging	100%
259	818	Buckeye Village T	6,647	Student Housing	Lodging	100%
260	819	Buckeye Village U	8,751	Student Housing	Lodging	100%
261	820	Buckeye Village V	10,433	Student Housing	Lodging	100%
262	821	Buckeye Village W	10,676	Student Housing	Lodging	100%
263	822	Buckeye Village X	10,428	Student Housing	Lodging	100%
264	823	Buckeye Village Y	8,751	Student Housing	Lodging	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
265	824	Buckeye Village Z	8,663	Student Housing	Lodging	100%
266	825	Buckeye Village AA	8,751	Student Housing	Lodging	100%
267	826	Buckeye Village BB	10,433	Student Housing	Lodging	100%
268	827	Buckeye Village CC	10,711	Student Housing	Lodging	100%
269	828	Buckeye Village DD	10,433	Student Housing	Lodging	100%
270	829	Buckeye Village EE	12,539	Student Housing	Lodging	100%
271	830	Buckeye Village FF	8,681	Student Housing	Lodging	100%
272	831	Buckeye Village GG	10,522	Student Housing	Lodging	100%
273	832	Buckeye Village HH	6,655	Student Housing	Lodging	100%
274	833	Buckeye Village Administration	4,472	Student Housing	Lodging	100%
275	834	Buckeye Village Recreation Hall	3,685	Student Housing	Lodging	100%
276	846	William Hall Complex - Neil Building	129,908	Student Housing	Lodging	100%
277	847	William Hall Complex - Scholars House West	17,673	Student Housing	Lodging	100%
278	848	William Hall Complex - Scholars House East	17,685	Student Housing	Lodging	100%
279	849	William Hall Complex - Worthington Building	48,554	Student Housing	Lodging	100%
280	850	Residences on Tenth	189,625	Student Housing	Lodging	100%
281	851	Park-Stradley Hall	271,039	Student Housing	Lodging	100%
282	852	Smith-Steeb Hall	262,198	Student Housing	Lodging	100%
283	860	Gateway A	130,188	Student Housing	Lodging	100%
284	862	Gateway B	112,823	Retail	Mercantile (not mall)	100%
285	863	Gateway C - OSU Human Resources	192,313	Retail	Office	100%
286	864	Hanley Alumnae Scholarship House	5,519	Student Housing	Lodging	100%
287	865	Gateway D	81,019	Retail	Office	100%
288	867	Gateway F - North	19,356	Retail	Mercantile (not mall)	100%
289	868	Gateway F - South	19,344	Retail	Mercantile (not mall)	100%
290	869	Pomerene Alumnae Scholarship House	5,904	Student Housing	Lodging	100%
291	878	Institute for Behavioral Medicine Research	79,960	Medical Research	Education	100%
292	880	Morehouse Medical Plaza - Pavilion	162,526	Patient Care	Health Care - Outpatient	100%
293	881	Morehouse Medical Plaza - Tower	127,815	Patient Care	Health Care - Outpatient	100%
294	882	Morehouse Medical Plaza - Concourse	38,084	Patient Care	Health Care - Outpatient	100%
295	891	Lawrence Tower	150,106	Student Housing	Lodging	100%
296	892	Parking Garage - W Lane Ave	98,460	Parking Garage		
297	902	Eleventh Ave, 53 W	5,321	Office	Office	100%
298	921	Ackerman Place	9,301	Patient Care	Office	100%
299	923	Kenny Rd, 2404	7,628	Office	Office	100%
300	924	Kenny Rd, 2422	2,036	Office	Office	100%
301	925	Wood Ave, 2410	1,300	Student Housing	Lodging	100%
302	927	Highland St, 1615	5,646	Student Housing	Lodging	100%
303	931	Kinnear Rd, 960	42,415	Student Housing	Lodging	100%
304	937	Waterman Farm - Agronomy Pole Barn	1,800	Agricultural	Warehouse and Storage	100%
305	951	Kinnear Rd, 1315	99,781	FOD Storage	Warehouse and Storage	100%
306	952	Waterman Farm - Agronomy Field Greenhouse	1,296	Greenhouse	Other	100%
307	958	Agronomy Machinery Storage	3,677	Storage	Warehouse and Storage	100%
308	959	Kuhn, Albert J, Honors and Scholars House	9,971	Academic	Office	100%
309	964	Eleventh Ave, 45 W	4,525	Office	Office	100%
310	965	German House	4,501	Student Housing	Lodging	100%
311	977	ElectroScience Laboratory Complex	40,332		Health Care - Outpatient	100%
312	983	Turfgrass Research & Educ. Facility	6,713	Research	Education	100%
313	987	Campus Shop	10,291	Facilities	Service	100%
314	992	Waterman Farm - Agronomy Turf Research	1,960	Academic / Research	Education	100%
315	995	Evans Hall	27,357		Education	100%
316	1004	Jameson Crane Sports Medicine Institute	0	Patient Care	Health Care - Outpatient	100%
317	1007	Field Hockey Scoring Building	120	Athletics	Office	100%

SCHEDULE 19

Appendix 1

BPR Line No.	University Building Designations		Gross Square Footage	Building Function	CBEC Building Type	
	Bldg No.	Name			Type	%
318	1008	Field Hockey Storage Shed	100	Athletics	Warehouse and Storage	100%
319	1011	Schumaker Student-Athlete Dev Center	219,343	Athletics	Office	100%
320	1101	Torres House	123,225	Student Housing	Lodging	100%
321	1102	Houston House	0	Student Housing	Lodging	100%
322	1103	Raney House	125,474	Student Housing	Lodging	100%
323	1104	Bowen House	87,581	Student Housing	Lodging	100%
324	1105	Busch House	114,500	Student Housing	Lodging	100%
325	1106	Curl Hall	27,900	Student Housing	Lodging	100%
326	1107	Blackburn House	0	Student Housing	Lodging	100%
327	1109	North Recreation Center	0	Student Housing	Lodging	100%
328	1110	Nosker House	0	Student Housing	Lodging	100%
329	1220	enCORE Solar House	792	Research	Other	100%
330	1250	Sea Grant Boat Storage	144	Storage	Warehouse and Storage	100%
331	1252	Sea Grant Boat Storage Shed 1	80	Storage	Warehouse and Storage	100%
332	1253	Sea Grant Boat Storage Shed 2	1,730	Storage	Warehouse and Storage	100%
333	1254	Aquatic Ecology Laboratory Boathouse	480	Storage	Warehouse and Storage	100%
334	1255	Zoology Research Laboratory Shed	100	Storage	Warehouse and Storage	100%
335	1257	Poly House - Hoop Greenhouse A	661	Agricultural	Other	100%
336	1258	Poly House - Hoop Greenhouse C	1,575	Agricultural	Other	100%
337	1259	Poly House - Hoop Greenhouse B	1,575	Agricultural	Other	100%
338	1263	Bill Davis Baseball Stadium Ticket Booth	100	Athletics	Other	100%
339	1264	Child Care Center Garage	532	Garage	Warehouse and Storage	100%
340	1270	Poly House - Hoop Greenhouse A	2,350	Agricultural	Other	100%
341	1301	Waterman Farm - Hoop Hay Storage	1,344	Farm	Warehouse and Storage	100%
342	1302	Waterman Farm - Hoop Bio Storage	936	Farm	Warehouse and Storage	100%
343	1303	Waterman Farm - Cow Feeding Shed	4,320	Farm	Warehouse and Storage	100%
344	1304	Waterman Farm - Storage Shed 1	80	Farm	Warehouse and Storage	100%
345	1305	Waterman Farm - Storage Shed 2	48	Farm	Warehouse and Storage	100%
346	1306	Waterman Farm - Arched Greenhouse 1	707	Farm	Other	100%
347	1307	Waterman Farm - Arched Greenhouse 2	1,456	Farm	Other	100%
348	2432	Ackerman Rd, 640	35,468	Patient Care	Office	100%
349	2433	Ackerman Rd, 670	33,642	Patient Care	Office	100%
350	2434	Ackerman Rd, 680	29,315	Patient Care	Office	100%
351	2435	Ackerman Rd, 600	68,051	Patient Care	Office	100%
352	2436	Ackerman Rd, 630	67,904	Patient Care	Office	100%
353	2437	Ackerman Rd, 610	57,975	Patient Care	Office	100%
354	2441	Ackerman Rd, 690 - Middle Storage	637	Storage	Warehouse and Storage	100%
355	2442	Ackerman Rd, 690 - Shelter House	1,449	Storage	Warehouse and Storage	100%

Note regarding parking garages: The University does not intend to include the main parking structures of parking garages in the EUI calculations pursuant to the Schedule 19. However, some of the parking garage structures include co-located conditioned space used for retail, office, or other functions. The University intends to separately designate these spaces and include these space in the EUI calculation pursuant to Schedule 19. Until such time as that separation can be completed, the entirety of the parking garage structure will be excluded from the EUI calculations pursuant to Schedule 19.

SCHEDULE 19

Appendix 2

CBECS Building Types	CBECS Description	University Buildings	
		Function	Example
Education	Buildings used for academic or technical classroom instruction, such as classroom buildings on college or university campuses. Buildings on education campuses for which the main use is not classroom are included in the category relating to their use. For example, administration buildings are part of "Office," dormitories are "Lodging," and libraries are "Public Assembly."	<ul style="list-style-type: none"> ▪ Academic 	<ul style="list-style-type: none"> ▪ Derby Hall ▪ Page Hall ▪ Mason Hall ▪ Smith Laboratory
Food Sales	Buildings used for retail or wholesale of food	<ul style="list-style-type: none"> ▪ Currently not applicable 	<ul style="list-style-type: none"> ▪ Currently not applicable
Food Service	Buildings used for preparation and sale of food and beverages for consumption	<ul style="list-style-type: none"> ▪ Food service 	<ul style="list-style-type: none"> ▪ Kennedy Commons ▪ Pfahl Hall
Health Care (Inpatient)	Buildings used as diagnostic and treatment facilities for inpatient care	<ul style="list-style-type: none"> ▪ Inpatient care facilities ▪ Central utility plants 	<ul style="list-style-type: none"> ▪ McCracken Power Plant ▪ James Cancer Hospital
Health Care (Outpatient)	Buildings used as diagnostic and treatment facilities for outpatient care. Medical offices are included here if they use any type of diagnostic medical equipment (if they do not, they are categorized as an office building).	<ul style="list-style-type: none"> ▪ Outpatient care facilities ▪ Energy-intensive research facilities 	<ul style="list-style-type: none"> ▪ Scott Laboratory ▪ Wilce Student Health Center ▪ Physics Research Building
Lodging	Buildings used to offer multiple accommodations for short-term or long-term residents, including skilled nursing and other residential care buildings	<ul style="list-style-type: none"> ▪ Student housing ▪ Hotel 	<ul style="list-style-type: none"> ▪ Baker Hall ▪ Blackwell Inn
Mercantile (Retail other than mall)	Buildings used for the sale and display of goods other than food.	<ul style="list-style-type: none"> ▪ Retail 	<ul style="list-style-type: none"> ▪ TechHub ▪ Tuttle Park Bookstore
Mercantile (Enclosed and strip malls)	Shopping malls comprised of multiple connected establishments	<ul style="list-style-type: none"> ▪ Currently not applicable 	<ul style="list-style-type: none"> ▪ Currently not applicable
Office	Buildings used for general office space, professional office, or administrative offices. Medical offices are included here if they do not use any type of diagnostic medical equipment (if they do, they are categorized as outpatient health care).	<ul style="list-style-type: none"> ▪ Administration 	<ul style="list-style-type: none"> ▪ Bricker Hall ▪ Meiling Hall ▪ 650 Ackerman
Public Assembly	Buildings in which people gather for social or recreational activities, whether in private or non-private meeting halls	<ul style="list-style-type: none"> ▪ Athletics ▪ Library ▪ Auditoriums 	<ul style="list-style-type: none"> ▪ Ohio Stadium ▪ Thompson Library ▪ Mershon Auditorium
Public Order and Safety	Buildings used for the preservation of law and order or public safety	<ul style="list-style-type: none"> ▪ Administration 	<ul style="list-style-type: none"> ▪ Blankenship Hall (OSU PD)
Religious Worship	Buildings in which people gather for religious activities, (such as chapels, churches, mosques, synagogues, and temples).	<ul style="list-style-type: none"> ▪ Currently not applicable 	<ul style="list-style-type: none"> ▪ Currently not applicable
Service	Buildings in which some type of service is provided, other than food service or retail sales of goods	<ul style="list-style-type: none"> ▪ Service ▪ Facilities 	<ul style="list-style-type: none"> ▪ Printing Facility ▪ Campus Shop
Warehouse and Storage	Buildings used to store goods, manufactured products, merchandise, raw materials, or personal belongings (such as self-storage).	<ul style="list-style-type: none"> ▪ Facilities ▪ Storage ▪ Agricultural storage 	<ul style="list-style-type: none"> ▪ Agronomy Pole Barn ▪ Sea Grant Boat Storage Shed ▪ Laundry Building
Other	Buildings that are industrial or agricultural with some retail space; buildings having several different commercial activities that, together, comprise 50 percent or more of the floor space, but whose largest single activity is agricultural, industrial/ manufacturing, or residential; and all other miscellaneous buildings that do not fit into any other category.	<ul style="list-style-type: none"> ▪ Greenhouse ▪ Farm buildings – livestock barns ▪ Research facilities with functions similar to industrial, agricultural, or manufacturing functions 	<ul style="list-style-type: none"> ▪ Generator Building ▪ Howlett Hall Greenhouses ▪ Cow Feeding Shed ▪ Nuclear Reactor Laboratory
Vacant	Buildings in which more floor space is vacant than is used for any single commercial activity.	<ul style="list-style-type: none"> ▪ Currently not applicable 	<ul style="list-style-type: none"> ▪ Currently not applicable

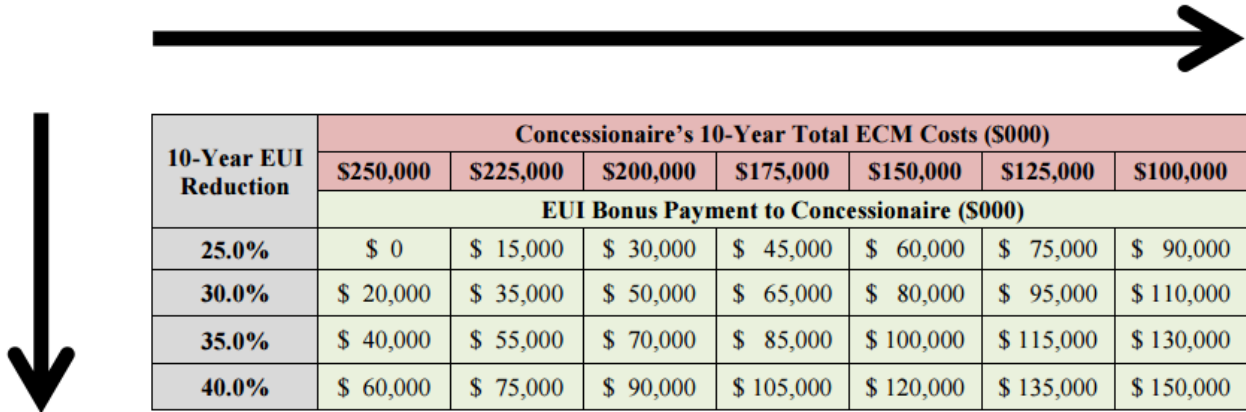
SCHEDULE 20

MATERIAL AUTHORIZATIONS

1. Boiler Certificate of Operation ID Number 267587 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #1 expired May 31, 2016. Boiler inspected May 3, 2016. Awaiting new Certificate.
2. Boiler Certificate of Operation ID Number 272645 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #3 expired June 30, 2015. Boiler inspected May 25, 2016. Awaiting new Certificate.
3. Boiler Certificate of Operation ID Number 249255 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #5 expiring August 31, 2017.
4. Boiler Certificate of Operation ID Number 276062 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #6 expired July 31, 2015. Inspected June 30, 2016. Awaiting new Certificate.
5. Boiler Certificate of Operation ID Number 275019 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #7 expired July 31, 2016. Inspected July 27, 2016. Awaiting new certificate.
6. Boiler Certificate of Operation ID Number 294474 issued by the Ohio Department of Commerce, Division of Industrial Compliance relating to Boiler #8 expiring August 31, 2016.
7. Interconnection Agreement dated as of July 8, 2014 by and between Ohio Power Company (DBA AEP Ohio) and The Ohio State University related to solar generation facility in Wooster
8. Interconnection Agreement dated as of _____, 2016 by and between Ohio Power Company (dba AEP Ohio) and The Ohio State University relating to certain generation facilities at 1960 Tuttle Place, 321 W. 18th Ave., 304 W. 17th Ave. and 337 W. 17th Ave. [AEP signature pending]
9. Interconnection Agreement dated as of September 2, 2014 by and between Ohio Power Company (dba AEP Ohio) and The Ohio State University relating to certain generation facilities at 1989 Kenny Road [AEP signature pending]

SCHEDULE 21

EUI BONUS SCHEDULE



10-Year EUI Reduction	Concessionaire's 10-Year Total ECM Costs (\$000)						
	\$250,000	\$225,000	\$200,000	\$175,000	\$150,000	\$125,000	\$100,000
	EUI Bonus Payment to Concessionaire (\$000)						
25.0%	\$ 0	\$ 15,000	\$ 30,000	\$ 45,000	\$ 60,000	\$ 75,000	\$ 90,000
30.0%	\$ 20,000	\$ 35,000	\$ 50,000	\$ 65,000	\$ 80,000	\$ 95,000	\$ 110,000
35.0%	\$ 40,000	\$ 55,000	\$ 70,000	\$ 85,000	\$ 100,000	\$ 115,000	\$ 130,000
40.0%	\$ 60,000	\$ 75,000	\$ 90,000	\$ 105,000	\$ 120,000	\$ 135,000	\$ 150,000

Examples for illustrative purposes only:

Example 1

- Prior to June 30, 2028, Concessionaire obtains 25% EUI reduction with a total ECM spend of \$200,000,000
 - Concessionaire's potential bonus payment is \$30,000,000
- Prior to June 30, 2028, Concessionaire creates 5% incremental EUI reduction while spending an additional \$25,000,000 on ECMs
 - Concessionaire's potential bonus payment is increased \$5,000,000 for the incremental EUI reduction
- By June 30, 2028, Concessionaire creates another 5% incremental EUI reduction while spending an additional \$25,000,000 on ECMs
 - Concessionaire's potential bonus payment is increased \$5,000,000 for the incremental EUI reduction
- Total EUI Bonus payment to Concessionaire at June 30, 2028 is \$40,000,000 for a 35%reduction in EUI

Example 2

- Prior to June 30, 2028, Concessionaire obtains 25% EUI reduction with a total ECM spend of \$100,000,000
 - Concessionaire's potential bonus payment is \$90,000,000
- Prior to June 30, 2028, Concessionaire creates 5% incremental EUI reduction while spending an additional \$25,000,000 on ECMs
 - Concessionaire's potential bonus payment is reduced by \$10,000,000 for inefficient EUI reduction spending

- By June 30, 2028, Concessionaire creates another 5% incremental EUI reduction while spending an additional \$25,000,000 on ECMs
 - Concessionaire's potential bonus payment is increased \$5,000,000 for the incremental EUI reduction
- Total EUI Bonus payment to the Concessionaire at June 30, 2028 is \$85,000,000 for a 35% reduction in EUI

Example 3

- Prior to June 30, 2028, Concessionaire obtains 25% EUI reduction with a total ECM spend of \$160,000,000
 - Concessionaire's potential bonus payment is \$45,000,000
- Prior to June 30, 2028, Concessionaire creates a 6% incremental EUI reduction while spending an additional \$35,000,000 on ECMs
 - Concessionaire's potential bonus is increased by \$5,000,000 for the incremental EUI reduction
- By June 30, 2028, Concessionaire creates another 3% incremental EUI reduction while spending an additional \$5,000,000 on ECMs
 - Concessionaire's potential bonus is unchanged
- Total EUI Bonus payment to Concessionaire at June 30, 2028 is \$50,000,000 for a 34% reduction in EUI

SCHEDULE 22

ACADEMIC COLLABORATION

[See Attached]

Academic Collaboration

Topic	Minimum Investment	Description	Valuation	Payment	Election
Internships and Scholarship	<ul style="list-style-type: none"> \$30 million divided between annual internships and endowed scholarships 	<ul style="list-style-type: none"> Minimum of 10 paid internships annually 	<ul style="list-style-type: none"> One 3-month internship is valued at \$10,000 (\$5mm/50years) 	<ul style="list-style-type: none"> Annually to each intern 	\$30 million or more allocated as follows: <ul style="list-style-type: none"> Total number of paid annual internships: 10
		<ul style="list-style-type: none"> Minimum of \$7.5 million for undergraduate student scholarships 		<ul style="list-style-type: none"> One-time at Closing 	<ul style="list-style-type: none"> Total amount contributed to undergraduate student scholarships: \$12.5 million
		<ul style="list-style-type: none"> Minimum of \$7.5 million for graduate & professional student scholarships 		<ul style="list-style-type: none"> One-time at Closing 	<ul style="list-style-type: none"> Total amount contributed to graduate & professional student scholarships: \$12.5 million
Full-time employment positions are not to be included in the Academic Collaboration Commitment.					
Impactful, Visionary Project and Research	<ul style="list-style-type: none"> \$50 million – of which, \$25-\$50 million must be for a single impactful, visionary project 	<ul style="list-style-type: none"> Impactful visionary project – academic or research initiative combining interests of University and the Concessionaire/Affiliates Other research investment – (if less than \$50 mm is committed to visionary project): initiative(s) for the University and the Concessionaire 		<ul style="list-style-type: none"> One-time at the launch of project which shall occur at the discretion of the University One-time at Closing 	\$50 million or more contributed as follows: <ul style="list-style-type: none"> Amount contributed to visionary project: \$42.5 million Amount, if any, contributed to other research investment(s): \$7.5 million
Philanthropy	<ul style="list-style-type: none"> \$50 million divided between annual contributions to University-related philanthropic organizations and faculty endowments 	<ul style="list-style-type: none"> Annual contribution examples <ul style="list-style-type: none"> Pelotonia WOSU Wexner Center for the Arts (Athletic sponsorships do not qualify)	<ul style="list-style-type: none"> Annual \$ contributed x years of contributions commitment 	<ul style="list-style-type: none"> Annually to the University-related philanthropic organizations selected by Concessionaire 	\$50 million or more allocated as follows: <ul style="list-style-type: none"> Annual amount to be contributed to University-related philanthropic organizations: \$810,000 Number of years: 50 years Type and number of each faculty endowment: 1 Dean's Chair, 2 Chairs, 2 Professorships
		<ul style="list-style-type: none"> Faculty Endowment examples <ul style="list-style-type: none"> Deans Chair: \$3.5mm Chair: \$2mm 	<ul style="list-style-type: none"> Total of all endowments 	<ul style="list-style-type: none"> One-time at Closing 	
Sustainability	<ul style="list-style-type: none"> \$15 million Endowment 	<ul style="list-style-type: none"> Concessionaire and University to direct all funds to sustainability projects outside the scope of the Agreement 		<ul style="list-style-type: none"> One-time at Closing 	<ul style="list-style-type: none"> Sustainability commitment: \$15 million total
Curriculum and Staff Development	<ul style="list-style-type: none"> \$5 million Endowment 	<ul style="list-style-type: none"> Funds will be used at University's discretion to develop sustainability curriculum and support related teaching and learning initiatives, and for staff development 		<ul style="list-style-type: none"> One-time at Closing 	<ul style="list-style-type: none"> Curriculum and staff development commitment: \$5 million total

A center for innovation unlike any other

Project Introduction

OSEP is proposing a new **Energy Advancement and Innovation Center** – an experiential hub for energy research and technology incubation at Ohio State – where innovation will flourish among interdisciplinary teams of collaborators, supported by a unique University–Industry partnership. Bringing together University faculty, students, ENGIE researchers, local entrepreneurs, and industry experts, the Center will engage the community with the next generation of smart energy systems, renewable energy and green mobility. With the support of ENGIE’s network of 11 global research labs and industry partnerships, the Center will propel innovation beyond the R&D stage to incubate technologies developed here, providing them with the support and resources necessary to become commercially successful. Promising projects will find a “route to market” at the Center through unique channels provided by ENGIE, bridging the gap between a proof of concept or pilot project and a commercially viable product or process. See the video for 3D visualization of the project including the Innovation Center.¹

Mission & Purpose

The Energy Advancement and Innovation Center will have 5 distinct purposes:

1. Nurture **collaboration** across disciplines in order to foster energy advancement and innovation in a holistic way, bringing together the people, technologies, services and data to discover novel methods for tackling the challenges of tomorrow.
2. Facilitate **collaborative research** between University faculty, students and ENGIE Labs with tools, lab space, funding and human resources.
3. **Incubate** energy and related digital technology startups in the Columbus area by providing a route to market for innovative ideas through various outlets including ENGIE and Axiom businesses and subsidiaries.
4. Serve as a physical forum for learning, dialog and **public-private partnership** in energy innovation; a symbol of leadership and advancement in the field.
5. Connect the academic and professional work above to the public through active **community engagement**.

Facts & Figures



1: https://www.siradel.com/all_web/P.DT/colombus/finalOSUvideo.mp4
2: For the first five years.

Designing for collaboration

The Energy Advancement and Innovation Center is designed first and foremost to encourage the cross-pollination of people and ideas in spaces conducive to collaboration. Reconfigurable laboratories, networked workspaces, and beautiful public spaces throughout the Center promote equal parts spontaneous collaboration and focused, intentional investigation.



Architectural Program

Create & Innovate

Dedicated Laboratories 6,500 sq. ft.

Collaborative Clusters

Flexible Workspaces 14,000 sq. ft.
Modular Pods 3,500 sq. ft.

Meet & Gather

Entry Vestibule & Lobby 3,500 sq. ft.
Café & Micro Kitchen 2,500 sq. ft.
Outdoor & Green Spaces 6,000 sq. ft.
Circulation 7,000 sq. ft.

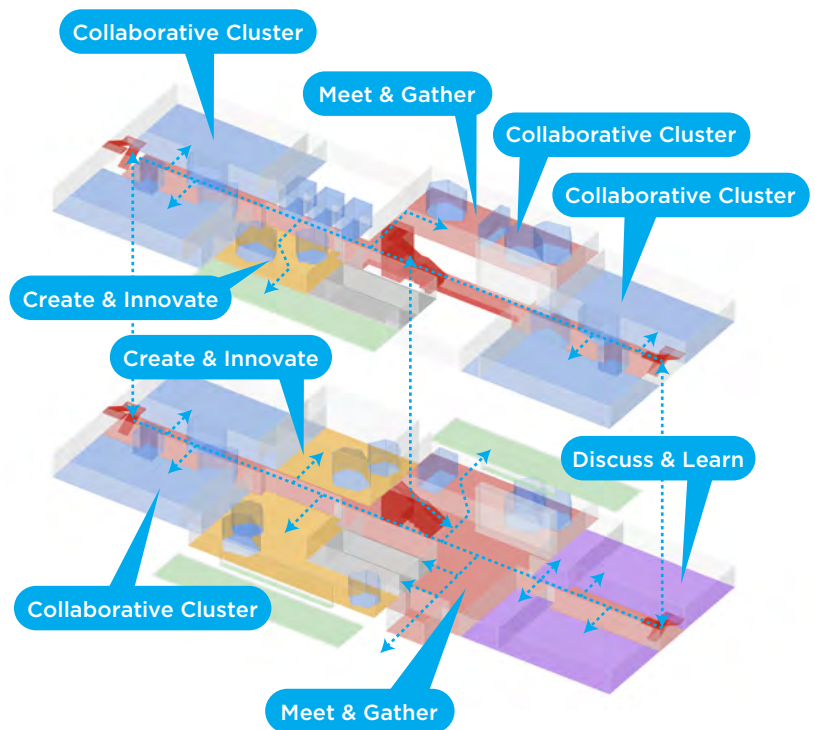
Discuss & Learn

Mission Control 1,000 sq. ft.
Interactive Showcase 2,500 sq. ft.
Ampitheater 2,500 sq. ft.

Other

Building Support 11,000 sq. ft.

Total³ 60,000 sq. ft.



³: Based on our preliminary discussions with local architects Design Group, we have identified a number of locations in and around OSU campus that would be suitable for the Center.

It's not just a building...

Nurturing Innovators

The outline for creating a research laboratory is straightforward: provide funding, construct a building, fill it with equipment for researchers. Though vital to the development of the building, these foundational elements do not, and in fact cannot, create innovation. For that, one must rely on a most rare and valuable resource: human creativity. Fostering creativity is a much more challenging prospect and this fact requires that the central focus of this project extend far beyond the creation of a building to the creation of a unique community, comprised of scientists, engineers, inventors, designers, artists, and thinkers. At the Center, they will discover that true innovation comes when diverse perspectives collide around shared challenges. A veritable playground for innovation, the Center is more than just a building; it is a place where diverse groups of people with various educational backgrounds can meet and gather, discuss and learn, create, innovate, and collaborate. The result is an inspiring, creative and cool place people want to be, attracting people from across campus and the city.

Making Local Connections

Participation from various stakeholders within the city of Columbus is central to this project and critical for the Center to be successful. To that end, the Center will promote local innovators by providing space, support, collaboration and testing opportunities of new developments within the Center's laboratories and building systems.

Engaging the Community

Engaging the community is essential to the mission of the Center. The innovations that will originate here are intended to better the world, and that process begins with community participation. Ohio State faculty, staff and students, researchers, entrepreneurs, artists and local industry leaders will make the Center Columbus' new home for public discourse around energy, with public events, TED Talk-style presentations, demonstrations, receptions, and conferences focusing on issues in the energy and digital technology sectors. In cooperation with the local community organizations, the Center will include a dedicated arts program to facilitate artistic design to seep into the innovative products of the designers and developers. The Center will stand apart from other research facilities and innovation centers by offering a public showcase that explores energy issues, active research projects and technology through public events as well as exhibit-style interactive experiences that promote understanding about the state of the industry and the future of innovation.



A striking structure creates an iconic entry to the building. The exterior surface of this entry vestibule is comprised of configurable digital walls to mimic the energy consumption, generation, flow, and KPIs of the **entire campus in a 3D model**, making a strong statement that the Center is not just a building, it is a building with a brain.



An Interactive Showcase highlights and demonstrates the of state-of-the-art technologies at work and under development in the Center. Through hands-on exhibits, visitors learn about energy and explore curated stories of real innovators and real technology.

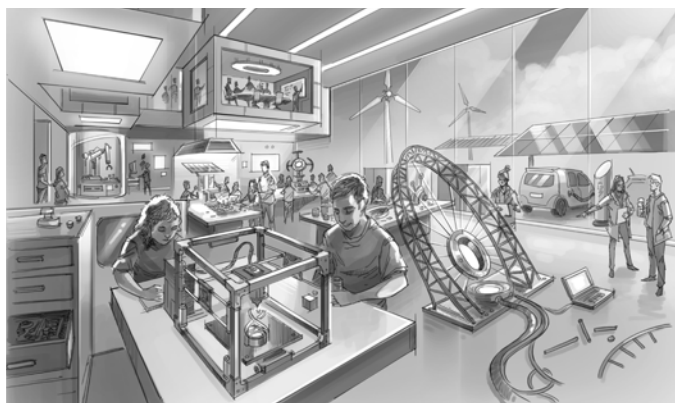


Art installations created by Artists in Residence interpret energy technologies, simultaneously inspiring the viewer, connecting art with science and product development.

It's a living laboratory

A Living Laboratory

Unlike typical research facilities, the Center – with its **cutting edge infrastructure and built-in energy generation and management technologies** - will be a living laboratory, a constantly changing organism, evolving and adapting to meet the needs of its residents. A flexible configuration of laboratories, open-plan workspaces, and the opportunity to test technologies onsite will support faculty, students, **ENGIE Labs** and the Columbus community in their pursuit of innovative projects and unexpected collaborations. A section of the Center will be dedicated to collaborative applied research to be carried out by Ohio State and ENGIE Labs, integrated within the research and incubation functions of the Center. This section of the Center will be the **12th** global R&D facility for ENGIE Labs, and its first in North America. While the topics of research will naturally change and evolve with emerging technologies and developments, Engie Labs is committed to concentrate on developing solutions, products, and materials on **building energy systems utilizing IoT and 5G technologies** to kick-start the process in collaboration with OSU's Institute of Materials Research - IMR, the Dept. of Food, Agriculture & Biological Engineering, the Knowlton School of Architecture, the College of Engineering, the School of Medicine & Public Health, etc. An in-house ENGIE research group - expected to be 10 to 15 researchers initially - will perform applied research and development at the Center, providing opportunities for faculty and students to participate in this area. It is envisaged that as the Center grows, co-development between OSU and Engie Labs will also grow to include related topics such as **micro-grids, data analytics,**



renewable energy, and green mobility with Dept of Electrical Engineering, Center for automotive research and Smart Columbus, IMR, etc. It is also envisaged that the other eleven global ENGIE labs facilities will collaborate with the University and ENGIE researchers at the Center, making it truly part of a global network.

A Platform for Real Technology

Cutting edge technology will be used on an ongoing basis in the building itself, some of which will be highly-visible from the common areas of the building to touch and inspire visitors with a look into the exciting work taking place. Furthermore, wherever possible, the implementation of technologies in the Center will be celebrated and on display. Rather than hiding the mechanical and building support functions, the real equipment is visible and accompanied by graphic panels interpreting the technology, its purpose and its impact throughout the building.

Technology in use and on display in the Center may include:

- A direct current electrical network and a digital ceiling IT network architecture to allow current and future devices, facility systems and power generators to be seamlessly connected to each other
- Net zero energy import, carbon neutral, & LEED platinum certification
- Innovative 5G network connectivity with other campus systems and devices fostering development for IoT
- State of the art building technology to maximize onsite energy generation and minimize energy consumption and loss such as:
 - › Solar PV paneled roof
 - › Organic PV paneled windows on the south facing façade
 - › Regen-drive elevators to generate electricity when empty cars going up/full cars going down
 - › Hydrogen fuel cells
 - › Battery wall to manage supply/demand
 - › Passive heat recovery system to capture building HVAC exhaust duct energy
 - › Natural ventilation architecture and hydronic radiant heating/cooling systems to minimize forced air ventilation requirements
 - › Onsite rainwater collection for reuse on green spaces
 - › Grey water filtration for reuse on green spaces
 - › Fully automated building energy management system

Planning for sustainability.

Public-Private Partnership

ENGIE is more than an expert in the business of electricity, natural gas and energy services; ENGIE is an eager partner uniquely positioned to connect the Center to the global energy market and bring together technology, services, data, and people to help tackle the world's energy challenges. With its subsidiaries and partners, ENGIE is committed to the success of the Energy Advancement and Innovation Center project. The Center will be home to the first laboratory in the ENGIE network to be designated a **"living laboratory"** and the in-house ENGIE research group will work alongside Ohio State researchers and faculty to research and evaluate new technologies as well as sponsor patents, inventions and creative works. The potential here is great, for the innovative ideas, processes, and products that will originate from the Center hold the promise of helping the University reach its sustainability targets, bring new solutions to market and help this public-private partnership lead the energy transition in North America.

Catalysts

A key element in converting innovative ideas into successful startups is the guidance and coaching of leaders from the industry as "catalysts." A catalyst program, where various **industry leaders** with experience in starting and running successful businesses, including some from ENGIE and Axium senior management, would **volunteer** to participate in the incubation teams.

Governance

The Center is suggested to be guided by an Advisory Committee consisting of three (3) members from the University faculty/staff, two (2) from ENGIE and two (2) from the Columbus community with no direct ties to Ohio State or Ohio State Energy Partners. Chairmanship of the Committee would permanently stay with the University. The Committee would meet monthly and vote on major decisions (such as granting access to tenants, research topic decisions, collaboration with other Columbus nonprofits and foundations, budgeting, etc.). The Committee would also take an active role in promoting and marketing the Center, bringing in funds, donations, and fostering collaboration with other public and private entities. Day to day operations would be managed by the Center's Director, appointed by the Committee, and his/her staff. In collaboration with the University, the O&M services may be contracted out to a third party.

Capital Expenditures and Funding

OSEP considers a capital outlay of approximately \$35 million for the facility (\$20 million for the construction of the building and \$15 million for building energy and communications technologies), an incremental **\$7.5 million as seed money** to fund the initial OSU/Engie Labs projects, and another \$7.5 million as operating budget, totaling an investment of **\$50 million**. OSEP also plans to reach out and invite other industry partnerships; non-profit organizations and foundations for their contribution to the Center.

Intellectual Property and Research

While the intellectual property rights decisions are likely to be guided by the Advisory Committee on a project by project basis, OSEP considers that the principle of maximizing value with proportionate rights for the inventor/developer, the University and the Center will be applied. OSEP and the Center will work in accordance with The Office of Responsible Research Practices which provides administrative services to facilitate research, improve review efficiency, and ensure regulatory compliance with research requirements. OSEP will not receive any portion of the proceeds that the Center will generate (except for ENGIE as "inventor/developer" for products that are developed by the ENGIE researchers).



Research



Incubation



Implementation

SCHEDULE 23

FORM OF DESIGN-BUILD AGREEMENT

[See Attached]

Document 00 52 53 - Agreement Form (Design-Build Project)

State of Ohio Standard Requirements for Public Facility Construction

This Agreement is made as of the date set forth below between the State of Ohio, acting by and through the Contracting Authority, and the Design-Builder in connection with the Project.

Project Number: <insert project number>
Project Name: Utility System Concession Agreement Design-Build ECMs
Site Address: <insert street address>
 <insert city, county>

Owner/Contracting Authority : **The Ohio State University**
Project Manager: <insert name>
Address: 400 Enarson Classroom Building
 2009 Millikin Road
 Columbus, Ohio 43210

Design-Builder (“DB”): <insert name>
DB’s Principal Contact: <insert name>
Address: <insert street address>
 <insert city, state zip code>

ARTICLE 1 - SCOPE OF WORK; BUDGET; SCHEDULE; EDGE COMMITMENT

1.1 The DB shall perform and provide all of the Work described in the Contract.

1.1.1 The portion of the Work to be performed by the AOR is described in the **AOR Scope of Services Description** attached as **Exhibit A**.

The Construction Budget is to be established in accordance with the Long-Term Lease and Concession Agreement For The Ohio State University Utility System between the Owner and DB (hereafter, “Concession Agreement”) and specified by amendment to this Agreement.

1.2 The **Preliminary Project Schedule** is attached as **Exhibit B**.

1.3 The DB shall contract with EDGE-certified Business(es) for not less than <insert DB’s EDGE total commitment> percent of the DB’s total compensation excluding the DB’s Contingency (Preconstruction Stage Compensation plus the Contract Sum minus the DB’s Contingency).

ARTICLE 2 - PRECONSTRUCTION STAGE COMPENSATION

The Preconstruction Stage Compensation is to be established in accordance with the Concession Agreement and specified by amendment to this Agreement.

2.1 which is the sum of the (1) Preconstruction Fee, (2) Preconstruction Stage Design-Services Fee, (3) Preconstruction Stage Personnel Costs, and (4) Preconstruction Stage Reimbursable Expenses. The Owner shall pay the Preconstruction Stage Compensation to the DB in exchange for the DB’s proper, timely, and complete performance of the Preconstruction Services.

2.2 Preconstruction Fee. The DB’s Preconstruction Fee is to be established in accordance with the Concession Agreement and specified by amendment to this Agreement and is subject to the following allocation:

Project Stage/Task	Associated Fee	Portion of Total Fee
Program Verification	\$<insert fee amount>	<insert percentage>%
Schematic Design	\$<insert fee amount>	<insert percentage>%
Design Development	\$<insert fee amount>	<insert percentage>%
Construction Documents	\$<insert fee amount>	<insert percentage>%

Project Stage/Task	Associated Fee	Portion of Total Fee
GMP Proposal and Amendment	\$«insert fee amount»	«insert percentage»%
Total Preconstruction Fee	\$«insert fee amount»	100%

2.3 Preconstruction Stage Design-Services Fee. The DB’s Preconstruction Stage Design-Services Fee shall not exceed the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, and shall be paid on an hourly basis according to the rates set forth in the **AOR’s Fee Schedule for Personnel** attached as **Exhibit C**, subject to the following allocation:

Project Stage/Task	Associated Fee	Portion of Total Fee
Program Verification	\$«insert fee amount»	«insert percentage»%
Schematic Design	\$«insert fee amount»	«insert percentage»%
Design Development	\$«insert fee amount»	«insert percentage»%
Construction Documents	\$«insert fee amount»	«insert percentage»%
GMP Proposal and Amendment	\$«insert fee amount»	«insert percentage»%
Total Preconstruction Design Services Fee	\$«insert fee amount»	100%

2.4 Preconstruction Stage Personnel Costs. The DB’s Preconstruction Stage Personnel Costs shall not exceed the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, and shall be paid on an hourly basis according to the rates set forth in the **Personnel Costs Rate Schedule** attached as **Exhibit D**.

2.5 Preconstruction Stage Reimbursable Expenses. The DB’s Preconstruction Stage Reimbursable Expenses shall not exceed the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, and shall be paid according to the **Preconstruction Stage Reimbursable Expenses Schedule** attached as **Exhibit E**.

ARTICLE 3 - CONSTRUCTION STAGE COMPENSATION

3.1 As described in the General Conditions, the parties will establish the Contract Sum, Contract Times, Milestones, and other commercial terms relevant to the Construction Stage through at least one **GMP Amendment**, the form of which is attached as **Exhibit G**.

3.2 The DB shall propose the amount of the DB’s Construction Stage Personnel Costs portion of the Cost of the Work as a part of the proposed GMP Amendment; provided, however, that the DB’s Construction Stage Personnel Costs shall not exceed the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement.

3.2.1 The DB’s Construction Stage Personnel Costs shall be based upon the rates set forth in the **Personnel Costs Rate Schedule** attached as **Exhibit D**.

3.3 The DB shall propose the amount of the General Conditions Costs portion of the Cost of the Work as a part of the proposed GMP Amendment; provided, however, that the General Conditions Costs shall not exceed the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement.

3.3.1 A detailed description of the items of Work included in the General Conditions Costs portion of the Cost of the Work is set forth in the **General Conditions Costs Description** attached as **Exhibit F**.

3.4 The DB shall propose the amount of the DB’s Contingency as a part of the proposed GMP Amendment; provided, however, that the DB’s Contingency shall not exceed an amount equal to the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, set forth as a percent of the Cost of the Work identified by the DB in the proposed GMP Amendment.

3.4.1 Shared-Savings Change Order. No more than 30 days before final payment to the DB, the parties shall execute a Change Order to reduce the Contract Sum by an amount equal to (1) 100 percent of the funds then remaining in the DB’s Contingency. plus (2) an associated reduction of the DB’s Fee in an amount equal to the DB’s Fee established by Section 3.6 of this Agreement, set forth as a percent of the amount by which the Contract Sum is reduced on account of return of the DB’s Contingency. The DB shall not earn shared savings under this Agreement.

3.5 The DB shall propose the amount of the Construction Stage Design-Services Fee as a part of the proposed GMP Amendment; provided, however, that the Construction Stage Design-Services Fee shall not exceed an amount equal to the

amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, set forth as a percent of the sum of the Cost of the Work plus DB's Contingency, both as identified by the DB in the proposed GMP Amendment.

3.6 The DB shall propose the amount of the DB's Fee as a part of the proposed GMP Amendment; provided, however, that the DB's Fee shall not exceed an amount equal to **the amount established in accordance with the Concession Agreement and specified by amendment to this Agreement, set forth as a percent of the sum of the Cost of the Work plus DB's Contingency plus Construction Stage Design-Services Fee**, all as identified by the DB in the proposed GMP Amendment.

ARTICLE 4 - KEY PERSONNEL

4.1 The DB's key personnel for the Project are:

- 4.1.1** «insert name», Project Manager;
- 4.1.2** «insert name», Lead Scheduling Engineer;
- 4.1.3** «insert name», Lead Estimator;
- 4.1.4** «insert name», General Superintendent.

Edit the above list as appropriate for the Project.

4.2 The DB's key personnel are authorized to act on the DB's behalf with respect to the Project and all matters concerning the Project.

ARTICLE 5 - CONSULTANTS

5.1 The DB's Consultants for the Project are:

- 5.1.1** Architect/Engineer of Record:
«insert firm name»
«insert firm address»
«insert firm address»

«insert consultant contact name, title»
- 5.1.2** «insert discipline»:
«insert firm name»
«insert firm address»
«insert firm address»

«insert consultant contact name, title»

Edit the above list as appropriate for the Project.

5.2 The DB may provide a portion of the Work through one or more Consultants, provided, however, the DB will remain responsible for all duties and obligations of the DB under the Contract.

5.2.1 If the DB engages a Design-Assist Firm, that entity **(1)** will be considered a Consultant under the Contract during the Preconstruction Stage and **(2)** before that entity performs any Work during the Construction Stage, it shall be subject to all Applicable Law and Contract provisions concerning prequalification, selection, and engagement, and shall enter into a Subcontract with the DB.

5.3 By appropriate written agreement, the DB shall require each Consultant, to the extent of the Consultant's portion of the Work, to be bound to the DB by the terms of the Contract, and to assume toward the DB all of the obligations and responsibilities which the DB assumes toward the Contracting Authority and Owner.

5.3.1 The DB shall not retain any Consultant on terms inconsistent with the Contract.

5.3.2 All agreements between the DB and a Consultant shall identify the Contracting Authority and Owner as the agreement's intended third-party beneficiaries.

5.3.3 The Contracting Authority's receipt and approval of a copy of the agreement between the DB and a Consultant is a condition precedent to the Owner's obligation to pay the DB on account of the Consultant's services.

5.4 The Owner has no obligation to pay or see to the payment of money to any Consultant except as otherwise required under Applicable Law.

5.5 The DB shall obtain the Contracting Authority's written approval before engaging any Consultant not named above. The DB shall not employ any Consultant against whom the Contracting Authority has a reasonable objection. The Contracting Authority's approval or disapproval of any Consultant, however, will not relieve the DB of the DB's full responsibility for the performance of the Work.

5.6 The DB shall not remove any Consultant from the Project or reduce the extent of any Consultant's participation in the Work without the Contracting Authority's prior written consent. The DB shall not permit any Consultant to replace any previously identified team member except with the Contracting Authority's prior written consent unless the Consultant ceases to employ that person. On notice from the Contracting Authority, the DB shall immediately and permanently remove from the Project any Consultant or person under a Consultant's control whose performance is not satisfactory to the Contracting Authority.

5.7 The Contracting Authority may communicate with any Consultant either through the DB or directly with the Consultant, but the Contracting Authority may not modify the contract between the DB and any Consultant.

5.8 The DB hereby assigns to the Contracting Authority each Consultant's agreement provided that the assignment is effective only after the Contracting Authority terminates the Contract and only for those agreements which the Contracting Authority accepts by notifying the Consultant and DB in writing. The Contracting Authority may re-assign accepted agreements.

ARTICLE 6 - GENERAL PROVISIONS

6.1 Escalation of Personnel Rates.

6.1.1 The DB may adjust the rates set forth in **(1)** the **AOR's Fee Schedule for Personnel** attached as **Exhibit B** in accordance with the AOR's normal salary-review practices and **(2)** the **Personnel Costs Rate Schedule** attached as **Exhibit D** in accordance with the DB's normal salary-review practices, but for both:

- .1 not before the date 1 year after the date of the Agreement,
- .2 not more than once in any 1-year period thereafter, and
- .3 not in excess of 5 percent per annual increase.

6.1.2 No rate increase will **(1)** apply to any Work performed before the Owner and Contracting Authority receive written notice of the increase from the DB, or **(2)** result in an increase in a previously established fixed or not-to-exceed fee such as under **(a) Sections 2.3, 2.4, 3.2, and 3.5** of this Agreement, **(b)** the GMP Amendment, or **(c)** as the parties may agree upon from time to time in connection with all or any part of the Work.

6.2 Effectiveness.

6.2.1 It is expressly understood by the DB that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that there is a balance in the Owner's appropriation not already encumbered to pay existing obligations.

6.2.2 Subject to **Section 6.2.1**, the Contract shall become binding and effective upon execution by the Contracting Authority, the Owner, and the DB.

6.2.2.1 If the DB is a joint venture, **(1)** each individual joint venturer shall **(a)** sign the Agreement in its own name and **(b)** be a party to the Contract, and **(2)** the Contract, Performance Bond, and Payment Bond shall be binding on and apply to all joint venturers jointly and severally.

6.2.2.2 If the DB is a limited liability company, which the Contracting Authority reasonably believes to be a special purpose or similar entity, the Contracting Authority may in its discretion require the limited liability company and each member of the limited liability company to **(1)** sign the Agreement in its own name and **(2)** be a party to the Contract. In that case, the Contract, the Performance Bond, and the Payment Bond shall be binding on and apply to the limited liability company and to all of its members jointly and severally.

6.2.3 This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

6.3 Representations.

6.3.1 The DB represents and warrants that it is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, the Contract is void, and the DB shall immediately repay to the Owner any funds paid under this Contract.

6.3.2 The DB hereby certifies that neither the DB nor any of the DB’s partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC Section 3517.13.

6.3.3 The DB, by signature on this Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

6.3.4 The DB affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the DB performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

ARTICLE 7 - ENUMERATION OF DOCUMENTS

7.1 The Contract Documents constitute the substance of the Contract, and include, but are not limited to, this Agreement (including all of its exhibits), the GMP Documents, final Drawings, final Specifications, Addenda if any, **Contracting Definitions, General Conditions, Wage Rate Requirements**, Project Manual, and Modifications if any.

7.2 This Agreement includes the following documents:

7.2.1 **Supplementary Scope Statement (AOR)** attached as **Exhibit A**;

7.2.2 **Preliminary Project Schedule** attached as **Exhibit B**;

7.2.3 **AOR’s Fee Schedule for Personnel** attached as **Exhibit C**;

7.2.4 **Personnel Costs Rate Schedule** attached as **Exhibit D**;

7.2.5 **Preconstruction Stage Reimbursable Expenses Schedule** attached as **Exhibit E**;

7.2.6 **General Conditions Costs Description** attached as **Exhibit F**;

7.2.7 **GMP Amendment** form attached as **Exhibit G**;

7.2.8 **Minimum Stage Submission Requirements** attached as **Exhibit H**; and

7.2.9 **Supplementary Conditions** attached as **Exhibit I**.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below:

«INSERT DB’S NAME»

OWNER
THE OHIO STATE UNIVERSITY

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

If the DB is a corporation, partnership, sole proprietorship, or limited liability company, use the table above. If the DB is a joint venture or special purpose entity, use the table below. Then delete the unused table and this note.

«INSERT DB'S NAME»

by «insert Joint Venturer/Member's name»

Signature

Printed Name

Title

Date

by «insert Joint Venturer/Member's name»

Signature

Printed Name

Title

Date

END OF DOCUMENT

Exhibit A

ARTICLE 1 - ARCHITECT/ENGINEER OF RECORD'S SCOPE OF SERVICES

1.1 General

1.1.1 Services to be provided by the Architect/Engineer of Record ("AOR") shall at a minimum consist of the activities and stages set forth in **Article 2** and **Article 3**, and any services necessary to comply with the ORC Section 3379.10 Percent for Arts Program.

ARTICLE 2 - MINIMUM PRECONSTRUCTION STAGE SERVICES

2.1 Program Verification Stage

2.1.1 AOR's Program Verification Stage Submission.

2.1.1.1 The AOR shall prepare the following documents to be included in the DB's Program Verification Stage Submission:

- .1** an identification of any unresolved issues related to compliance with Applicable Law; and
- .2** a written description of all modifications of the Owner-provided program information.

2.2 Schematic Design Stage

2.2.1 During the Schematic Design Stage, the AOR shall:

2.2.1.1 identify and analyze requirements of Applicable Law;

2.2.1.2 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment; and

2.2.1.3 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

2.2.2 AOR's Schematic Design Stage Submission.

2.2.2.1 The AOR shall prepare the following documents to be included in the DB's Schematic Design Stage Submission:

- .1** a conceptual site plan and preliminary building plans, sections, and elevations;
- .2** if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials; and
- .3** a written description of all modifications of the Approved Program of Requirements.

2.3 Design Development Stage

2.3.1 During the Design Development Stage, the AOR shall:

2.3.1.1 resolve all issues related to compliance with Applicable Law; and

2.3.1.2 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

2.3.2 AOR's Design Development Stage Submission.

2.3.2.1 The AOR shall prepare the following documents to be included in the DB's Design Development Stage Submission:

- .1** plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural,

- structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;
- .2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;
- .3 the AOR-prepared Design Intent Statement; and
- .4 a written description of all modifications of the Approved Program of Requirements.

2.4 Construction Documents Stage

2.4.1 As the AOR develops the Construction Documents, the AOR shall promptly notify the Contracting Authority and the DB in writing of any revision of the Project that would cause a change in the Contract Sum or Contract Times.

2.4.2 AOR's Construction Documents Stage Submission.

2.4.2.1 The AOR shall prepare the following documents to be included in the DB's Construction Documents Stage Submission:

- .1 as appropriate for a design-build project delivery system, Drawings setting forth in detail the requirements for the construction of the Project; and
- .2 as appropriate for a design-build project delivery system, Specifications prepared in accordance with the most-current CSI *MasterFormat* and that establish in detail the quality levels of all materials and systems required for the Project and include all stipulations pertaining to the furnishing and installation of the Work as required for completion of the Project.

2.4.2.2 If a portion of the Work is subject to an executed GMP Amendment at the time of the AOR's Construction Documents submission, the Contracting Authority, Owner, and Contractor may mutually agree to waive the requirements of this **Section 2.4** for that portion of the Work, subject to the provisions of **Section 2.5.1**.

2.5 GMP Proposal and Amendment

2.5.1 The AOR shall prepare conformed drawings, specifications, and other design-related documents to be included in the GMP Amendment.

ARTICLE 3 - MINIMUM CONSTRUCTION STAGE SERVICES

3.1 Site Visits and Observation

3.1.1 During the Construction Stage, the AOR shall:

3.1.1.1 maintain familiarity with the progress and quality of the Work on the Project, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents; and

3.1.1.2 visit the Project at such intervals as the DB requires, to review the Work of Subcontractors for Defective Work, to become familiar with the progress and quality of the Work on the Project, and to determine if the Work is proceeding in conformity with the Contract Documents.

- .1 Such visits shall specifically include, but are not limited to, observation of large excavations, observation of footings during placement of concrete and observation of masonry work, structural steel erection, roofing work and interior finishes.

3.1.2 If the AOR becomes aware, either through such visits or otherwise, of any Defective Work on the Project, then the AOR shall immediately report all Defective Work to the DB.

3.2 Interpretations

3.2.1 The AOR shall render interpretations of the Contract Documents necessary for the proper execution or progress of the Work on the Project.

3.2.2 The AOR shall keep a log of all RFIs and their respective responses.

3.3 Submittal Review

3.3.1 The AOR shall review Submittals such as Shop Drawings, Product Data, and Samples for conformity with design intent and conformity with the Contract Documents.

3.3.2 The AOR shall also review drawings, calculations, and designs required of Subcontractors and provided with such Submittals (except calculations and designs of manufacturers of original equipment and systems to be installed in the Project and except calculations and designs which the Contract Documents expressly make the sole responsibility of one or more Subcontractors, Material Suppliers, or other persons).

3.4 Contract Modifications

3.4.1 The AOR shall revise the Drawings, Specifications, and other design-related documents as necessary on account of Modifications of the DB's Contract with the Contracting Authority.

3.5 Record Documents

3.5.1 The AOR shall revise the Contract Documents and related electronic files with the information contained on the As-Built Documents submitted by the DB and its Subcontractors.

3.5.2 The AOR shall label the revised Contract Documents and related electronic files as "Record Documents" and reflect the date of the AOR's incorporation of the As-Built Documents.

3.5.3 The Record Documents, to the best of the AOR's knowledge based upon the As-Built Documents delivered to the AOR by the DB and its Subcontractors and the AOR's observations during the progress of the Project, shall detail the actual construction of the Project and contain such annotations by the AOR as may be necessary for someone unfamiliar with the Project to understand the changes that were made to the Contract Documents.

END OF DOCUMENT

Exhibit B

[Not used at this time]

Exhibit C – AOR’s Fee Schedule For Personnel
State of Ohio Standard Requirements for Public Facility Construction

Name	Role	Firm	Rate
«insert name»	«insert role»	«insert firm name»	\$«0.00» per hour

END OF EXHIBIT

Exhibit D - Personnel Costs Rate Schedule
State of Ohio Standard Requirements for Public Facility Construction

Name	Role	Firm	Rate
<insert name>	<insert role>	<insert firm name>	\$<0.00> per hour

END OF EXHIBIT

Document 00 53 53 - GMP Amendment (Design-Build Project)
State of Ohio Standard Requirements for Public Facility Construction

Agreement Exhibit G

When preparing this GMP Amendment for execution, revise the text above from "Agreement Exhibit G" to "GMP Amendment No. N", where "N" is the sequential number of the GMP Amendment, and delete these notes.

The State of Ohio, acting by and through the Contracting Authority, and the DB enter into this Amendment as of the date set forth below to amend the Contract they entered into as of <insert date of Agreement> in connection with the Project known as:

Project Number: <insert project number>
Project Name: <insert project name>

Owner: <insert name>

Contracting Authority: <insert name>

Design-Builder ("DB"): <insert name>

ARTICLE 1 - CONTRACT SUM AND RELATED ITEMS FOR THIS AMENDMENT

1.1 The Contract Sum is \$<insert amount>, which is the sum of the estimated Cost of the Work, plus the DB's Contingency, plus the Construction Stage Design-Services Fee, plus the DB's Fee as follows:

1.1.1 The estimated Cost of the Work is \$<insert amount>, which includes all Allowances (if any) and Unit Prices (if any) defined through this Amendment, and is the sum of:

1.1.1.1 DB's Construction Stage Personnel Costs in the amount of \$<insert amount>, which amount shall not exceed \$<insert DB's Construction Stage Personnel Costs cap from the Agreement>;

1.1.1.2 General Conditions Costs in the amount of \$<insert amount>, which shall not exceed \$<insert General Conditions Costs cap>;

- .1** Since the date of the Agreement, the scope of the General Conditions Work has been increased as follows: <insert text description of the increase of the scope of the General Conditions Work>.
- .2** On account of the increase in the scope of the General Conditions Work, the General Conditions Costs cap stated in the Agreement is hereby changed to \$<insert new General Conditions Costs cap>.

1.1.1.3 all Work the DB proposes to provide through Subcontractors in the amount of \$<insert amount>;

1.1.1.4 all Work the DB proposes to self-perform directly or through a DB Affiliated Entity in the amount of \$<insert amount>, which amount does not include any costs accounted for under the DB's Construction Stage Personnel Costs or General Conditions Costs.

1.1.2 The DB's Contingency in the amount of \$<insert amount>, which shall not exceed <insert DB Contingency percentage from the Agreement> percent of the above-identified Cost of the Work.

1.1.2.1 Notwithstanding **Article 9** of the **General Conditions**, the Contingency Review Dates will be the dates on which the DB achieves the following activities identified in the **Construction Progress Schedule** attached as **GMP Exhibit E**:

<insert activity number, activity name>
<insert activity number, activity name>
<insert activity number, activity name>

Delete Section 1.1.2.1 completely if it is not applicable.

1.1.3 The Construction Stage Design-Services Fee in the amount of \$<insert amount>, which shall not exceed <insert Construction Stage Design-Services Fee percentage from the Agreement> percent of the sum of the above-identified Cost of the Work plus the above-identified DB's Contingency.

1.1.4 The DB’s Fee in the amount of \$«insert amount», which shall not exceed «insert DB Fee percentage from the Agreement» percent of the sum of the Cost of the Work plus the DB’s Contingency plus the Construction Stage Design-Services Fee, all as identified above.

1.2 Recap of Contract Sum and Related Items:

Compensation Component Description refer to complete description in the Section of this GMP Amendment referenced below	Current Amount before execution of this GMP Amendment	Increase(Decrease) amount added to or (deducted from) Current Amount	Amended Amount after execution of this GMP Amendment
1.1 Contract Sum	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.1 Estimated Cost of the Work	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.1.1 Personnel Costs	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.1.2 General Conditions Costs	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.1.3 Subcontracted Work	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.1.4 Self-performed Work	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.2 DB’s Contingency	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.3 Design-Services Fee	\$«insert amount»	\$«insert amount»	\$«insert amount»
1.1.4 DB’s Fee	\$«insert amount»	\$«insert amount»	\$«insert amount»

If this is the first GMP Amendment for the Project, the values in the Current Amount column must be \$0.00. If this is NOT the first GMP Amendment for the Project, the values in the Current Amount column must be the same as the values in the Amended Amount column on the last previously executed GMP Amendment. In either case, the values in the Increase(Decrease) column must match the values in Section 1.1 and subsequent sections, and the values in the Amended Amount must be the Current Amount plus the Increase(Decrease). The Preconstruction Services Amendment Form must be used to modify Preconstruction Services Compensation.

1.3 The DB’s total compensation shall include the DB’s Preconstruction Stage Compensation plus the amended amount of the Contract Sum identified in the table above.

1.4 The penal sum of the DB’s Bonds shall equal 100 percent of the DB’s total compensation minus the DB’s Preconstruction Stage Design Services Fee and minus the amended amount of the Design Services Fee identified in the table above.

ARTICLE 2 - CONTRACT TIMES

2.1 The Contract Times are the periods established in the following table for the achievement of the associated Milestones:

Construction Stage Milestone(s) to which Liquidated Damages apply	Contract Time	Projected Date (as of the date of this GMP Amendment)
«insert description of interim milestone – add more rows if necessary – delete if none»	«insert number of calendar days» days	«insert date»
Substantial Completion of all Work	«insert number of calendar days» days	«insert date»

2.1.1 The projected dates listed under “Projected Date (as of the date of this GMP Amendment)” are provided only for convenient reference during the consideration and negotiation of this GMP Amendment. The durations listed under “Contract Time” define the Contract Times and take precedence over the projected dates.

Each duration in the Contract Time column above must be calculated from the anticipated date of the Notice to Proceed for the Work covered by this GMP Amendment to the date that the milestone must be achieved. DO NOT insert durations calculated between interim milestones as this DOES NOT comply with the General Conditions.

ARTICLE 3 - LIST OF EXHIBITS

3.1 This Amendment is based upon the following documents:

3.1.1 Basis Documents attached as **GMP Exhibit A**;

(This exhibit includes the AOR-prepared Design Intent Statement and a list, which identifies by number, title, and date, all of the Drawings, Specifications, and other documents, upon which the DB relied to prepare this Amendment.)

3.1.2 Assumptions and Clarifications attached as **GMP Exhibit B**;

(This exhibit includes a complete list of the assumptions and clarifications made by the DB in the preparation of this Amendment, which list is intended to clarify the information contained in the Basis Documents, but is not intended to otherwise modify the Contract.)

3.1.3 Project Estimate attached as **GMP Exhibit C**;

(This exhibit includes a detailed estimate of the Cost of the Work which (1) allocates the cost of each of item of the Work to labor and materials/equipment organized by trade categories and (2) does not contain a lump-sum estimate for any item other than the DB's Fee and the DB's Contingency. This exhibit is informational only. It is included to provide a tool to evaluate, analyze, and discuss the proposed Contract Sum.)

3.1.4 Project Schedule attached as **GMP Exhibit D**;

3.1.5 Construction Progress Schedule attached as **GMP Exhibit E**;

3.1.6 Staffing Plan attached as **GMP Exhibit F**;

(This exhibit includes the DB's detailed plan for staffing the Project during the Construction Stage and an outline of the qualifications and experience of the DB's proposed project manager and proposed superintendent, including references, unless the DB previously submitted that information and the DB's project manager and superintendent were approved.)

3.1.7 Subcontractor Work Scopes attached as **GMP Exhibit G**;

(This exhibit includes a detailed scope-of-Work description for each anticipated Subcontract.)

3.1.8 Scope of DB's Self-Performed Work attached as **GMP Exhibit H**;

(This exhibit includes a detailed scope-of-Work description for all trade Work the DB proposes to perform itself or through a DB Affiliated Entity if the requirements in the Contract are met; otherwise this scope of Work will be performed by a Subcontractor.)

3.1.9 Schedule of Allowances attached as **GMP Exhibit I** (if applicable);

(This exhibit includes a complete list and detailed description of all Allowance Items with related measurement and payment terms.)

3.1.10 Schedule of Unit Prices attached as **GMP Exhibit J** (if applicable);

(This exhibit includes a complete list and detailed description of all Unit Price items with related measurement and payment terms.)

3.1.11 Schedule of Alternates attached as **GMP Exhibit K** (if applicable); and

(This exhibit includes a complete list and detailed description of all Alternates with related measurement and payment terms.)

3.1.12 Schedule of Incentives and Shared Savings attached as **GMP Exhibit L** (if applicable).

(This exhibit includes a detailed description of all performance incentives/bonuses applicable to the Work including related measurement/entitlement and payment terms.)

The following Treasurer's Certification is required on all Contracts for Projects by and for Two-Year Colleges. For all other Contracts, delete the Treasurer's Certification below.

TREASURER'S CERTIFICATION

This signature certifies the amount required to meet the obligation in the fiscal year in which this Amendment is made has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

Signature

Printed Name
Chief Financial Officer

Institutions of Higher Education may revise "State of Ohio" to "Owner" in the upper right block below. If the Project is locally administered, delete the "Owner's Concurrence" signature in the lower left block and the associated rows of the table below.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date set forth below:

«INSERT DB'S NAME»

STATE OF OHIO

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

OWNER'S CONCURRENCE

by «insert Owner's name»

Signature

Printed Name

Title

Purchase Order No.

END OF DOCUMENT

Exhibit H

[Not used at this time]

Document 00 73 00 - Supplementary Conditions (Design-Build Project) State of Ohio Standard Requirements for Public Facility Construction

Certifications

These Supplementary Conditions amend and supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions not amended remain in full force and effect. The terms in these Supplementary Conditions defined in the Contracting Definitions or the General Conditions shall meanings assigned to them in those documents.

These Supplementary Conditions are authorized, by the Ohio Facilities Construction Commission, for use on projects constructed by and for The Ohio State University ("University").

Contracting Authority and Owner

The Ohio State University
Facilities Operations and Development
400 Enarson Central Classroom Building
2009 Millikin Road
Columbus, Ohio 43210
614.292.4458
<http://fod.osu.edu>

Institutional Designee

Paul Sherwood
Assistant Vice President

MODIFICATIONS TO GENERAL CONDITIONS

Insert Section 1.12.1.2 as follows:

1.12.1.2 If the Project is administered using Building Information Modeling, the DB shall follow the requirements described in The Ohio State University BIM Standards.

Insert Section 1.13.4 as follows:

1.9.2 If the Project is designed using Building Information Modeling, the AOR shall follow the requirements described in The Ohio State University BIM Standards.

Insert Section 6.3.3.3 as follows:

6.3.3.3 Cutting and patching shall be done by craftspersons skilled in the type(s) of work involved. Refer to the specifications for detailed cutting and patching procedures.

Insert Section 6.3.4.2 and subordinate sections as follows:

6.3.4.2 Columbus Campus: The University will not permit any Work to proceed until utility marking of University-owned utilities has been completed. The DB shall pre-mark the approximate excavation area in white email its request on Company letterhead at least 72 hours prior to the planned excavation. Notification shall include: **(1)** clearly identified area(s) to be marked and acknowledgement of acceptance of being billed for this service; **(2)** the project number and name; **(3)** the DB's name and phone number; **(4)** the billing address and a contact person for the request; **(5)** the name of the person making the request; **(6)** location of the area to be marked; and **(7)** the name of the DB's Project Manager. All associated costs shall be borne by the DB.

- .1 Columbus Campus:** This request to mark the utility locations shall be made via email to Service2Facilities@osu.edu.
- .2 Regional Campuses:** If the DB is performing work on a regional campus it shall coordinate with the campus facility manager on matters of utility protection and marking.
- .3 Off-Campus Facilities:** If the DB is performing work on facilities not contiguous to a campus it shall coordinate with the appropriate facility manager and local public utilities on matters of utility protection and marking.

Insert Section 6.3.7 as follows:

6.3.7 In accordance with Federal Pipeline Safety Standards (CFR 49 Parts 191 and 192) as enforced by PUCO, beginning January 31, 2013, University's Utilities Department will require all personnel working directly with natural gas lines, including those doing "new construction" work, to provide written performance verification of DOT Operator

Qualifications for each covered task performed on the University's Columbus Campus. This directive is intended for natural gas distribution systems and is not applicable to natural gas piping in buildings on the downstream side of the buildings' gas regulator. The DB shall provide the DOT Operator Qualifications Certification directly to the Project Manager.

Insert Section 6.10.7 and subordinate sections as follows:

6.10.7 Hardware.

6.10.7.1 Columbus Campus:

- .1 The DB shall be responsible for providing all permanent interchangeable lock cores and keys for the Project. The DB or its Subcontractor responsible for hardware ("Hardware Subcontractor") will be required to contract with the University Lock Shop for the installation of the permanent cores. The DB or its Hardware Subcontractor shall contact the University Lock Shop, 614.688.1133, which will develop the keys and cores into the key system designated by the user or users of that building. The DB or its Hardware Subcontractor shall also assist the University Lock Shop in developing the appropriate key system. Costs, if any shall be borne by the DB.
- .2 For projects located at the Wexner Medical Center, the Hardware Subcontractor shall coordinate with the Medical Center's Access Control Manager at 614.293.8412.

6.10.7.2 Regional Campuses: If the DB is performing work on a regional campus it shall coordinate with the campus facility manager on matters of keys and cores into the key system designated for the campus.

Replace Section 6.12.1.1 with the following:

6.12.1.1 The DB is responsible for designing and implementing its own safety program, including compliance with OSHA and other state and federal regulations. The DB's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the University's safety plan. At the preconstruction meeting, the Project Manager and the DB will determine which plans need to be submitted for University review, comment, and approval.

Insert Section 6.12.1.2 as follows:

6.12.1.2 The University shall not accept any responsibility or liability for the safety of the DB's employees or managing the DB's safety program on the Project.

Insert Section 6.12.4.3 as follows:

6.12.4.3 The DB shall acquaint itself with and follow the University's established fire alarm procedures and the location of fire warning and extinguishing or control devices.

Insert Sections 6.12.6.3 and 6.12.6.4 as follows:

6.12.6.3 In addition to the SDS notebooks required on Site, the DB shall provide the University with a copy of all SDS.

6.12.6.4 When a Hazardous Material is included in a Shop Drawing, the DB shall submit an SDS with the Shop Drawing. Otherwise, the DB shall submit the SDS at least 3 business days prior to the Hazardous Material being brought on Site.

Replace Section 6.15.5.1 with the following:

6.15.5.1 Effective January 1, 2014, smoking and the use of tobacco and tobacco products will be prohibited in or on all University owned, operated, or leased property, including golf courses, airports, nature centers, regional campuses, the main medical center campus, University Hospital East and all other OSU Medical Center properties. The policy also includes parking lots and garages, state and personal vehicles parked on university property. Tobacco is defined as all tobacco-derived or containing products, including and not limited to, cigarettes (clove, bidis, kreteks), electronic cigarettes, cigars and cigarillos, hookah smoked products, pipes, and oral tobacco (spit and spitless, smokeless, chew, snuff). It also includes any product intended to mimic tobacco products or contain tobacco flavoring. The University's revised non-smoking policy (Policy #7.20) can be viewed at: <http://hr.osu.edu/policy/policy720.pdf>. The DB shall enforce these restrictions on any individual employed by the DB, or the DB's Subcontractors.

Insert Section 6.15.6 and subordinate sections as follows:

6.15.6 Parking.

6.15.6.1 Columbus Campus:

- .1 All parking on the University's campus is restricted and controlled by CampusParc. Employees of the DB and its Subcontractors who will be parking a vehicle on University property must purchase parking permits

- from CampusParc and shall park cars in areas designated to them either by CampusParc or the Project Manager. Parking on streets or in restricted areas is prohibited. Violations will result in a citation or vehicle impoundment.
- .2 At the beginning of the Work, the DB shall work with the Project Manager to determine how many proximity permits are necessary, and how many remote permits will be needed for all employees, including employees of Subcontractors.
 - .3 Depending upon availability, proximity parking contractor permits (CVA permits) may be purchased for employees that must be parked on or near the worksite (such as those who are actively working out of their vehicle), or who must come and go frequently. The CVA permit allows parking in any posted "A", "B", or "C" surface parking. CVA keycards will allow access to staff garages.
 - .4 All other construction personnel are eligible to purchase a contractor remote parking pass (CVB permit), which is restricted to parking at the Buckeye Lot or West Campus park and ride locations. Shuttle buses to central campus are available.
 - .5 Shuttle bus service hours are posted online at <http://ttm.osu.edu>. Private shuttles, arranged by the DB, must be coordinated with Transportation & Traffic Management.
 - .6 DBs and Subcontractors actively working on an Ohio State University project are prohibited from parking in a designated patient parking garage in the Wexner Medical Center at any time, even when paying the posted hourly fees.

6.15.6.2 Regional Campuses: If the DB is performing work on a regional campus it shall coordinate with the campus facility manager on matters of parking permits and designated areas.

Insert Sections 6.15.7 and 6.15.8 as follows:

6.15.7 The DB shall not be permitted to use University streets for any purpose not previously approved by the Transportation & Traffic Management. This includes, but is not limited to, trucks stopping on streets awaiting access to the Site. Should Site constraints be such that offloading of trucks from University streets is required, the DB shall provide a written request to Transportation & Traffic Management 5 days in advance of the date when the unloading is required. The DB shall pay for any traffic control that the Director of Transportation & Traffic Management determines necessary due to the street blockage. The DB shall also post signs 3 days in advance of any street blockage longer than 2 hours, warning motorists of the date, time, and duration of the planned blockage.

6.15.8 The DB shall validate with the appropriate University, city, county, or state agency the status of road work impacting traffic flow on, to, and from, campus.

Insert Sections 6.16.3, 6.16.3.1, 6.16.3.2, and 6.16.4 as follows:

6.16.3 Columbus Campus:

6.16.3.1 The interruption, disconnection, reconnection, reduction, or curtailment of any existing services shall not be undertaken without minimum prior written notice of 2 weeks and shall be coordinated with Service2Facilities, 614.292.4357. This work may be performed during normal working hours, holidays, and weekends or as directed by the Project Manager, but shall always be scheduled to minimize the effect of these shutdowns with other facilities on Campus.

6.17.3.2 The DB shall, at the beginning of the Contract Times, coordinate with the University's Utilities Division for this work. The DB shall determine the number of times and the types and length of shutdown required for connections to that utility. Costs, if any, shall be borne by the DB.

6.17.4 Regional Campuses: If the DB is performing work on a regional campus it shall coordinate with the campus facility manager on matters of utility shutdowns and cost.

Replace existing Section 7.7.2.13.1 with the following:

- .1 The premium portion only for approved overtime (labor and fringes). The DB's Fee and Subcontractor overhead and profit may be applied only to straight time. The straight time portion is included in items in **Sections 7.7.2.3, 7.7.2.4, and 7.7.2.5.**

Replace Section 7.9.2.1 with the following:

7.9.2.1 The DB shall maintain, and require all Subcontractors to maintain, complete and accurate business records in accordance with Generally Accepted Accounting Principles, at its principal place of business. If its principal place of business is not in Columbus, Ohio, the DB shall make records available, and shall require its Subcontractors to make records available, at the Site within 48 hours of a request for the records.

Insert Section 9.2.13.1.1 as follows:

- .1 The DB agrees that any funds which are due to the DB and required to be placed in an escrow account, including but not limited to, retainage, and funds withheld pursuant to mechanic's liens, will be placed in an escrow account at WesBanco, Columbus, Ohio.

Insert Section 12.8.6 and subordinate sections as follows:

- 12.8.6** A list of University holidays is available at <http://controller.osu.edu/pay/pay-holidays.shtm>.

Insert Article 13 with associated sections as follows in its entirety:

ARTICLE 13 - MISCELLANEOUS SUPPLEMENTARY CONDITIONS

13.1 Sexual Harassment

13.1.1 The University maintains an environment free from sexual harassment. The DB and Subcontractors are hereby notified that prompt corrective measures will be taken to stop sexual harassment whenever it occurs in accordance with University policy.

13.2 Use of Name

13.2.1 The DB shall not advertise the fact that it has contracted with The Ohio State University, or make use of the University's name or other identifying marks or property without the prior written consent of the University's Office of Administration and Planning.

13.3 False Fire Alarms

13.3.1 As Liquidated Damages, and not as a penalty, the DB acknowledges and agrees that the University shall be entitled to retain or recover from the DB \$300 or actual costs, whichever is greater, for each false fire alarm that is determined to be a result of negligence by the DB. This amount reflects University's actual costs incurred in dealing with these false alarms, including, but not limited to, the costs of transportation, manpower, and loss of efficiency.

13.4 Personal Services

13.4.1 All individuals employed by the DB who provide personal services to the University are not public employees for the purposes of ORC Chapter 145, as amended.

END OF DOCUMENT

Document 00 71 00 - Contracting Definitions (Design-Build Project)

State of Ohio Standard Requirements for Public Facility Construction

Acceptable Component	A component listed in the Specifications after the Basis of Design Component.
Agreement	The form furnished by the Contracting Authority (including all of its exhibits) that, when completed and signed by the DB and Contracting Authority evidences entry into the Contract.
Allowance	A sum stipulated in the Contract Documents for a particular scope of the Work that may not be completely defined at the time the parties enter into the GMP Amendment. Allowance amounts do not include the DB's Fee on account of the associated Work.
Alternate	A potential change in the scope of the Work, which may include but is not limited to alternate materials or methods of construction, and an adjustment stated in the GMP Amendment to be made to the Contract Sum or Contract Times or both if the corresponding Alternate is incorporated into the Contract.
Alternative Dispute Resolution	A voluntary and non-binding process for the administrative review, consideration, and attempted settlement of a dispute, without resort to judicial process, including but not limited to partnering, negotiation, mediation, impartial fact-finding, dispute review board, and mini-trials, but shall not include arbitration.
AOR	See "Architect/Engineer of Record."
Applicable Law	All federal, state, and local codes, statutes, ordinances, and regulations that apply to the performance of the Work or the Criteria A/E's Services on the Project.
Approved Program of Requirements	A written document approved by the Owner and Contracting Authority that details the functional requirements of the Project and the expectations of how it will be used and operated. These include project goals, measurable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.
Architect/Engineer of Record	The Person responsible for providing professional design services for the Project as provided in the Contract Documents, who serves as the final design professional signatory on the Drawings and Specifications. The Architect/Engineer of Record ("AOR") shall be a (1) registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ORC Chapter 4703, (2) landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ORC Chapter 4703, or (3) professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ORC Chapter 4733.
As-Built Documents	Documents, including but not limited to Drawings, Addenda, Specifications, executed Change Orders, and other elements of the Contract Documents which the DB annotates and otherwise modifies to indicate changes made during the construction process, the location of concealed and buried items, and other information useful to the Owner throughout the life of the completed Project.
Basis Documents	All of the Drawings, Specifications, and other documents (including without limitation the Design Intent Statement), (1) upon which the DB relied to prepare the associated GMP Amendment, and (2) which are identified in Exhibit A to the associated GMP Amendment.
Basis of Design	A document that records the concepts, calculations, decisions, and product selections used to meet the Owner's Project Requirements and to satisfy applicable regulatory requirements, standards, and guidelines. The document includes both narrative descriptions and lists of individual items that support the design process.
Basis of Design Component	A component listed first in the Specifications.

Bid	A written proposal to perform the scope of Work allocated to a Subcontract, which meets the definition of “Trade Contract” under OAC Section 153:1-7-01.
Bidder	A Person that submitted a Bid.
BIM	See “Building Information Model.”
Bond	The Performance Bond, Payment Bond, or both.
Building Information Model	A digital representation of physical and functional characteristics of a facility; a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle, which is defined as existing from earliest conception to demolition; electronic files used to design and coordinate the Project; and may be used to describe a single model or multiple models used in the aggregate.
Certificate of Contract Completion	A form used to document the DB’s achievement of Contract Completion. This form may also be used to document partial Contract Completion.
Certificate of Substantial Completion	A form used to document (1) that the DB has achieved Substantial Completion of the Work or a designated portion of the Work for which the Contracting Authority and the Owner have agreed to take Partial Occupancy, and (2) the date on which the associated Substantial Completion of the Work was achieved.
Change Directive	A written order prepared and executed by the Contracting Authority that directs a change in the Work.
Change Order	A written instrument prepared by the Contracting Authority and executed by the Contracting Authority and the DB that modifies the Contract.
Claim	A demand or assertion, initiated by written notice, certified by one of the parties to the Contract seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract.
Claim Affidavit	A sworn document used in conjunction with filing a lien, which contains a claim on the funds that are due to the DB, in favor of a Person supplying labor, materials, or services for the value of labor, materials, or services supplied.
Commission	See “Ohio Facilities Construction Commission.”
Commissioning Agent	The Person identified by the Contracting Authority who leads, plans, schedules, and coordinates the commissioning team to implement the Commissioning Process for the Project.
Commissioning Plan	A document that outlines the organization, schedule, allocation of resources, and documentation requirements of the Commissioning Process.
Commissioning Process	A quality-focused process for enhancing the delivery of a project. The process focuses on verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the Owner’s Project Requirements.
Commissioning Report	A document that records the activities and results of the Commissioning Process. The Commissioning Report is developed from the final Commissioning Plan with its attached appendices.
Construction Budget	The budget for Construction Costs for the Project established by the Contracting Authority and the Owner.
Construction Cost	The total cost for the DB’s performance of the Work in the Construction Stage including all elements of the Project designed or specified by the AOR (at current market rates of labor and materials), plus DB’s Contingency, plus DB’s Fee. Construction Cost does not include the following: Preconstruction Stage Compensation, Design-Services Fee, the cost of the land, right-of-way acquisition costs, or financing costs.

Construction Progress Schedule	The critical path schedule for performance of the Contract; showing the time for completing the Work within the Contract Time; the planned sequence for performing the various components of the Work; the interrelationship between the activities of the Subcontractors, AOR, DB, Contracting Authority, and Owner; and the Subcontractors' resource and cost loading information; as periodically updated during the performance of the Work.
Construction Stage Design-Services Fee	The amount stipulated as such in the GMP Amendment. The Construction Stage Design-Services Fee is the DB's compensation for the AOR's proper, timely, and complete performance of the AOR's portion of the Construction Stage services as described in the AOR Scope of Services Description attached to the Agreement.
Construction Stage Personnel Costs	The Personnel Costs the DB earns and the Owner pays to the DB during the Construction Stage.
Consultant	A Person engaged by the DB or a Subcontractor to provide professional services of various types for the Project including without limitation the Preconstruction Stage services of a Design-Assist Firm. The term includes the Consultant's authorized representatives, successors, assigns, and subconsultants regardless of tier.
Contract	The state of legal obligation entered into by the State and DB, whereby they have agreed to an exchange of certain acts, materials, equipment, and services for certain monetary consideration, under all terms and conditions specified in the Contract Documents, which shall remain in full force and effect until such time as all obligations under the Contract have been lawfully and completely discharged, or the Contract is terminated under other conditions specified in the Contract Documents.
Contract Completion	The stage in the progress of any Phase when the Work is completed in accordance with the terms of the Contract Documents and the DB has satisfied all of its other obligations under the Contract, including without limitation (1) all governmental authorities have given final, written approval of the Work, (2) a final unconditional certificate of occupancy has been granted and issued to the Owner by the appropriate governmental authorities, and (3) all Punch List items have been completed or corrected.
Contract Documents	Collectively, the documents that constitute the substance of the Contract including but not limited to the Agreement, GMP Documents, final Drawings, final Specifications, General Conditions, Supplementary Conditions if any, Project Manual, and Modifications if any.
Contract Sum	The amount stipulated as such in the GMP Amendment. The Contract Sum is the DB's entire compensation for the DB's proper, timely, and complete performance of the Work during the Construction Stage and is subject to adjustment as provided in the Contract. The Contract Sum does not include the Preconstruction Stage Compensation.
Contract Times	The periods stipulated in the GMP Amendment for the achievement of associated Milestones, in consecutive days, beginning on the date established by the Notice to Proceed, including adjustments as provided in the Contract.
Contracting Authority	The party identified in the Agreement, which may be the Ohio Facilities Construction Commission; an agency of the state of Ohio; an Institution of Higher Education or division thereof; a School District Board; or the legislative body of a political subdivision.
Contracting Authority's Punch List	A document prepared by the Contracting Authority that consists of a list of items of Work to be completed or corrected by the DB as a condition precedent to Contract Completion.

Correction Period	A period of 1 year commencing on the date of Substantial Completion of the Work or a designated portion of the Work which the Contracting Authority and Owner have agreed to take Partial Occupancy.
Cost of the Work	The Cost of the Work is the sum of (without duplication): (1) General Conditions Costs, (2) Construction Stage Personnel Costs, (3) Subcontract Costs, and (4) the cost to the DB of performing (either directly with its own employees or through a DB Affiliated entity) Work the DB is permitted to self-perform during the Construction Stage as provided in the General Conditions. The Cost of the Work does not include any portion of the DB's Fee, DB's Contingency, Design-Services Fee, or Preconstruction Stage Compensation.
Criteria A/E	The architect or engineer retained by the Owner to prepare conceptual plans and specifications, to assist the Owner in connection with the establishment of the design criteria for the Project, and, if requested by the Owner, to serve as the representative of the Owner and to provide other design and construction administration services on behalf of the Owner, including but not limited to confirming that the design prepared by the DB reflects the original design intent established in the design criteria package.
CxA	See "Commissioning Agent."
Date of Commencement	The date established in a Notice to Proceed issued by the Contracting Authority to the DB to mark the start of the Construction Stage and the beginning of the running of the Contract Times.
day	A calendar day of 24 hours measured from midnight to midnight, unless otherwise expressly specified to mean a business day.
DB	See "Design-Builder."
DB Affiliated Entity	Any entity related to or affiliated with the DB or with respect to which the DB has direct or indirect ownership or control, including without limitation any entity owned in whole or part by the DB; any holder of more than 10 percent of the issued and outstanding shares of, or the holder of any interest in, the DB; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the DB or any entity owned by the DB has a direct or indirect interest, which interest includes but is not limited to that of a partner, employee, agent, or shareholder.
DB Payment Request	The form furnished by the Commission that is to be used by the DB in requesting payments and which, when signed by the DB, shall serve as an affidavit that payments requested are in proportion to the Work completed as shown on the Schedule of Values.
DB's Contingency	A portion of the Contract Sum reserved for the DB's exclusive use (subject to the concurrence of the Owner and Contracting Authority) on account of certain unexpected events described in the General Conditions.
DB's Documents	All Project-related documents, including those in electronic form, prepared by the DB, AOR, Consultants, and Subcontractors.
DB's Fee	The portion of the Contract Sum attributable to the aggregate of the DB's Overhead and profit related to the DB's proper, timely, and complete performance of the Work in the Construction Stage. The DB's Fee does not include the DB's Preconstruction Stage Compensation.
DB's Punch List	A document prepared by the DB that consists of a list of items of Work to be completed or corrected by the DB as a condition precedent to Contract Completion.
Defective Work	Work that does not conform to the Contract Documents; or does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test or approval; or has been damaged prior to the Contracting Authority's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by the Owner; or that is not free from defects in

	workmanship, materials or equipment during the period of any warranty or guarantee.
Design-Assist Firm	A Person capable of monitoring and assisting in the completion of the plans and specifications under ORC Section 153.50, who the DB engages to provide design-assist services.
Design Intent Statement	An AOR-prepared document intended to clarify the DB's stage submission (e.g., the DB's Design Development Stage submission) upon which the GMP Amendment will be based. The Design Intent Statement shall include a description of all materially incomplete design elements and the intended scope, quantity, quality, and other characteristics of those elements that the AOR intends to describe in subsequent Drawings and Specifications for the Work.
Design-Builder	The party identified as such in the Agreement.
Design-Services Fee	The sum of the Preconstruction Stage Design-Services Fee plus the Construction Stage Design-Services Fee, which together are the DB's compensation for all services provided by the AOR.
Differing Site Condition	Either (1) a subsurface or otherwise concealed physical condition encountered at the Site that differs materially from the conditions indicated in the Contract Documents or (2) an unknown physical condition of an unusual nature encountered at the Site that differs materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.
Dispute Review Board	A form of Alternative Dispute Resolution that is typically comprised of three members, selected jointly by the DB and the Contracting Authority, to monitor the progress of construction and provide recommended resolutions to disputes that are brought before them.
Drawings	Graphic portions of the Contract Documents, showing the design, type of construction, location, dimension, and character of the Work to be provided by the DB, which generally includes plans, elevations, sections, details, schedules, diagrams, notes, and text.
Electronic File	Information maintained in a computer system or format that is intended to facilitate a Person's use and manipulation of the information including but not limited to Word, Excel, PDF, Primavera, CAD, and BIM files all in their native format.
Enclosure, Permanent	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and permanent windows and entrances are in place.
Enclosure, Temporary	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and windows and entrances are provided with suitable temporary enclosures.
Extra Materials	Materials required by the Contract Documents that are not incorporated into the Project but are given to the Owner to be used for future maintenance or repairs.
Final Inspection	The final review of the Work by the Contracting Authority to determine whether issuance of the Certificate of Contract Completion is appropriate.
furnish	Supply and deliver to the Site, or other specified location, ready for installation.
General Conditions	The State's Standard General Conditions currently in effect, which may be modified by the Commission from time to time.
General Conditions Costs	General Conditions Costs include only the DB's costs to provide the General Conditions Work including without limitation the costs of all of the following Site-related items: telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, and pre-approved travel, lodging, and parking costs. General Conditions Costs also include (1) Bond premiums, (2) premiums for subcontractor default insurance to the extent incurred on account of

	Subcontractors enrolled for the Project, and (3) premiums for builder's risk insurance if the DB purchases the builder's risk policy for the Project.
General Conditions Work	The Work defined as such in the General Conditions Costs Description exhibit to the Agreement and referred to under the definition of "General Conditions Costs."
GMP	See "Guaranteed Maximum Price."
GMP Amendment	The amendment to the Contract establishing the Contract Sum, Contract Times, and other Contract terms for a Project Phase.
GMP Documents	The GMP Amendment (including all of its exhibits) signed by the Owner, Contracting Authority, and DB.
Guaranteed Maximum Price	Synonymous with Contract Sum and does not refer to a cost-reimbursable financial arrangement (e.g., cost-plus, cost-plus with a guaranteed maximum price, target price, etc.).
Hazardous Materials	Any material, substance, pollutant, or contaminant that is defined, regulated, referenced, or classified in the Comprehensive Environmental Response, Compensation and Liability Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, Clean Air Act, Hazardous Materials Transportation Uniform Safety Act, Toxic Substances Control Act, or any other Applicable Law relating to any hazardous, toxic, or dangerous waste, substance, or material. Any substance or material that, after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will, or may reasonably be anticipated to, cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes but is not limited to asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.
Indemnified Parties	The State, Contracting Authority, Owner, Criteria A/E, other Separate Consultants, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.
install	Put into use or place in final position, complete and ready for intended service or use.
Institutional Designee	The party identified in the Agreement empowered with a level of authority similar to the Executive Director of the Commission, which may be the university architect or engineer, director of capital facilities, or an institution vice president.
Institution of Higher Education	Any state institution of higher education as defined in ORC Section 3345.011, including any state university or college, community college, state community college, technical college, university branch, community college district, technical college district, university branch district, and the applicable board of trustees or, in the case of a university branch district, any other managing authority.
Liquidated Damages	A sum established in the Contract Documents, pursuant to the statutory delay forfeiture authorized under ORC Section 153.19, to be paid to the Owner due to the DB's failure to complete the Work within the Contract Time for achievement of Substantial Completion, or any applicable portion of the Work on or prior to any associated Milestone.
Material Supplier	A Person under a contract with the DB to furnish materials or supplies in furtherance of the Work during the Construction Stage of the Project, including all such Persons in any tier. Material Supplier does not include any Separate Contractor unless expressly assigned in writing to the DB by the Owner and accepted by the DB.
mediation	A voluntary process in which a neutral third party meets with the parties who have a disagreement or dispute and attempts to facilitate a mutually satisfactory resolution.
Milestone	A principal event specified in the Contract relating to an intermediate completion date or time prior to and including Substantial Completion of all Work.

Modification	A (1) written amendment to the Contract signed by both parties, (2) Preconstruction Services Amendment, (3) Change Order, (4) Change Directive, or (5) an order for a minor change in the Work.
negotiation	A form of Alternative Dispute Resolution in which all parties involved are represented by those invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.
Neutral Facilitator	An nonpartisan third-party without decision-making authority who is engaged to assist the Project's key stakeholders in developing cooperative relationships, achieving project objectives, avoiding or minimizing disputes, and nurturing a more-collaborative ethic characterized by trust, cooperation, and teamwork.
Notice of Commencement	A notice prepared by the Contracting Authority identifying the Project, DB, Separate Contractors, and their respective Sureties; and the name of the Contracting Authority's representative upon whom a Claim Affidavit may be served.
Notice to Proceed	A written notice provided by the Contracting Authority to the DB to establish the Date of Commencement and to authorize the DB to proceed with the Construction Stage of the Work.
OAC	Ohio Administrative Code
Ohio Facilities Construction Commission	The authorized contracting agent for public improvement projects in accordance with ORC Chapters 123 and 153, acting by and through its Executive Director.
ORC	Ohio Revised Code
Overhead	The term "Overhead" includes all of the following costs: (1) home-office payroll, which includes (except where specifically allowed as a Personnel Cost or Design-Services Fee): payroll costs and all other compensation (including without limitation membership in trade, business, or professional organizations; professional licenses; training; and bonuses or similar plans/arrangements related to performance on, or profit from, the Project) of the DB's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by the DB in the DB's principal or a branch office (not including the DB's Site office) for general administration of the Work; (2) home-office expenses, which include (except where specifically allowed as a Reimbursable Expense or General Conditions Cost): all expenses of the DB's principal and branch offices including without limitation home-office telephone, telephone charges, computers, fax, postage, photos, copies, legal services, and accounting services; (3) all of the DB's capital expenses, including without limitation interest on the DB's capital employed for the Work and charges against the DB for delinquent payments; (4) except where specifically allowed as a use of the DB's Contingency, all costs due to the negligence or breach of contract of the DB, a Subcontractor, a Consultant, or anyone for whom they may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property; (5) all costs related to insurance provided by the DB, whether required under the Contract or not, except (a) premiums for subcontractor default insurance in the Construction Stage if those insurance premiums are included as a General Conditions Cost and (b) premiums for builder's risk insurance in the Construction Stage if those insurance premiums are included as a General Conditions Cost; (6) all travel, lodging, and parking costs, except where specifically allowed as a pre-approved Reimbursable Expense or General Conditions Cost; (7) all applicable taxes of every kind (including but not limited to commercial activity tax ("CAT")) except where otherwise specifically allowed; (8) all other overhead or general administrative expenses of any kind and the costs of any item not specifically allowed: (a) as a Personnel Cost, Design-Services Fee, or a Reimbursable Expense in the Preconstruction Stage, or (b) as a Cost of the Work or Design-Services Fee in the Construction Stage.

Owner	The state of Ohio agency, Institution of Higher Education or division thereof, School District Board, or other instrumentality for whom the Project is being constructed.
Owner's Project Requirements	A written document that details the functional requirements of the Project and the expectations of how it will be used and operated. These include project goals, measureable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.
Partial Occupancy	The condition that occurs when the Owner occupies or uses a portion of the Project prior to Contract Completion, partial occupancy is approved by authorities having jurisdiction, and items of Work cannot be completed until a subsequent date.
partnering	A voluntary dispute prevention process involving team building activities to help define common goals, improve communication, and foster a problem solving attitude among a group of contracting parties that must work together throughout Contract performance to be less adversarial and more cooperative.
Payment Bond	A written guaranty from a Surety to the Owner providing financial assurance that the DB will make the required payments to Subcontractors and Material Suppliers for all labor, materials, and other services related to the Project.
Performance Bond	A written guaranty from a Surety to the Owner providing financial assurance that the DB will perform the Work in accordance with the Contract Documents.
Person	An individual, corporation, business trust, estate, partnership, association, or other public or private entity.
Personnel Costs	The rates and fees to be paid by the Owner to the DB on account of the proper, timely, and complete performance of certain Work by the DB's employees, which rates and fees are fully loaded and include without limitation: (1) the portion of direct salaries and wages of the DB's personnel (whether stationed at the DB's principal or branch offices or stationed at the Site, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project) to the extent of their time devoted to the Project, and (2) the portion of the cost of their mandatory and customary contributions and benefits (such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law, and similar benefits) related to their time devoted to the Project. Personnel Costs also include the costs of personal protective equipment (e.g., hard hats, safety glasses, hearing protection, etc.). The term "Personnel Cost(s)," when used without a modifier, refers to either a Preconstruction Stage Personnel Cost or a Construction Stage Personnel Cost. The term "Personnel Cost(s)," does not include the Design-Services Fee.
Phase	A separation in the Work of the Project by sequence or time intervals, which may include different Subcontractors for each Phase.
Preconstruction Fee	The portion of the DB's Preconstruction Stage Compensation attributable to the aggregate of the DB's Overhead and profit related to the DB's proper, timely, and complete performance of the Preconstruction Stage Services. The Preconstruction Fee does not include the DB's compensation for Preconstruction Stage Personnel Costs, Preconstruction Stage Design-Services Fee, or Preconstruction Stage Reimbursable Expenses.
Preconstruction Services	The DB's services in the Preconstruction Stage as set forth in the Contract Documents. The Preconstruction Services include services performed during the Preconstruction Stage by any Design-Assist Firm the DB engages on the Project.
Preconstruction Services Amendment	A written instrument executed by the Contracting Authority and DB that modifies the Contract as it pertains to the Preconstruction Stage.

Preconstruction Stage Compensation	The amount stipulated as such in the Agreement. The Preconstruction Stage Compensation (1) is the DB's entire compensation for the DB's proper, timely, and complete performance of the Preconstruction Services, which includes Preconstruction Services performed by any Design-Assist Firms the DB engages on the Project and (2) is subject to adjustment as provided in the Contract.
Preconstruction Stage Design-Services Fee	The amount stipulated as such in the Agreement. The Preconstruction Stage Design-Services Fee is the DB's compensation for the AOR's proper, timely, and complete performance of the AOR's portion of the Preconstruction Services as described in the AOR Scope of Services Description attached to the Agreement.
Preconstruction Stage Personnel Costs	The Personnel Costs the DB earns and the Owner pays to the DB during the Preconstruction Stage. Preconstruction Stage Personnel Costs do not include the Preconstruction Stage Design-Services Fee or the Preconstruction Fee.
Preconstruction Stage Reimbursable Expenses	Preconstruction Stage Reimbursable Expenses include only the following items: (1) travel, lodging, and parking costs when incurred in connection with the Project and approved in writing by the Contracting Authority before the cost is incurred, and (2) expenses described in the Preconstruction Stage Reimbursable Expenses Schedule attached to the Agreement.
Product Data	Standard illustrations, schedules, diagrams, performance charts, instructions, and brochures that illustrate physical appearance, size, and other characteristics of materials and equipment.
Progress Status Report	A monthly progress report to be prepared by the DB and containing the following information for each Project Phase: (1) listing of actual costs for completed activities, estimates for uncompleted tasks and projections for anticipated funding requirements based on the most recently updated Project Schedule and/or Construction Progress Schedule; (2) identification of variances between actual and budgeted or estimated costs; (3) the updated Construction Progress Schedule; (4) progress photos; (5) an executive summary; (6) a discussion of pending items and existing or anticipated problems, status of RFIs; (7) a safety and accident report; (8) information on each Subcontractor and each Subcontractor's work as well as the entire Work, showing percentages of completion and the number and amounts of Change Orders and Change Directives and relating such information to the Construction Progress Schedule and the Contract Sum; (9) a list of all identified Claims, any threatened claims and issues that, in the reasonable judgment of DB, may potentially become Claims and any potential Change Orders that have been submitted to the Owner by the DB; (10) status of the DB's Contingency; (11) information on compliance with the EDGE participation goals established for the Project; (12) monthly procurement decisions regarding furnishings, fixtures and equipment; (13) status of compliance with required LEED components, if applicable; and (14) such other relevant information as may be reasonably required by the Owner from time to time.
Project	The public improvement, of which the Work performed under the Contract Documents may be the whole or a part.
Project Manager	A permanent employee of the Contracting Authority assigned to the Project and authorized to perform specific responsibilities.
Project Manual	That part of Construction Documents which consists of bound volume(s) of primarily written material which generally contain Division 00 – "Procurement and Contracting Requirements," and Divisions 01 through 49 - "Specifications," and other documents pertaining to the Project.
Project Schedule	A document prepared by the DB that, with respect to each Phase of the Project, identifies, coordinates and integrates the anticipated design and construction schedules, the Contracting Authority's and Owner's responsibilities, government

	authority reviews and other activities as are necessary for the timely completion of the Work.
Proposal	The offer of the DB to perform the Work set forth in a Proposal Request.
Proposal Request	A document issued after execution of the GMP Amendment requesting a Proposal from the DB, which may initiate a Change Order to modify the Contract.
provide	Furnish and install, complete and ready for intended use.
Punch List	A document listing items of Work requiring correction or completion by the DB as a condition precedent to Contract Completion.
Record Documents	Electronic files and printed documents of all nature prepared by the AOR, which incorporate the information shown on the DB's As-Built Documents. They consist of the "Record Drawings" and "Record Project Manual," Record Model, Certificate of Substantial Completion, Certificate of Contract Completion (as complete), manufacturers' warranties, Certificate(s) of Occupancy, approved shop drawings and other action submittals, Change Directives, Proposal Requests, Requests for Interpretation, Change Orders, balancing reports, and the final version of the approved Construction Progress Schedule.
Record Drawings	The Drawings, which have been revised by the AOR to show the changes made during the construction process, conformed to represent the Work as executed by the DB.
Record Model	The Building Information Model, which has been revised by the AOR to show the changes made during the construction process, conformed to represent the Work as executed by the DB.
Record Project Manual	The Project Manual of the Contract Documents, which has been revised by the AOR to show the changes made during the construction process, based on the As-Built Project Manual furnished by the DB.
Reimbursable Expenses	See "Preconstruction Stage Reimbursable Expenses."
Request for Change Order	A written notice from the DB accompanied by a Proposal for a change in the Work.
Request for Interpretation	A written request to the Contracting Authority seeking an interpretation or clarification of the Contract Documents.
RFI	See "Request for Interpretation."
Samples	Physical examples, color selection items, field samples, and mock-ups furnished by the DB to illustrate functional and aesthetic characteristics of products, materials, equipment, or workmanship and establish criteria by which the Work shall be judged.
Schedule of Values	A full, accurate, and detailed statement furnished by the DB reflecting a defined breakdown of the Contract Sum.
School District	A local, exempted village, or city school district as defined in ORC Chapter 3311, or a joint vocational school established pursuant to ORC Section 3311.18, performing essential governmental functions of state government pursuant to ORC Sections 3318.01 to 3318.20.
School District Board	The board of education of a School District.
Separate Consultant	A Person engaged by the Owner or the Contracting Authority to provide Project-related professional services other than the services under this Contract. The term includes the Separate Consultant's authorized representatives, successors, assigns, and subconsultants regardless of tier.
Separate Contract	The contract between the Owner or the Contracting Authority and a Separate Consultant or a Separate Contractor.

Separate Contractor	A Person under contract with the Owner or the Contracting Authority to provide Project-related work other than the Work under this Contract. The term includes the Separate Contractor's authorized representatives, successors, assigns, and subcontractors regardless of tier.
Shop Drawings	Drawings, diagrams, illustrations, and schedules specifically prepared for the Project provided by the DB or a Subcontractor to illustrate some portion of the Work. Shop Drawings are not Contract Documents. Shop Drawings on equipment shall include a written statement from the manufacturer of the equipment certifying the equipment is in compliance with the Contract Documents.
Site	The location designated for the Project.
Specifications	Those portions of the Contract Documents consisting of detailed written administrative, procedural, and technical requirements, included in Divisions 01 through 49, for the construction of the Work, whether physically on the Drawings or bound in separate volumes, including identification of acceptable materials, methods, equipment, quality, and workmanship.
Staffing Plan	The DB's detailed plan for staffing the Project during the Construction Stage.
Stage	A distinct period in the life cycle of a facility from concept through construction, to use and deconstruction or demolition. Typical Stages include the Preconstruction Stage, which includes the Program Verification, Schematic Design, Design Development, and Construction Documents stages; and the Construction Stage, which includes Construction and Closeout activities.
Standard Requirements	The brief name of the "State of Ohio Standard Requirements for Public Facility Construction," including but not limited to General Conditions, and other Division 00 Documents and Division 01 Sections; currently in effect, which the Commission may modify from time to time.
State	The government of Ohio, including any organized body, office, or agency established by the laws of this state for the exercise of any function of state government, any state institution of higher education as defined in ORC Section 3345.011, or any School District Board as defined in ORC Section 3318.01.
Subcontract	Any contract or agreement between the DB and a Subcontractor for performance of a portion of the Work.
Subcontract Form	The State of Ohio Subcontract Form prescribed by OAC 153:1-3-02 and required for use with the Design-Build method of project delivery.
Subcontract Costs	The sum of the contract values of all of the Subcontracts the DB enters into in furtherance of the Work. The Subcontract Costs include the cost of Subcontractor-provided surety bonds (if any).
Subcontracting Plan	The DB-developed written plan which describes in detail the DB's strategy for packaging and scheduling bidding and for ensuring that the scopes of Work of the various Subcontractors are coordinated, all requirements for the Project have been assigned to the appropriate Subcontract, the likelihood of jurisdictional disputes between trades has been minimized, and proper coordination has been provided for phased construction (if any).
Subcontractor	A Person under a contract with the DB to perform any part of the Work during the Construction Stage of the Project, including all such Persons in any tier. The term "Subcontractor" includes Material Suppliers, but does not include any Separate Contractor unless expressly assigned in writing to the DB by the Owner and accepted by the DB.
Substantial Completion	The stage in the progress of the Work when the Work (or designated portion of the Work for which the Contracting Authority and Owner have agreed to take Partial Occupancy) is sufficiently complete in accordance with the Contract that the Owner can utilize the Work for its intended use, as determined by the Contracting Authority.

	The issuance of a certificate of occupancy or partial certificate of occupancy (if applicable) is a condition precedent to the achievement of Substantial Completion.
Substantially Complete	See “Substantial Completion.”
Substitution	An article, device, material, equipment, form of construction, or other item, proposed by the DB and approved by the Contracting Authority for incorporation or use in the Work as being functionally and qualitatively equivalent to essential attributes of a Basis of Design or Acceptable Component specified in the Contract Documents.
Supplementary Conditions	Amendments to the General Conditions, issued as a separate document, which describe conditions of the Contract unique to a particular Owner or Project, which may include provisions regarding the assignment of responsibility for refuse removal, safety and security precautions and programs, temporary Project facilities and utilities, weather and fire protection, scaffolding and equipment, materials and services to be used commonly by the DB and Subcontractors and requiring the DB to provide assistance in the utilization of any applicable equipment system, preparation of operation and maintenance manuals, and training of Owner personnel for operation and maintenance of the Project. The General Conditions shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the Commission.
Surety	A Person who provides financial assurances under a Performance Bond or a Payment Bond.
Systems Manual	A system focused composite document that includes the operation manual, maintenance manual, and additional information of use to the Owner after it begins to use the facility.
Unit Price	The cost of providing a unit of Work including labor, materials, services, and associated expenses as described in the GMP Amendment. Unit Prices do not include the DB’s Fee on account of the associated Unit Price Work.
Work	The labor, materials, equipment, and services, individually or collectively which are required by the Contract Documents, to be performed or provided by the DB for the Project. The furnishing of all design services, material, labor, detailing, layout, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, and all other services, facilities, and items reasonably necessary for the full and proper performance and completion of the requirements of the Project as set forth in the Contract Documents, and items reasonably inferable therefrom and consistent therewith for the proper execution and completion of the design and construction and other services required by the Contract Documents, whether provided or to be provided by the DB or a Subcontractor, or any other entity for whom the DB is responsible, and whether or not performed or located on or off of the Site.

END OF DOCUMENT

Document 00 72 53 - General Conditions (Design-Build Project)
State of Ohio Standard Requirements for Public Facility Construction

TABLE OF CONTENTS

ARTICLE 1 - DB’S RESPONSIBILITIES.....1
ARTICLE 2 - STATE’S RIGHTS AND RESPONSIBILITIES6
ARTICLE 3 - CRITERIA A/E’S RESPONSIBILITIES.....7
ARTICLE 4 - SUBCONTRACTORS8
ARTICLE 5 - PRECONSTRUCTION SERVICES.....14
ARTICLE 6 - CONSTRUCTION AND CLOSEOUT.....26
ARTICLE 7 - MODIFICATIONS.....42
ARTICLE 8 - DISPUTE RESOLUTION49
ARTICLE 9 - COMPENSATION AND PAYMENT.....55
ARTICLE 10 - BONDS, INSURANCE, AND INDEMNIFICATION.....63
ARTICLE 11 - SUSPENSION AND TERMINATION70
ARTICLE 12 - GENERAL PROVISIONS.....73
KEYWORD INDEX.....78

ARTICLE 1 - DB’S RESPONSIBILITIES

1.1 Nondiscrimination

1.1.1 The DB shall comply with Applicable Law regarding equal employment opportunity, including ORC Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 As required under ORC Section 153.59, the DB agrees to both of the following:

- .1** “in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor’s or subcontractor’s behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates; and”
- .2** “no contractor, subcontractor, or any person on a contractor’s or subcontractor’s behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.”

1.1.1.2 The DB shall cooperate fully with the State’s Equal Opportunity Coordinator (“EOC”), with any other official or agency of the state or federal government that seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

1.1.1.3 In the event the DB fails to comply with these nondiscrimination clauses, the Contracting Authority shall deduct from the amount payable to the DB a forfeiture of the statutory penalty pursuant to ORC 153.60 for each person who is discriminated against or intimidated in violation of this **Section 1.1.1**.

1.1.1.4 The Contract may be terminated or suspended in whole or in part by the Contracting Authority and all money to become due hereunder may be forfeited in the event of a subsequent violation of this **Section 1.1.1**.

1.1.2 Hiring Under State Public Improvement Contracts.

1.1.2.1 Any provision of a hiring hall contract or agreement which obligates the DB to hire, if available, only employees referred to the DB by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public works contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has in effect procedures for referring qualified employees for hire without regard to race, color, religion, national origin, military status as defined in ORC Section 4112.01, or ancestry and unless the labor organization includes in its apprentice and journeyman’s membership, or

otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

1.1.3 Affirmative Action.

1.1.3.1 The DB and Subcontractors shall comply with the State's Equal Employment Opportunity requirements described under OAC 123:2-3 through 123:2-9 that include, without limitation, the requirements described under this **Section 1.1.3**.

1.1.3.2 The DB shall demonstrate its good faith efforts to comply with the utilization goals currently established for minority and women employees and submit documentation to the EOC.

1.1.3.3 By the 10th day of each month, the DB and Subcontractors shall submit to the EOC via the internet a completed Ohio Construction Contract Information Report - Input Form 29 (I-29) for the preceding month. The form shall be submitted through the Ohio Business Gateway: <http://business.ohio.gov/efiling/>.

1.2 Prevailing Wages

1.2.1 The DB shall comply with the prevailing wage requirements described under ORC Chapter 4115 that include, without limitation, the requirements described under this **Section 1.2**.

1.2.2 If the Project is subject to payment of prevailing wage rates, the DB shall:

1.2.2.1 pay to laborers and mechanics performing Work on the Project the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau;

1.2.2.2 post in a prominent place readily accessible by all workers on the Site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Contract;

1.2.2.3 ensure that the rates posted are current and remain posted in legible condition during the period of the Contract; and

1.2.2.4 not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law.

1.2.3 The DB may access the Ohio Department of Commerce, Wage & Hour Bureau at its website, <http://198.234.41.198/w3/webwh.nsf/pages/PrevailingWageBid>, to obtain the current wage rates.

1.3 Royalties and Patents

1.3.1 The DB shall pay all royalties, license fees, and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.

1.3.2 If the DB has reason to believe that use of the specified item is subject to patent or copyright protection, the DB shall immediately notify the Contracting Authority.

1.4 Assignment of Antitrust Claims

1.4.1 By signing the Agreement, the DB assigns, conveys and transfers to the Contracting Authority any right, title, and interest to any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to the State pursuant to the Contract.

1.5 Use of Domestic Steel

1.5.1 The DB is required by law to supply domestically produced steel products used for load bearing structural purposes on all projects funded in whole or in part with State funds.

1.5.2 The DB and Subcontractors shall comply with ORC Section 153.011 regarding the specification and use of domestically produced steel products, and furnish the certifications required by **Section 6.19.4**. Copies of [ORC Section 153.011](#) may be obtained from the Ohio Facilities Construction Commission.

1.6 Drug Free Safety Program Participation

1.6.1 Throughout the performance of the Work, the DB shall be enrolled in and remain in good standing in the Ohio Bureau of Workers' Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program approved by the OBWC that meets the requirements specified in ORC Section 153.03 ("OBWC-approved DFSP").

1.6.2 As required under ORC Section 153.03(E):

1.6.2.1 “Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement.”

1.6.2.2 “Each subcontractor shall require all lower-tier subcontractors with whom the subcontractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a lower-tier subcontractor providing labor at the project site of the public improvement.”

1.6.2.3 “Failure of a contractor to require a subcontractor to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the subcontractor provides labor at the project site will result in the contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that contractor or the subcontractor who was not enrolled in a program for future contracts with the State for 5 years after the date of the breach.”

1.6.2.4 “Failure of a subcontractor to require a lower-tier subcontractor to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower-tier subcontractor provides labor at the project site will result in the subcontractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that subcontractor or the lower-tier subcontractor who was not enrolled in a program for future contracts with the State for 5 years after the date of the breach.”

1.6.3 Prior to authorizing a Subcontractor to commence Work on the Site, the DB shall obtain the Contracting Authority’s approval, and shall also submit written confirmation of the Subcontractor’s enrollment on the **Subcontractor and Material Supplier Declaration** form to the Contracting Authority.

1.6.4 In addition to OBWC-approved DFSP Basic requirements, the DB, each Subcontractor, and each Separate Contractor that provides labor on the Site shall participate in a pool that performs random drug testing of at least 5 percent of its employees who perform labor on the Site. The random drug testing percentage shall also include the on-site supervisors of the DB, Subcontractors, and Separate Contractors. Basic random drug testing shall otherwise comply with the same testing guidelines and criteria as required for OBWC-approved advanced testing. The DB and each Subcontractor shall provide evidence of required testing to the Contracting Authority upon request.

1.7 Use of the State’s Web-based Project Management Software

1.7.1 If the Contracting Authority decides, in its sole discretion, to utilize the State’s web-based project management software for the Project, the DB shall use such software for all compatible services required under this Contract.

1.7.2 All costs for the DB’s use of the State’s web-based project management software for the Project shall be included in its Preconstruction Stage Compensation and Contract Sum, as applicable. If the DB’s staff or its Consultants are unfamiliar with the proper use of such software, the DB shall provide its staff and Consultants for training without additional compensation.

1.8 EDGE Participation and Reporting

1.8.1 The DB shall participate in the “Encouraging Diversity, Growth and Equity” (“EDGE”) Program by subcontracting with, and using one or more, businesses certified as an EDGE Business Enterprise (“EDGE-certified Business”) by the EOC.

1.8.1.1 If the DB is an EDGE-certified Business, the DB may include its own compensation under this Contract in the reporting.

1.8.1.2 The amount of EDGE participation cannot exceed 100 percent of the sum of the DB’s Preconstruction Stage Compensation plus the Contract Sum.

1.8.1.3 The DB shall include in the reporting only those expenditures to EDGE-certified Businesses that perform a commercially useful function as described in OAC Section 123:2-16-15.

1.8.2 The DB shall provide an EDGE Participation Report with each of the DB's invoices for Preconstruction Stage Compensation and each DB Payment Request.

1.8.2.1 The DB shall provide status reports, produced by the DB and each applicable EDGE-certified Business for the Contract indicating:

- .1 the name of each EDGE-certified Business;
- .2 the federal tax identification number of each EDGE-certified Business;
- .3 the date of the EDGE-certified Business contract, Subcontract, or purchase order;
- .4 the projected and actual start and end dates of the EDGE-certified Business contract, Subcontract, or purchase order;
- .5 the original amount of the EDGE-certified Business contract, Subcontract, or purchase order with the DB;
- .6 the current amount of the EDGE-certified Business contract, Subcontract, or purchase order;
- .7 the amount invoiced to date;
- .8 the amount paid to date;
- .9 the status of the EDGE-certified Business contract, Subcontract, or purchase order (active, complete, or void); and
- .10 a statement describing any substantive product or performance deficiencies.

1.8.2.2 The DB shall provide reports for each EDGE-certified Business; however, the reports may be consolidated and submitted as one document.

1.8.3 The DB shall provide an EDGE Participation Final Report simultaneously with its final DB Payment Request.

1.8.3.1 The DB and each EDGE-certified Business shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to, and received by, each EDGE-certified Business.

1.8.4 The DB shall provide the EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

1.8.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment in accordance with **Section 9.2.14**.

1.8.5 If the Project is administered using the State's web-based project management software, the DB shall submit its EDGE Participation Reports, using the "Contractor Pay Request" or "Applications for Payment" business process.

1.8.6 The DB shall cooperate fully with requests for additional EDGE information and documentation from the EOC or Contracting Authority.

1.9 Owner Work Rules

1.9.1 The DB shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project.

1.10 Emergency

1.10.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the DB, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

1.10.2 If the DB believes that it is entitled to an adjustment of the Preconstruction Stage Compensation, Contract Sum, or Contract Times on account of its actions in response to an emergency, the DB may request a Modification by giving written notice under **Section 7.1.1** or **Section 7.3.2**, as applicable.

1.11 Testing and Inspection Services

1.11.1 Unless otherwise specified in the Contract Documents, the DB shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

1.12 DB's Standard of Care

1.12.1 The DB shall perform the professional design services portion of the Work consistent with the professional skill and care ordinarily provided by registered architects, landscape architects, professional engineers, and professional

surveyors regularly providing comparable services in the same or similar locality under the same or similar circumstances.

1.12.1.1 The DB shall also perform the professional design services portion of the Work in accordance with the applicable rules established by the applicable state boards of registration, including, but not limited to, OAC Section 4703-3-07 for registered architects, OAC Section 4703-3-07 for landscape architects, and OAC Section 4733-35 for professional engineers and professional surveyors.

1.12.2 The DB shall perform the portion of the Work, which does not involve professional design services, in a competent manner, consistent with the standards of skill and care exercised by entities licensed to perform (where required under Applicable Law) and regularly performing comparable work in the same or similar locality under the same or similar circumstances.

1.12.3 The DB shall perform the Work as expeditiously as is consistent with the skill and care required under **Sections 1.12.1** and **1.12.2** and the orderly progress of the Project.

1.13 AOR's Agreement and Standard of Care

1.13.1 The agreement between the DB and AOR shall include the **Supplementary Scope Statement (AOR)**, which is attached as **Exhibit A** of the DB's Agreement.

1.13.2 The AOR shall perform the professional design services portion of the Work consistent with the professional skill and care ordinarily provided by registered architects, landscape architects, professional engineers, and professional surveyors regularly providing comparable services in the same or similar locality under the same or similar circumstances.

1.13.3 The AOR shall also perform the professional design services portion of the Work in accordance with the applicable rules established by the applicable state boards of registration, including, but not limited to, OAC Section 4703-3-07 for registered architects, OAC Section 4703-3-07 for landscape architects, and OAC Section 4733-35 for professional engineers and professional surveyors.

1.14 Limit of DB's Responsibility

1.14.1 The DB is not responsible for the Criteria A/E's negligence or the Criteria A/E's failure to properly perform the Criteria A/E's contract.

1.15 Sustainability Requirements

1.15.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policies, and procedures adopted by the Ohio Facilities Construction Commission establishing Sustainability Requirements for Capital Improvements Projects, including but not limited to the applicable provisions of OAC 3318-3:

1.15.1.1 The DB shall incorporate cost-effective, energy-efficient, green building practices to the maximum extent possible into the Project.

1.15.1.2 If the Owner is an agency of the state of Ohio, the DB shall design new construction so that fossil-fuel, greenhouse gas emitting, energy consumption of the facility is reduced by 65 percent, as compared to the regional average for that building type as evidenced by the U.S. U.S. Environmental Protection Agency's Target Finder calculator.

1.15.1.3 If the Owner is an agency of the state of Ohio, the DB shall design renovations so that fossil-fuel, greenhouse gas emitting, energy consumption of the facility is reduced by 50 percent, as compared to the regional average for that building type as evidenced by the U.S. U.S. Environmental Protection Agency's Target Finder calculator.

1.15.1.4 The Owner may apply to the Commission for a waiver of compliance with the requirements of **Section 1.15.1.2** and/or **Section 1.15.1.3**.

1.15.2 If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the DB shall provide submittals certifying achievement of sustainable design rating system criteria for verification by the Green Building Certification Institute or other third party in accordance with the Contract Documents.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 Contracting Authority

2.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.

2.1.2 The Contracting Authority shall furnish information and services required of it in a timely manner.

2.1.3 The Contracting Authority shall have access to the Work at all times whenever the Project is in preparation or progress.

2.1.4 The Ohio Facilities Construction Commission requires use of its forms where indicated in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Commission's website: <http://ofcc.ohio.gov>. The Commission may make modifications to its forms at any time.

2.1.4.1 The DB shall not modify any form provided by the Commission or Contracting Authority.

2.1.4.2 If the Project is administered using the State's web-based project management software, the DB shall utilize the web-based forms and reports within the applicable business process. The State's web-based project management software is sponsored by the Commission, and such web-based forms and reports are acceptable to the Commission in lieu of its paper forms.

2.1.5 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the DB's failure to carry out the Work in conformity with the Contract Documents.

2.2 Owner

2.2.1 The Owner shall designate a representative authorized to act on behalf of the Owner during the Project.

2.2.2 The Owner shall furnish information and services required of it in a timely manner.

2.2.3 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.

2.2.4 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the DB in a condition to permit the DB to perform the Work.

2.2.5 The Owner may request a change in the Work subject to the Contracting Authority's approval.

2.2.6 The Owner shall communicate with the DB through the Contracting Authority.

2.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the DB's failure to carry out the Work in conformity with the Contract Documents.

2.3 Approval of Owner, Contracting Authority, and State

2.3.1 The Owner, Contracting Authority, or State's review and approval of the Work and any information the DB submits to them is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the DB of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

2.4 Neutral Facilitation

2.4.1 The Contracting Authority or Owner may engage a Neutral Facilitator for the purposes of **(1)** building cooperative relationships among the Project participants to achieve discrete objectives; **(2)** encouraging educated, productive, and expedited attempts to avoid, minimize, and resolve disputes; and **(3)** maximizing the effectiveness of each participant's resources.

2.4.1.1 For example, a Neutral Facilitator may facilitate the preconstruction organizational meeting, meetings associated with establishment of the GMP, and efforts to resolve disputes throughout the Project.

2.4.2 The Contracting Authority, Owner, and DB are entitled to interact with the Neutral Facilitator with the full expectation that **(1)** they may act, speak, and disclose information with complete candor and **(2)** all communication, whether oral or written, made in the course of facilitated sessions is confidential.

2.4.3 At any hearing or proceeding regarding any dispute arising out of or related to the Project **(1)** the Neutral Facilitator will not be competent to testify and shall not be called as a witness and **(2)** the Neutral Facilitator's testimony and work product will not be admissible.

2.4.4 The Neutral Facilitator will not **(1)** perform any services with respect to or bear any responsibility for any legal services, design-professional services, construction, or construction management associated with the Project or **(2)** have any liability whatsoever for any claims related to any legal services, design-professional services, construction, or construction management associated with the Project, including without limitation, claims for legal or design-professional errors or omissions, delays, cost overruns, faulty construction, or increased costs.

2.4.5 The Neutral Facilitator's participation in the Project will not relieve the Contracting Authority, Owner, and DB of any of their respective rights or obligations under the Contract.

2.5 DB Performance Evaluation

2.5.1 The Contracting Authority may evaluate the DB's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

2.5.1.1 The DB may request a copy of the completed evaluation(s). If the DB wishes to comment or take exception to any rating or remark, the DB must send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

2.5.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the DB for award of future contracts.

2.5.1.3 The Contracting Authority may request information from the DB for use in evaluating the Criteria A/E's performance. If information is requested, the DB must comply in a timely and responsive manner.

2.5.1.4 If a breach of the Contract is committed by the DB or is attributable to a Subcontractor, that breach will be used in the responsibility analysis of the DB and Subcontractor (where applicable) for future contracts with the State or subcontracts on State projects for 5 years after the date of the breach.

2.5.1.5 If the Project is administered using the State's web-based project management software, the DB shall receive and review the Contracting Authority's evaluation of the DB's performance and respond with its comments, using the "Contractor Evaluation" business process.

ARTICLE 3 - CRITERIA A/E'S RESPONSIBILITIES

3.1 Criteria A/E's Site Visits and Observations

3.1.1 The Criteria A/E may notify, advise, and consult with the Contracting Authority and Owner throughout completion of the Project, which includes the Correction Period.

3.1.1.1 The Criteria A/E may designate a field representative, subject to the Contracting Authority's approval, to attend to the Project.

3.1.2 The Criteria A/E is authorized to disapprove or reject Defective Work. The Criteria A/E shall immediately notify the Contracting Authority any time the Criteria A/E disapproves or rejects an item of Work.

3.1.3 The Criteria A/E is not responsible for design or construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the DB's failure to carry out the Work in conformity with the Contract Documents.

3.2 Approval of Criteria A/E

3.2.1 The Criteria A/E's review and approval of the Work and any information the DB submits to the Criteria A/E is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the DB of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

3.3 Delegation to the Criteria A/E

3.3.1 Except as otherwise prohibited by Applicable Law, the Contracting Authority may delegate to the Criteria A/E any of the Contracting Authority's rights and responsibilities under the Contract. No such delegation will be subject to the DB's consent or approval.

3.4 Limitation of Criteria A/E's Authority

3.4.1 Under no circumstances is the Criteria A/E authorized to:

- 3.4.1.1 bind the Owner or Contracting Authority to any authorizations under, modifications of, or amendments to any contract;
- 3.4.1.2 accept any defective or non-conforming services, Work, or vendor-furnished items;
- 3.4.1.3 make any settlements on behalf of the Owner or Contracting Authority; or
- 3.4.1.4 assume any responsibilities of the DB, Consultants, or Subcontractors.

ARTICLE 4 - SUBCONTRACTORS

4.1 Applicability of Requirements

4.1.1 Sections 4.3, 4.4, and 4.5 apply to all Work during the Construction Stage (including the DB's procurement of long-lead-time items before the Date of Commencement) except:

- 4.1.1.1 the DB's management and administration of the entire Work, including administration of Subcontracts;
- 4.1.1.2 General Conditions Work;
- 4.1.1.3 non-specialty Work valued in the aggregate for the Project at less than \$200,000 if the DB obtains the Contracting Authority's written approval before the commencement of that Work;
- 4.1.1.4 the balance of the Work under a Subcontract where the DB terminated the Subcontract for cause and the DB obtains the Contracting Authority's written approval before commencement of that portion of the Subcontract Work;
- 4.1.1.5 Work performed under a design-assist contract authorized by the Contracting Authority and entered into by the DB as described under Section 4.8; and
- 4.1.1.6 Construction Stage Design Services.

4.2 Subcontracting Plan

4.2.1 The DB shall place development, review, and approval of the Subcontracting Plan on the Project Schedule.

4.2.2 Before soliciting Bids for any particular Subcontract, the Subcontracting Plan shall (1) include a proposed list of prequalified prospective Bidders for that Subcontract and a proposed Bidding Schedule for that Subcontract and (2) be submitted to and approved by the Contracting Authority.

4.3 Prequalification Criteria

4.3.1 The DB shall establish criteria for prequalification of prospective Bidders on Subcontracts that shall:

- 4.3.1.1 include the experience of a prospective Bidder, the prospective Bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the associated Subcontract properly;
- 4.3.1.2 further any goals set as part of the EDGE program or other diversity and inclusion program required by Applicable Law;
- 4.3.1.3 require a prospective Bidder to submit a valid certificate of compliance issued by the EOC under ORC Section 9.47 to establish that it has not been found in violation of any affirmative action program during the last 5 years preceding the date of the prequalification application; and
- 4.3.1.4 require a prospective Bidder to submit proof of current licenses to perform the associated Work as required by the Contracting Authority or by Applicable Law.

4.3.2 The DB shall include any additional criteria for specific Subcontracts required by the Owner or Contracting Authority that are consistent with the scope and needs of the Project.

4.3.3 The DB shall submit its proposed prequalification criteria for each Subcontract to the Contracting Authority and place establishment of prequalification criteria on the Project Schedule.

4.3.4 The Contracting Authority shall approve or reject, in whole or in part, the prequalification criteria submitted by the DB. The Contracting Authority will use the approved prequalification criteria for any future analysis it may conduct concerning a prospective Bidder's responsibility to perform a Subcontract.

4.4 Prequalification Process

4.4.1 The DB shall complete the Prequalification Process for each Subcontract no later than 10 days before the DB intends to solicit Bids for that Subcontract unless the Contracting Authority agrees otherwise in writing.

4.4.2 During the Prequalification Process, the DB shall develop prospective Bidders' interest in the Project and invite at least 3 prospective Bidders to submit qualifications for evaluation. The Contracting Authority or Owner may require the DB to invite and evaluate more than 3 prospective Bidders, including specifically those prospective Bidders (if any) the Owner or Contracting Authority asks the DB to contact.

4.4.2.1 To reach prospective Bidders, the DB may place a notice on **(1)** the State's public notice website created under ORC 125.182 (with assistance of the Contracting Authority or Owner), **(2)** the official website of the Owner or Contracting Authority, **(3)** on other websites such as appropriate trade association websites, news media, or other public media websites, or **(4)** any combination of the foregoing.

4.4.3 The DB shall evaluate the qualifications of each prospective Bidder that timely submits its qualifications and notify each of them whether they are qualified. The DB's determination that a Bidder that timely submits its qualifications does not meet the prequalification criteria shall be final.

4.4.4 The DB shall submit the names and qualifications of at least 3 qualified prospective Bidders to the Contracting Authority. The DB may submit the names of fewer than 3 qualified prospective Bidders if the DB submits to the Contracting Authority satisfactory documentation that fewer than 3 qualified prospective Bidders are available. The Contracting Authority, Owner, and DB may meet to review the qualifications of the prospective Bidders on the list the DB submits to the Contracting Authority.

4.4.4.1 Notwithstanding **Section 4.4.4**, the Contracting Authority may require the DB to submit the names and qualifications of more than 3 qualified prospective Bidders for all or any particular Bid package. In that case, the DB may submit the names of fewer than the required number of qualified prospective Bidders if the DB submits to the Contracting Authority satisfactory documentation that fewer than the required number of qualified prospective Bidders are available.

4.4.5 The Contracting Authority shall review the list the DB submits, and may rely on the DB's representations to verify that prospective Bidders meet the prequalification criteria. The Contracting Authority shall complete its review within the period agreed between the Contracting Authority and DB or otherwise with reasonable promptness. The Contracting Authority may eliminate any prospective Bidder it determines is not qualified and notify the DB of the Contracting Authority's determination and the basis for it. The DB shall promptly notify the prospective Bidder in writing of the Contracting Authority's decision to eliminate the prospective Bidder and the basis for the Contracting Authority's determination that the Bidder does not meet the prequalification criteria. The Contracting Authority's determination that the Bidder does not meet the prequalification criteria shall be final.

4.5 Subcontract Bidding Process

4.5.1 The DB shall create a Bid package for each Subcontract and solicit Bids from qualified prospective Bidders identified under **Section 4.4** for that Bid package in accordance with the Project Schedule. Execution of a GMP Amendment concerning the Work for which the DB is soliciting Bids is not a condition precedent to commencement or completion of the Subcontract Bidding Process.

4.5.2 At completion of the Subcontract Bidding Process for each Subcontract and no later than 15 days before the Work is scheduled to begin under that Subcontract, the DB and Contracting Authority will meet to review Bids of qualified prospective Bidders identified under **Section 4.4** for that Subcontract and determine to which prospective Bidder the DB will award the Subcontract. During the review meeting, the DB shall identify the prospective Bidder to whom the DB proposes to award the Subcontract.

4.5.2.1 Each Bidder to whom the DB proposes to award a Subcontract shall to the DB's reasonable satisfaction **(1)** be qualified to perform the subcontracted portion of the Work and **(2)** have submitted a Bid that conforms to the requirements of the Contract Documents.

- .1** For the purpose of evaluating and reconciling the Bids, the DB may conduct scope-review meetings with Bidders that are usual and customary within the Bidders' trade. Bids that have been reconciled with other Bids for the same scope of Work through that review process will be considered in conformance with the Contract Documents.
- .2** The DB is not required to propose to award the Subcontract to the Bidder that submitted the lowest Bid. Subject to **Section 4.7**, the DB may also propose to self-perform the Work in a Bid package even if the DB did not submit the lowest Bid for that Work.

4.5.2.2 If the Contracting Authority does not reject the DB-proposed Bidder, the DB shall enter into the Subcontract with the selected Bidder.

- .1 All Subcontracts shall be on the **State of Ohio Subcontract Form** prescribed by OAC Section 153:1-03-02.
- .2 No less than 10 days before Work is to be performed by the Subcontractor, or within a shorter period as mutually agreed by the DB and Contracting Authority, the DB shall submit to the Contracting Authority a **Subcontractor and Material Supplier Declaration** form through which the DB identifies the Subcontractor. After receiving the form and Subcontract, the Contracting Authority shall verify that they are complete and deliver them to the Owner. If the Contracting Authority finds the form and Subcontract are incomplete, the Contracting Authority shall return them to the DB and identify the incomplete information.
- .3 Execution of a GMP Amendment concerning the Work to be performed by the Subcontractor is a condition precedent to the DB entering into the Subcontract with that Subcontractor.
- .4 No less than 10 days before Work is to be performed by the Subcontractor, or within a shorter period as mutually agreed by the DB and Contracting Authority, the DB shall submit to the Contracting Authority a complete copy of the executed Subcontract between the CM and Subcontractor.
- .5 If the Project is administered using the State's web-based project management software, the DB shall identify its Subcontractors and submit its Subcontracts through the "Subcontractor Supplier Declaration" business process.

4.5.2.3 If the Contracting Authority rejects any DB-proposed Bidder, the DB shall propose a replacement Bidder, which shall be evaluated as described above.

- .1 If the majority of the Work included in the Bid package that the DB proposed to award to the rejected Bidder is covered by a GMP Amendment before the Contracting Authority rejects the DB-proposed Bidder, and the rejected Bidder was reasonably capable of performing the Work included in that Bid package, the DB may request an increase of the Contract Sum by giving written notice under **Section 7.3.2**; provided, however, that the increase shall not be greater than the difference between the Bid of the rejected Bidder and the Bid of the replacement Bidder as the DB presented those Bids as described under **Section 4.5.2**.
- .2 Notwithstanding **Section 4.5.2.3.1**, the DB shall not be entitled to any associated adjustment of the Contract Sum if the Contracting Authority rejected the DB-proposed Bidder because the Bidder was debarred as described under ORC Section 153.02.
- .3 Notwithstanding **Section 4.5.2.3.1**, the DB shall not be entitled to any associated adjustment of the Construction Budget or the Contract Sum if the majority of the Work included in the Bid package that the DB proposed to award to the rejected Bidder is not covered by a GMP Amendment before the Contracting Authority rejects the DB-proposed Bidder.

4.6 Evaluation of Lower-Tier Subcontractors

4.6.1 As used in this **Section 4.6**, a "lower-tier Subcontractor" is any Subcontractor not in privity with the DB.

4.6.2 No less than 10 days before Work is to be performed by any lower-tier Subcontractor, or within a shorter period as mutually agreed by the DB and Contracting Authority, the DB shall submit to the Contracting Authority a **Subcontractor and Material Supplier Declaration** form through which the DB identifies lower-tier Subcontractors.

4.6.3 The DB's failure to timely submit the information regarding a proposed lower-tier Subcontractor may result in withholding payment in accordance with **Section 9.2.14**.

4.6.4 After receiving the **Subcontractor and Material Supplier Declaration** form, the Contracting Authority shall verify that it is complete and deliver it to the Owner. If the Contracting Authority finds the form incomplete, the Contracting Authority shall return it to the DB and identify the incomplete information.

4.6.5 If the Contracting Authority rejects any proposed lower-tier Subcontractor, the DB shall propose a replacement lower-tier Subcontractor with no adjustment of the Contract Sum. The proposed replacement lower-tier Subcontractor will be evaluated as described above.

4.6.6 If the Project is administered using the State's web-based project management software, the DB shall identify its proposed lower-tier Subcontractors through the "Subcontractor Supplier Declaration" business process.

4.7 Self-Performed Work

4.7.1 Neither the DB nor a DB Affiliated Entity shall directly perform with its own employees or other resources any Work on the Project during the Construction Stage except:

4.7.1.1 Work not subject to Bidding as described under **Section 4.1**; and

4.7.1.2 as otherwise provided in this **Section 4.7**.

4.7.2 If the DB or a DB Affiliated Entity intends to Bid on any Work subject to Bidding as described under **Section 4.1**:

4.7.2.1 During preparation of the Subcontracting Plan, the DB shall notify the Contracting Authority that the DB or DB Affiliated Entity may Bid on a portion of the Work. The Contracting Authority and DB shall review that Work in detail and agree on its scope before the DB finalizes the Subcontracting Plan.

4.7.2.2 At least 14 days before issuing Bidding Documents for the scope of Work the DB or a DB Affiliated Entity intends to Bid on, the DB shall, in writing, seek the Contracting Authority's permission for the DB or DB Affiliated Entity to Bid on that particular Work.

4.7.3 If the Contracting Authority permits the DB or DB Affiliated Entity to submit a Bid for a particular scope of Work:

4.7.3.1 The DB or DB Affiliated Entity (as applicable) shall meet in all respects the Bidder prequalification criteria approved by the Contracting Authority under **Section 4.3**.

4.7.3.2 The Bidding Documents shall specifically state that the DB or a DB Affiliated Entity may submit a Bid for that Work.

4.7.3.3 The DB shall ensure strict separation of the personnel of the DB or DB Affiliated Entity involved with Bidding on the Work from the personnel of the DB or DB Affiliated Entity otherwise involved in the Project. That separation includes, without limitation, prohibiting any communication (other than communication that is permitted by all Bidders) between those two groups before the Contracting Authority opens the associated Bids.

4.7.3.4 The DB or DB Affiliated Entity (as applicable) will be subject to all requirements applicable to the other Bidders for that Work.

4.7.3.5 The DB or DB Affiliated Entity (as applicable) shall submit its sealed Bid to the Contracting Authority no less than 4 hours before the deadline for submission of Bids to the DB for that scope of Work.

4.7.4 If the DB or a DB Affiliated Entity submits a Bid as described under **Section 4.7.3** and less than two other Bidders submit Bids for the same Work, the Contracting Authority may require that Work to be rebid.

4.7.5 If the Contracting Authority awards to the DB or DB Affiliated Entity the right to self-perform a particular scope of Work by operation of **Sections 4.7.2** and **4.7.3**, the DB may not use DB Contingency for that Work. The foregoing prohibition applies specifically but not exclusively to using DB Contingency to make up for the DB's underestimation of that scope of Work in the DB's detailed estimate of the Cost of the Work described under **Section 5.7.6.5**.

4.7.6 If the Contracting Authority awards to a DB Affiliated Entity the right to self-perform a particular scope of Work by operation of **Sections 4.7.2** and **4.7.3**, the DB Affiliated Entity will be a Subcontractor under the Contract and the DB's Subcontract with the DB Affiliated Entity shall be on the **State of Ohio Subcontract Form** prescribed in OAC 153:1-03-02.

4.8 Design-Assist Firms

4.8.1 Authorization. After receipt of a written request from the DB, the Contracting Authority may authorize the DB to engage a Design-Assist Firm to perform a scope of design-assist services and associated Work agreed upon by the Contracting Authority and DB.

4.8.1.1 The DB may request authorization to engage a Design-Assist Firm at any point in the Project that is appropriate or necessary to facilitate the Project's design and construction.

.1 The DB may not provide design-assist services directly or through a DB Affiliated Entity.

4.8.1.2 The DB shall include in its request **(1)** a detailed description of the scope of the design-assist services and associated Work, which the DB proposes to be performed by a Design-Assist Firm; **(2)** the date that the DB will be required to establish an estimated price for the scope of Work to be performed by the selected Design-Assist Firm; **(3)** the target date that the selected Design-Assist Firm will be required to propose a price to perform the associated Work.

4.8.1.3 If the Contracting Authority authorizes the DB to engage a Design-Assist Firm, the DB shall **(1)** follow the procedures described in the this **Section 4.8** and **(2)** identify in the Project Schedule the dates described in **Section 4.8.1.2**.

4.8.1.4 If the DB fails to comply with this **Section 4.8**, the Contracting Authority may revoke the DB's authorization to engage a Design-Assist Firm in addition to other remedies available to the Contracting Authority and Owner under the Contract and Applicable Law.

4.8.1.5 Notwithstanding any provision of this **Section 4.8** to the contrary, at any time before entering into the authorized design-assist contract, the DB may abandon the effort to engage a Design-Assist Firm to perform the scope of design-assist services and associated Work agreed upon by the Contracting Authority and DB.

4.8.2 Design-Assist Firm Selection. The DB shall award authorized design-assist contracts on the basis of the DB's evaluation of a submission to the DB from each potential Design-Assist Firm that establishes **(1)** the qualifications of the potential Design-Assist Firm to provide the associated design-assist services and Work and **(2)** includes a proposal for **(a)** the potential Design-Assist Firm's portion of the DB's Preconstruction Stage Reimbursable Expenses, Preconstruction Stage Personnel Costs, and General Conditions Costs; and **(b)** the potential Design-Assist Firm's Construction Stage overhead and profit mark-ups and Construction Stage contingency. The DB may also **(1)** request from the potential Design-Assist Firms bids or cost estimates for performance of the associated scope of Work during the Construction Stage and **(2)** include consideration of that information in the DB's evaluation of the potential Design-Assist Firms.

4.8.3 Design-Assist Contract Requirements. All design-assist contracts shall:

4.8.3.1 include the **State of Ohio Subcontract Form** prescribed by OAC Section 153:1-03-02;

4.8.3.2 provide that the Design-Assist Firm does not assume any professional design liability by virtue of performing the design-assist services; and

4.8.3.3 provide that **(1)** the DB may terminate the design-assist contract without cause if the DB and Design-Assist Firm fail to reach agreement on the compensation to be paid by the DB to the Design-Assist Firm on account of the Design-Assist Firm's performance of the Work associated with the design-assist contract and **(2)** in the event of that termination, **(a)** the DB shall be obligated to pay the Design-Assist Firm for design-assist services the Design-Assist Firm performed before the date of termination but **(b)** the DB shall not be obligated to pay any compensation to the Design-Assist Firm for design-assist services or the associated Work that the Design-Assist Firm did not perform on account of the termination.

4.8.4 Additional Design-Assist Requirements. Unless the Contracting Authority agrees otherwise in writing the DB shall not be entitled to any adjustment of the Preconstruction Stage Compensation, Contract Sum, or Contract Times on account of the DB's effort to engage or engagement of a Design-Assist Firm.

4.8.4.1 In order to facilitate compensation of the Design-Assist Firm and establishment of the Contract Sum through the GMP Amendment, every Design-Assist Firm the DB engages shall be considered a Consultant under the Contract during the Preconstruction Stage and a Subcontractor during the Construction Stage.

- .1** If the DB and Design-Assist Firm agree that the DB will compensate the Design-Assist Firm for design-assist services the Design-Assist Firm performs during the Preconstruction Stage, **(1)** the DB and Design-Assist Firm shall set forth that agreement in their design-assist contract, **(2)** that compensation is a part of and included in the Preconstruction Stage Compensation, and **(3)** the DB will not be entitled to an increase in the Preconstruction Stage Compensation on account of the DB's engagement of the Design-Assist Firm.
- .2** The compensation to be paid by the DB to the Design-Assist Firm on account of the Design-Assist Firm's performance of Work during the Construction Stage shall be included in the Contract Sum.

4.8.4.2 No less than 10 days before design-assist services are to be performed by a Design-Assist Firm during the Preconstruction Stage, or within a shorter period as mutually agreed by the DB and Contracting Authority, the DB shall submit to the Contracting Authority a **Subcontractor and Material Supplier Declaration** form through which the DB identifies the Design-Assist Firm as a Subcontractor. After receiving the form, the Contracting Authority shall verify that it is complete and deliver it to the Owner. If the Contracting Authority finds the form incomplete, the Contracting Authority shall return it to the DB and identify the incomplete information.

- .1** If the Project is administered using the State's web-based project management software, the DB shall identify its Design-Assist Firms through the "Subcontractor Supplier Declaration" business process.

4.8.4.3 No less than 10 days before Work is to be performed by a Design-Assist Firm during the Construction Stage, or within a shorter period as mutually agreed by the DB and Contracting Authority, the DB shall submit to the Contracting Authority a detailed estimate of the Work to be performed by the Design-Assist Firm and a complete copy of the executed Subcontract between the DB and Design-Assist Firm. After receiving the estimate and Subcontract, the Contracting Authority shall verify that they are complete. If the Contracting Authority finds the estimate and Subcontract incomplete, the Contracting Authority shall return them to the DB and identify the incomplete information.

- .1 Execution of a GMP Amendment concerning the Work to be performed by a Design-Assist Firm in the Construction Stage is a condition precedent to the DB incurring an obligation to pay the Design-Assist Firm on account of the Design-Assist Firm's performance of that Work in the Construction Stage.

4.9 Replacement of Subcontractors and Design-Assist Firms

4.9.1 The DB shall not replace any Subcontractor after execution of the Subcontract without the prior written approval of the Contracting Authority.

4.9.2 The DB shall not replace any Design-Assist Firm after execution of the design-assist contract without the prior written approval of the Contracting Authority.

4.10 DB's Responsibility

4.10.1 The DB is fully responsible for all acts and omissions of its Subcontractors and is responsible for scheduling and coordinating the Work of its Subcontractors.

4.10.1.1 The DB is fully responsible for any delay, interference, disruption, or hindrance attributable to its Subcontractors.

4.10.1.2 The DB shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

4.10.1.3 The DB shall bind its Subcontractors to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with or at variance from the Contract Documents.

4.10.2 The DB will not be relieved of its full responsibility for Subcontractors and their performance of the Work by **(1)** the participation of the Owner and Contracting Authority in the processes described under this **Article 4** or other related provisions of the Contract Documents or **(2)** the Contracting Authority's rejection of a Bidder or failure to reject a Bidder under **Section 4.4.5**.

4.11 Contingent Assignment of Subcontracts

4.11.1 The DB hereby assigns its agreement with each Subcontractor to the Contracting Authority provided that the assignment is effective only after termination of the Contract by the Contracting Authority and only for those agreements that the Contracting Authority accepts by notifying the DB and applicable Subcontractor in writing. The Contracting Authority may re-assign accepted agreements.

4.12 Prompt Payment

4.12.1 The DB shall make payments to Subcontractors in accordance with Applicable Law, including ORC Section 4113.61 that include, without limitation, the requirements described under this **Section 4.12**.

4.12.1.1 If a Subcontractor requests payment in time to allow the DB to include the request in its DB Payment Request, the DB shall pay within 10 days after receipt of payment from the State:

- .1 To a Subcontractor other than a Material Supplier, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.
- .2 To a Material Supplier, an amount equal to all or that portion of the DB Payment Request that represents the materials furnished by the Material Supplier.

4.12.2 The DB may reduce the amount to be paid to a Subcontractor pursuant to **Section 4.12.1** at a rate equal to the percentage retained from the DB and may withhold amounts necessary to **(1)** resolve disputed liens or claims involving the Work of the Subcontractor or **(2)** account for the failure of the Subcontractor to perform its obligations under its agreement with the DB.

4.12.2.1 Labor Payments.

- .1 Partial payments to the Subcontractor for labor performed under either a Unit Price or lump sum Subcontract shall be made at the rate of 92 percent of the amount invoiced through the Subcontractor's request for payment that shows the Work of the Subcontractor is 50 percent complete.
- .2 After the Work of the Subcontractor is 50 percent complete, as evidenced by payments of at least 50 percent of the total amount due under the Subcontract, no additional funds shall be retained from payments for labor.

4.12.2.2 Material Payments.

- .1 The DB shall pay the Subcontractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.
- .2 The DB shall pay the Subcontractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Subcontract, for materials delivered to the Site, or other off-site storage location approved by the Contracting Authority, provided the Subcontractor provides the information required by **Sections 9.2.12.2.1** and **9.2.12.2.2** with its request for payment.

4.12.3 If the DB fails to comply with this **Section 4.12**, the DB shall pay to the applicable Subcontractor 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.

4.12.4 In order to establish lien rights, Subcontractors shall comply with Applicable Law, including ORC Sections 1311.26, 1311.261, and 1311.29.

4.12.5 If the Contracting Authority receives a Claim Affidavit from a Subcontractor, it shall proceed as required by Applicable Law, including ORC Sections 153.63 and 1311.31.

4.12.6 Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including ORC Section 153.56.

ARTICLE 5 - PRECONSTRUCTION SERVICES

5.1 General Requirements

5.1.1 Commencement.

5.1.1.1 The DB's Preconstruction Services will begin on the date set forth in a notice that the Contracting Authority will issue to the DB ("Notice to Commence Services").

5.1.2 Scope of Preconstruction Services.

5.1.2.1 The DB shall perform the Preconstruction Services, which consist of the activities and stages set forth in **Sections 5.2** through **5.7**, inclusive, and include any services necessary to comply with the ORC Section 3379.10 Percent for Arts Program. The DB shall provide its services according to a Staffing Plan approved by the Contracting Authority.

5.1.3 Consultation.

5.1.3.1 The DB and AOR shall jointly schedule and attend regular meetings with the Contracting Authority and Owner. The DB shall consult with the Contracting Authority and Owner regarding Site use and improvements and the selection of materials, building systems, and equipment. The DB shall provide recommendations to the Contracting Authority and Owner on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, budgets and possible economies.

5.1.3.2 At all appropriate times throughout the performance of the Work, the DB shall contact, meet, consult, and otherwise coordinate with the Contracting Authority, Owner, governmental authorities with jurisdiction over the Project, and others for the purpose of facilitating the Project's design and construction.

5.1.4 Project Schedule.

5.1.4.1 The DB shall provide and maintain a Project Schedule with a logical sequence of events; reasonable periods of time for the Contracting Authority, Owner, and Criteria A/E to review the DB's deliverables and for the DB to revise and resubmit those deliverables and for approvals of governmental authorities having jurisdiction over the Project; and sufficient detail to properly anticipate and monitor progress on the Project.

5.1.5 Long-Lead-Time Items.

5.1.5.1 The DB shall recommend to the Contracting Authority and Owner a schedule for procurement of long-lead-time items that will constitute part of the Work as required to meet the Project Schedule.

5.1.5.2 The Owner may procure long-lead-time items itself before the Contract Sum is established. In that case, after the Contract Sum is established, the Owner will assign the contracts for the long-lead-time items to the DB, who shall accept responsibility for those items as if procured by the DB. The DB shall expedite the delivery of long-lead-time items.

5.2 Organizational Meeting

5.2.1 Unless the Contracting Authority agrees otherwise in writing, the DB's Preconstruction Services will begin with an organizational meeting between the Contracting Authority, Owner, Criteria A/E, DB, and AOR. All of the DB and AOR's key personnel involved in the Project shall attend the organizational meeting.

5.2.2 During the organizational meeting, the attendees will:

5.2.2.1 review the responsibilities of each of the Contracting Authority and Owner's key personnel involved in the Project;

5.2.2.2 review the scope of the Criteria A/E's services and the responsibilities of each of the Criteria A/E's key personnel involved in the Project;

5.2.2.3 review the scope of the DB's services and the responsibilities of each of the DB's key personnel involved in the Project;

5.2.2.4 review the scope of the AOR's services and the responsibilities of each of the AOR's key personnel involved in the Project;

5.2.2.5 review and establish lines of communication between the Contracting Authority, Owner, Criteria A/E, DB, and AOR;

5.2.2.6 review then-available programming and other documents which reflect the current status of the Project's design;

5.2.2.7 review the various periods of time established in **Article 4** and **Article 5** to determine whether any adjustments are needed in view of the Project's scope, schedule, and budget requirements while providing reasonable periods for the Contracting Authority, Owner, and Criteria A/E if applicable, to review the DB's deliverables and for the DB to revise and resubmit those deliverables;

- .1 If the parties agree to adjust the periods as described under **Section 5.2.2.7**, they will promptly enter into an associated Modification.

5.2.2.8 review and reach agreement on the number and timing of GMP Amendments and GMP Proposal and Amendment processes for the Project in view of the Project's scope, schedule, and budget requirements; and

- .1 Unless the parties agree otherwise, there will be one GMP Amendment and one GMP Proposal and Amendment process, which will commence on the date that marks expiration of 50 percent of the time allotted in the Project Schedule for the Construction Documents Stage.
- .2 If the parties agree to adjust the number and timing of the GMP Amendments and GMP Proposal and Amendment processes to other than as described under **Section 5.2.2.8.1**, they will promptly enter into an associated Modification. Through that Modification, the parties shall **(1)** memorialize their agreement regarding the number and timing of the GMP Amendments and GMP Proposal and Amendment processes and **(2)** identify the anticipated scope of Work subject to each GMP Amendment. Through that Modification, the parties may also agree to **(1)** adjust the documentation requirements under **Section 5.7.6** as it applies to each GMP Amendment and **(2)** adjust the periods under **Section 5.7** as it applies to the GMP Proposal and Amendment process for each GMP Amendment.

5.2.2.9 review and reach agreement on timing and sequencing requirements for the DB's deliverables and related review and revision periods.

5.2.3 If the DB has not submitted a proposed Project Schedule to the Contracting Authority and Owner before the organizational meeting or if the organizational meeting resulted in changes to a previously submitted Project Schedule, within 5 days after the organizational meeting is adjourned the DB shall submit a proposed or revised Project Schedule to the Contracting Authority and Owner.

5.2.3.1 The Contracting Authority, Owner, and DB will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision as described elsewhere in the Contract.

5.2.4 Within 5 days after the organizational meeting is adjourned, the DB shall prepare and distribute the meeting's minutes.

5.2.4.1 If the Project is administered using the State's web-based project management software, the DB shall distribute the minutes of the organizational meeting through the "Meeting Minutes" business process.

5.3 Program Verification

5.3.1 Commencement. Unless the Contracting Authority directs otherwise in writing, the Program Verification Stage will begin upon completion of the activities described under **Section 5.2**.

5.3.2 In addition to performing those services required to comply with **Sections 5.3.3** and **5.3.4**, during the Program Verification Stage, the DB shall:

5.3.2.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.3.2.2 if a GMP Amendment has been entered into, notify the Contracting Authority and Owner in writing of any revision of the Project that would cause a change in the established Contract Sum or Contract Times;

- .1 If the Contracting Authority and the Owner approve of any such revision, the parties shall promptly enter into an associated Modification.

5.3.2.3 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents that depict the current status of the Program Verification Stage of the Project;

5.3.2.4 review the preliminary building needs, design, schedule, budget, and other information furnished by the Contracting Authority or Owner and arrive at a mutual understanding of the Project's requirements with the Contracting Authority and Owner;

5.3.2.5 investigate existing conditions and verify of the accuracy of Owner-provided information about existing conditions, as appropriate;

5.3.2.6 evaluate the Project's impact on adjacent properties and rights-of-way; and

5.3.2.7 evaluate Site use and improvements, selection of materials, building systems and equipment, constructability, logistics, availability and suitability of labor and materials, time requirements, costs of alternative designs or materials, and possible economies.

5.3.3 DB's Program Verification Submission.

5.3.3.1 Based upon a mutual understanding of the Project's preliminary requirements, the DB and AOR shall jointly prepare the Program Documents.

- .1 The DB shall submit the provisional Program Documents to the Contracting Authority, Owner, and Criteria A/E on or before the date identified in the Project Schedule for that submission.

5.3.3.2 The provisional Program Documents shall be in the form of a written report, which may include graphics, but shall include:

- .1 an executive summary of the Program Documents;
- .2 a narrative description of the Project and the design goals;
- .3 a description of space requirements, including a listing of desired spaces and identification of each space's basic criteria such as dimensions, proportions, ceiling heights, and service, equipment, storage, utility, access, flexibility, configuration, security, adjacency, aesthetic, and other requirements;
- .4 a description of planning and design criteria such as workstation, office/room standards; clustering and layout criteria; circulation criteria; applicable space-planning modules; dimensional criteria; building systems interface criteria; envelope criteria; accessibility requirements; and a description of performance criteria applicable to building components such as envelope, structure, interior construction, and mechanical, electrical, and plumbing systems;
- .5 a preliminary evaluation of the Program, Project Schedule, and Construction Budget requirements, each in terms of the other including a description of the distribution of the Construction Budget between major Project components, contingencies, and other categories the Contracting Authority may designate;
- .6 preliminary recommendations regarding selection of materials, building systems, and equipment;
- .7 a review of feasible alternative approaches to design and construction of the Project, if any, including the estimated budget and schedule impacts of those alternative approaches;
- .8 an identification of any unresolved issues related to compliance with Applicable Law;
- .9 a written description of all modifications of the Owner-provided program information;
- .10 a preliminary Construction Progress Schedule ("Program Schedule") for the Project in accordance with the requirements described under **Section 6.5** to the extent appropriate during the Program Verification Stage;
- .11 an updated Staffing Plan;

- .12 at the DB's option but without additional compensation unless otherwise agreed in writing by the Owner and Contracting Authority, study models, perspective sketches, electronic modeling, or combinations of those media; and
- .13 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

5.3.3.3 If not all of the Work is subject to an executed GMP Amendment at the time the DB submits its provisional Program Documents, the DB shall also include a preliminary estimate of Construction Cost ("Program Estimate") using area, volume or similar conceptual estimating techniques.

- .1 For any Work that is subject to an executed GMP Amendment at that time, the DB shall include associated line items for the DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .2 For any Work that is not subject to an executed GMP Amendment at that time, the DB shall include reasonable contingencies for design development/refinement and price escalation, and line items for the estimated DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .3 If the Program Estimate exceeds the Construction Budget, the Contracting Authority may require the DB to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The DB will present those proposals as an addendum to its provisional Program Documents.

5.3.3.4 If the Project is administered using the State's web-based project management software, the DB and AOR shall create, approve, and submit the provisional Program Documents to the Contracting Authority, Owner, and Criteria A/E through the "Program of Requirements" business process.

5.3.4 Program Documents Review.

5.3.4.1 After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the provisional Program Documents, the Contracting Authority, Owner, Criteria A/E, and DB shall meet to discuss the provisional Program Documents and reach agreement on any Contracting Authority-authorized adjustments to the Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the provisional Program Documents.

5.3.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the DB shall revise its provisional Program Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Contracting Authority and Owner.

5.3.4.3 When the Contracting Authority and Owner approve the revised Program Documents and sign the related Design Review Acceptance form, the revised Program Documents shall become the Approved Program of Requirements.

5.4 Schematic Design

5.4.1 Commencement. Unless the Contracting Authority agrees otherwise in writing, the Schematic Design Stage will begin upon completion of the activities described in **Section 5.3**.

5.4.2 In addition to performing those services required to comply with **Sections 5.4.3** and **5.4.4**, during the Schematic Design Stage, the DB shall:

5.4.2.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.4.2.2 if a GMP Amendment has been entered into, notify the Contracting Authority and Owner in writing of any revision of the Project that would cause a change in the established Contract Sum or Contract Times;

- .1 If the Contracting Authority and Owner approve of any such revision, the parties shall promptly enter into an associated Modification.

5.4.2.3 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents that depict the current status of the Schematic Design Stage of the Project;

5.4.2.4 identify and analyze requirements of Applicable Law;

5.4.2.5 investigate existing conditions and verify the accuracy of Owner-provided information about existing conditions, as appropriate;

5.4.2.6 coordinate the location of new grading, drainage, and Site utilities;

5.4.2.7 update and re-issue the Project Schedule as necessary to keep the Contracting Authority and Owner apprised of the schedule's current status;

5.4.2.8 prepare a preliminary analysis of the types and quantities of labor required for the Project;

5.4.2.9 make recommendations to the Contracting Authority and Owner for actions designed to minimize adverse effects of labor shortages;

5.4.2.10 review and provide recommendations concerning Site use and improvements, and alternative approaches to selection of materials, building systems, and equipment; and

5.4.2.11 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, and labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to Project cost, including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

5.4.3 Life Cycle Cost Analysis.

5.4.3.1 At the time set forth in the Project Schedule, the DB shall prepare and submit practical alternative design concepts, considering passive and/or active building components, for the purpose of minimizing future energy consumption, to the Owner and Contracting Authority.

- .1 The DB shall estimate the annual energy consumption and associated energy costs of each alternative, analyze their impact on facility life-cycle costs and incorporate cost effective alternatives into the final design.
- .2 The DB shall re-evaluate life cycle cost as additional alternatives to be considered during the continuing design development to assure their cost effective implementation.

5.4.3.2 The DB shall base the Schematic Design Documents on the Owner's selected design concept.

5.4.3.3 If the Project constructs or renovates an area 5,000 square feet or more, the DB shall submit a design to the Commission that incorporates a life cycle cost analysis that shall determine the reasonably expected costs of facility ownership, operation, maintenance, and disposal including labor and materials for the economic life of the facility.

5.4.4 DB's Schematic Design Submission.

5.4.4.1 On the basis of the Approved Program of Requirements and of DB-gathered and Contracting Authority-provided information, the DB and AOR shall jointly prepare the Schematic Design Documents.

- .1 The DB shall submit the provisional Schematic Design Documents to the Contracting Authority, Owner, and Criteria A/E on or before the date identified in the Project Schedule for that submission.

5.4.4.2 The provisional Schematic Design Documents shall include:

- .1 a conceptual site plan and preliminary building plans, sections, and elevations illustrating the Project's scale and the relationship of Project components to one another and the relationship of the Project to surrounding properties;
- .2 if not noted on the drawings, a written description of preliminary selections of major building systems and construction materials;
- .3 a written description of all modifications of the Approved Program of Requirements;
- .4 a preliminary Construction Progress Schedule ("Schematic Design Schedule") for the Project, to the extent appropriate during schematic design, that shall identify preliminary workforce requirements by critical trade;
- .5 cost evaluations of alternative materials and systems;
- .6 an identification of any unresolved issues related to compliance with Applicable Law;
- .7 if agreed in writing by the Contracting Authority, the DB will develop study models, perspective sketches, electronic modeling, or combinations of those media;
- .8 a schedule analysis of alternative phasing and sequencing;
- .9 a preliminary Site Logistics Plan indicating how the DB intends to use the Site and illustrating things such as areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash-out activities; and offloading and hoisting locations;
- .10 an updated Staffing Plan; and
- .11 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

5.4.4.3 If not all of the Work is subject to an executed GMP Amendment at the time the DB submits its provisional Schematic Design Documents, the DB shall also include an estimate of the Construction Cost ("Schematic Design Estimate") using area, volume or similar conceptual estimating techniques.

- .1 For any Work that is subject to an executed GMP Amendment at that time, the DB shall include associated line items for the DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .2 For any Work that is not subject to an executed GMP Amendment at that time, the DB shall include reasonable contingencies for design development/refinement and price escalation, and line items for the estimated DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .3 If the Schematic Design Estimate exceeds the Construction Budget, the Contracting Authority may require the DB to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The DB will present those proposals as an addendum to its provisional Schematic Design Documents.

5.4.4.4 If the Project is administered using the State's web-based project management software, the DB shall create, approve, and submit the provisional Schematic Design Documents to the Contracting Authority, Owner, and Criteria A/E through the "Design Review" business process.

5.4.5 Schematic Design Documents Review.

5.4.5.1 After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the provisional Schematic Design Documents, the Contracting Authority, Owner, Criteria A/E, and DB shall meet to discuss the provisional Schematic Design Documents and reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the provisional Schematic Design Documents.

5.4.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the DB shall revise its provisional Schematic Design Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and Contracting Authority.

5.4.5.3 When the Contracting Authority and Owner approve the revised Schematic Design Documents and sign the related Design Review Acceptance form, the revised Schematic Design Documents shall become the final Schematic Design Documents.

5.5 Design Development

5.5.1 Commencement. Unless the Contracting Authority agrees otherwise in writing, the Design Development Stage will begin upon completion of the activities described in **Section 5.4**.

5.5.2 In addition to performing those services required to comply with **Section 5.5.3** and **5.5.4**, during the Design Development Stage, the DB shall:

5.5.2.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.5.2.2 if a GMP Amendment has been entered into, notify the Contracting Authority and Owner in writing of any revision of the Project that would cause a change in the established Contract Sum or Contract Times;

- .1 If the Contracting Authority and Owner approve of any such revision, the parties shall promptly enter into an associated Modification.

5.5.2.3 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review drawings and other documents that depict the current status of the Design Development Stage of the Project;

5.5.2.4 further evaluate and refine the Approved Program of Requirements;

5.5.2.5 resolve all issues related to compliance with Applicable Law;

5.5.2.6 coordinate the location of new grading, drainage, and Site utilities;

5.5.2.7 develop the Construction Progress Schedule in increasing detail taking into account Owner-provided information and the Owner's occupancy requirements;

5.5.2.8 update and re-issue the Project Schedule as necessary to keep the Contracting Authority and the Owner apprised of the schedule's current status;

5.5.2.9 analyze the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;

5.5.2.10 make recommendations to the Contracting Authority and Owner for actions designed to minimize adverse effects of labor shortages; and

5.5.2.11 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

5.5.3 DB's Design Development Submission.

5.5.3.1 On the basis of the Approved Program of Requirements and of DB-gathered and Contracting Authority-provided information, the DB and AOR shall jointly prepare the Design Development Documents.

- .1 The DB shall submit the provisional Design Development Documents to the Contracting Authority, Owner, and Criteria A/E on or before the date identified in the Project Schedule for that submission.

5.5.3.2 The provisional Design Development Documents shall include:

- .1 plans, sections, elevations, typical construction details, and equipment layouts that illustrate and describe the refinement of the Project's design and the size and character of the Project in terms of architectural, structural, mechanical, plumbing, and electrical systems, materials, and other elements as may be appropriate;
- .2 specifications sufficient to identify the quality and other characteristics of the proposed or selected materials, equipment, finishes, fixtures, and systems;
- .3 a written description of all modifications of the Approved Program of Requirements;
- .4 an updated Project Schedule;
- .5 a written description of all proposed or previously agreed upon Alternates (if any), which description may be included in the specifications rather than as a separate document;
- .6 a written description of all proposed or previously agreed upon Allowances (if any);
- .7 an identification of any unresolved issues related to compliance with Applicable Law;
- .8 a developed Construction Progress Schedule ("Design Development Schedule") for the entire Project;
- .9 a cash-flow forecast for the Project;
- .10 a Site Logistics Plan indicating how the DB intends to use the Site and illustrating things such as areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash-out activities; and offloading and hoisting locations;
- .11 an updated Staffing Plan; and
- .12 all other documents and information required under the **Minimum Stage Submission Requirements** attached as an exhibit to the **Agreement Form**.

5.5.3.3 If not all of the Work is subject to an executed GMP Amendment at the time the DB submits its provisional Design Development Documents, the DB shall include a detailed, unit cost estimate of the Construction Cost ("Design Development Estimate").

- .1 For any Work that is subject to an executed GMP Amendment at that time, the DB shall include associated line items for the DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .2 For any Work that is not subject to an executed GMP Amendment at that time, the DB shall include reasonable contingencies for design development/refinement and price escalation, and line items for the estimated DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .3 If the Design Development Estimate exceeds the Construction Budget, the Contracting Authority may require the DB to immediately develop viable proposals to reconcile the estimate with the Construction Budget. The DB will present those proposals as an addendum to its provisional Design Development Documents.

5.5.3.4 If the Project is administered using the State's web-based project management software, the DB shall create, approve, and submit the provisional Design Development Documents to the Contracting Authority, Owner, and Criteria A/E through the "Design Review" business process.

5.5.3.5 If the Owner is a cabinet agency of the state of Ohio, the DB shall also submit 1 copy of the following provisional Design Development Documents as PDF files to the Ohio Homeland Security Infrastructure Protection and Technology Unit (Department of Public Safety, Strategic Analysis and Information Center, 1970 West Broad Street, Second Floor, Columbus, Ohio 43223) through the Contracting Authority for review and written comment:

- .1 site plan with walkways, roadways, and parking lots shown;
- .2 building egress plan showing emergency egress routes, exits, and entrances;
- .3 major elevations including fresh air intake locations;

- .4 security plan with camera locations and access control facilities; and
- .5 symbol legends for each type of drawing requested.

5.5.4 Design Development Documents Review.

5.5.4.1 After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the provisional Design Development Documents, the Contracting Authority, Owner, Criteria A/E, and DB shall meet to discuss the provisional Design Development Documents and reach agreement on any Contracting Authority-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the provisional Design Development Documents.

5.5.4.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the DB shall revise its provisional Design Development Documents to reflect the adjustments and clarifications agreed upon in the review meeting (including any comments from the Ohio Homeland Security Infrastructure Protection and Technology Unit, which have been reviewed and approved by the Owner), and resubmit those documents to the Owner and Contracting Authority.

5.5.4.3 When the Contracting Authority and Owner approve the revised Design Development Documents and sign the related Design Review Acceptance form, the revised Design Development Documents shall become the final Design Development Documents.

5.6 Construction Documents

5.6.1 Commencement. Unless the Contracting Authority agrees otherwise in writing, the Construction Documents Stage will begin upon completion of the activities described in **Section 5.5**.

5.6.2 In addition to performing those services required to comply with **Sections 5.6.3** through **5.6.5**, during the Construction Documents Stage, the DB shall:

5.6.2.1 advise the Contracting Authority and Owner in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.6.2.2 if a GMP Amendment has been entered into, notify the Contracting Authority and Owner in writing of any revision of the Project that would cause a change in the established Contract Sum or Contract Times;

- .1 If the Contracting Authority and Owner approve of any such revision, the parties shall promptly enter into an associated Modification.

5.6.2.3 meet with the Contracting Authority and Owner at intervals acceptable to the Contracting Authority and Owner, to review Drawings and other documents that depict the current status of the Construction Documents Stage of the Project;

5.6.2.4 update and re-issue the Project Schedule and Construction Progress Schedule as necessary to keep the Contracting Authority and Owner apprised of the schedules' current status;

5.6.2.5 develop, prepare, and compile all forms and information needed to properly bid and complete the Project including without limitation the "front-end" of the Project Manual;

5.6.2.6 prepare Division 01 of the Specifications (the DB shall not amend the General Conditions except by Supplementary Conditions approved as provided under **Section 12.4.1**);

5.6.2.7 ensure that the scopes of Work of the various Subcontractors is coordinated, all requirements for the Project have been assigned to the appropriate subcontract, the likelihood of jurisdictional disputes between trades has been minimized, and proper coordination has been provided for Phased construction (if any);

5.6.2.8 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;

5.6.2.9 make recommendations to the Contracting Authority and Owner, for actions designed to minimize adverse effects of labor shortages;

5.6.2.10 file documents required for the approvals of governmental authorities with jurisdiction over the Project; and

5.6.2.11 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

5.6.3 During the DB's completion of the Construction Documents:

5.6.3.1 The DB shall verify that the Construction Documents include requirements and assignment of responsibilities for safety precautions and programs and for temporary facilities for common use of the DB and Subcontractors.

5.6.3.2 The DB shall prepare the Construction Documents for each Bid package to minimize areas of conflict, gaps, and overlaps in the Work to be performed by various Subcontractors.

5.6.3.3 The DB shall prepare the Drawings and Specifications to encourage competition except where otherwise required to comply with the Approved Program of Requirements.

5.6.3.4 The DB shall identify areas that the DB recognizes as having incomplete documentation and uncoordinated multi-discipline Work.

5.6.3.5 With the prior written consent of the Owner, which may have been given in a GMP Amendment, the DB shall develop and include Alternates in the Construction Documents.

5.6.4 DB's Construction Documents Submission.

5.6.4.1 On the basis of the Approved Program of Requirements and of DB-gathered and Contracting Authority-provided information, the DB shall prepare the provisional Construction Documents.

- .1 The DB shall submit the provisional Construction Documents to the Contracting Authority and Owner on or before the date identified in the Project Schedule for that submission.
- .2 If a portion of the Work is subject to an executed GMP Amendment at the time of the DB's Construction Documents submission, the Contracting Authority, Owner, and DB may mutually agree to waive the requirements of **Sections 5.6.4** through **5.6.5** for that portion of the Work, subject to the provisions of **Section 5.7.13**.

5.6.4.2 The provisional Construction Documents shall include:

- .1 as appropriate for a design-build project delivery system, Drawings setting forth in detail the requirements for the construction of the Project;
- .2 as appropriate for a design-build project delivery system, Specifications prepared in accordance with the most-current CSI *MasterFormat* and that establish in detail the quality levels of all materials and systems required for the Project and include all stipulations pertaining to the furnishing and installation of the Work as required for completion of the Project;
- .3 an updated Staffing Plan;
- .4 an updated Project Schedule;
- .5 a fully developed Construction Progress Schedule;
- .6 a revised cash-flow forecast for the Project; and
- .7 a fully developed Site Logistics Plan.

5.6.4.3 If not all of the Work is subject to an executed GMP Amendment at the time the DB submits its provisional Construction Documents, the DB shall include a detailed, unit cost estimate of the Construction Cost ("Construction Documents Estimate").

- .1 For any Work that is subject to an executed GMP Amendment at that time, the DB shall include associated line items for the DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .2 For any Work that is not subject to an executed GMP Amendment at that time, the DB shall include reasonable contingencies for design development/refinement and price escalation, and line items for the estimated DB's Fee, Construction Stage Design Services Fee, and DB's Contingency.
- .3 If the Construction Documents Estimate exceeds the Construction Budget, the Contracting Authority may require the DB to immediately develop viable proposals to reconcile the estimates with the Construction Budget. The DB will present those proposals as an addendum to its provisional Construction Documents.

5.6.4.4 If the Project is administered using the State's web-based project management software, the DB shall create, approve, and submit the provisional Construction Documents to the Contracting Authority and Owner through the "Design Review" business process.

5.6.5 Construction Documents Review.

5.6.5.1 After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the provisional Construction Documents, the Contracting Authority, Owner, and DB shall meet to discuss the provisional Construction Documents and reach agreement on any Contracting Authority-authorized adjustments to

the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the provisional Construction Documents.

5.6.5.2 Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the DB shall revise its provisional Construction Documents to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to the Owner and Contracting Authority.

5.6.5.3 When the Contracting Authority and Owner approve the revised Construction Documents and sign the related Design Review Acceptance form, the revised Construction Documents shall become the final Construction Documents, subject to **(1)** execution of an appropriate Modification to incorporate adjustments into the Contract and **(2)** further revisions as provided in the General Conditions.

5.7 GMP Proposal and Amendment

5.7.1 Commencement. Unless the Contracting Authority agrees otherwise in writing as provided under **Section 5.2.2.7** or **Section 5.7.1.1**, the GMP Proposal and Amendment process will begin the date that marks expiration of 50 percent of the time allotted in the Project Schedule for the Construction Documents Stage.

5.7.1.1 This **Section 5.7** and related provisions of this Contract are based upon the assumption that there will be only one GMP Amendment for the Project. The parties recognize, however, that during the Preconstruction Stages, they may decide to use more than one GMP Amendment for the Project in order to accommodate Phased construction. In that case, the parties will execute a GMP Amendment for each Phase with each amendment after the first one supplementing the previous amendment(s).

5.7.2 The purpose of the GMP Amendment is to establish the commercial terms of the Contract rather than to modify its substantive terms.

5.7.3 At the beginning of the GMP Proposal and Amendment process, the Contracting Authority, Owner, Criteria A/E, and DB shall agree upon and identify in writing which documents will be the starting point for the Basis Documents. Those Basis Documents may be revised and developed further throughout the GMP Proposal and Amendment process.

5.7.4 If the GMP Proposal and Amendment process takes place before the completion of the Construction Documents Stage for the associated Work:

5.7.4.1 within 14 days after commencement of the GMP Proposal and Amendment process, the AOR shall prepare and submit the Design Intent Statement to the Contracting Authority and Owner, through the DB;

5.7.4.2 within 14 days after receiving the Design Intent Statement, the DB shall prepare and submit the GMP Proposal to the Contracting Authority and Owner; and

5.7.4.3 the DB shall provide in the GMP Proposal for the further development of the Construction Documents consistent with and reasonably inferable from the Design Intent Statement and then-current design documents, Construction Budget, and Project Schedule.

5.7.5 If the GMP Proposal and Amendment process takes place after the completion of the Construction Documents Stage for the associated Work, within 14 days after the start of the GMP Proposal and Amendment process, the DB shall prepare and submit the GMP Proposal to the Contracting Authority and Owner.

5.7.6 Unless the Contracting Authority agrees otherwise in writing as described under **Section 5.2.2.7**, the DB shall include the following documents and information in the GMP Proposal:

5.7.6.1 a completed and signed proposed GMP Amendment, through which the DB proposes the Contract Sum, the Cost of the Work, the DB's Fee, the Construction Stage Design Services Fee, the DB's Contingency, and the Contract Times (the required form of the GMP Amendment is attached to the Agreement);

5.7.6.2 a complete list of the Basis Documents which, at a minimum, identifies each of those documents by number, title, and date;

5.7.6.3 a detailed constructability review of the Construction Documents;

5.7.6.4 a complete list of the assumptions and clarifications made by the DB in the preparation of the GMP Proposal;

5.7.6.5 a detailed estimate of the Construction Cost for the Work that is the subject of the GMP Proposal that **(1)** allocates the cost of each of item of trade Work to labor and materials/equipment organized by trade categories and clearly identifies whether the DB proposes that the Work will be performed by the DB, a DB Affiliated Entity, or a Subcontractor; **(2)** provides a detailed breakdown of the DB's Construction Stage Personnel Costs, General Conditions Costs, and Construction Stage Design Services Fee; and **(3)** does not contain a lump-sum estimate for any item other than the DB's Fee and the DB's Contingency;

5.7.6.6 the current Project Schedule, which shall be fully developed for the Work that is the subject of the GMP Proposal;

5.7.6.7 the current Construction Progress Schedule, which shall be fully developed for the Work that is the subject of the GMP Proposal;

5.7.6.8 an updated Staffing Plan including an outline of the qualifications and experience of the DB's proposed project manager and proposed superintendent, including references, unless the DB previously submitted that information and the DB's project manager and superintendent were approved;

5.7.6.9 a detailed scope-of-Work description for each anticipated Subcontract for the Work that is the subject of the GMP Proposal;

5.7.6.10 a detailed scope-of-Work description for all Work that is the subject of the GMP Proposal and that the DB proposes to perform itself or through a DB Affiliated Entity if the requirements of **Section 4.7** are met (otherwise this scope of Work will be performed by a Subcontractor);

5.7.6.11 a complete list of all Allowances (if any) including a detailed description with related measurement and payment terms;

5.7.6.12 a complete list of all Unit Price Work (if any) including a detailed description with related measurement and payment terms;

5.7.6.13 a complete list of all Alternates (if any) including a detailed description with related measurement and payment terms; and

5.7.6.14 a complete list of all performance incentives/bonuses (if any) applicable to the Work that is the subject of the GMP Proposal including a detailed description of the incentives/bonuses and related measurement/entitlement and payment terms.

5.7.7 By submitting a GMP Proposal or a revised GMP Proposal (as applicable), the DB represents and affirms as to the scope of Work which is the subject of the GMP Proposal that:

5.7.7.1 the GMP Documents are sufficient to provide for completion of the Work, and include all Work, whether or not shown or described, which may be reasonably inferred to be required or useful for the completion of the Work in accordance with Applicable Law and customary standards of the construction industry; and

5.7.7.2 the DB is familiar with Applicable Law and reasonably observable local and Site conditions that may in any manner affect cost, progress, or performance of the Work.

5.7.8 After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the GMP Proposal, the Contracting Authority, Owner, Criteria A/E, and DB shall meet to discuss the GMP Proposal and agree on necessary clarifications or adjustments of the GMP Proposal. Unless the Contracting Authority agrees otherwise in writing, within 5 business days after the review meeting, the DB shall revise the GMP Proposal to reflect the clarifications and adjustments, and resubmit it to the Contracting Authority, Owner, and Criteria A/E. After the Contracting Authority, Owner, and Criteria A/E have had a reasonable period to review the revised GMP Proposal, the Contracting Authority, Owner, Criteria A/E, and DB shall meet to discuss the revised GMP Proposal and agree on necessary clarifications or adjustments of the GMP Proposal.

5.7.9 If the DB's proposed Contract Sum exceeds the DB's most-recent, pre-GMP Proposal estimate of the Construction Cost of the scope of Work which is the subject of the GMP Proposal (as that estimate was adjusted on account of DB proposals intended to reconcile that estimate with the Construction Budget that the Contracting Authority has accepted), the Contracting Authority may in its complete discretion **(1)** require the DB to re-perform previously completed Preconstruction Services as necessary to reconcile the Contract Sum with that estimate; or **(2)** terminate the Agreement.

5.7.9.1 If the Contracting Authority chooses to proceed under **Section 5.7.9** clause **(1)**, the Contracting Authority may require the DB to re-perform previously completed Preconstruction Services as necessary to reconcile the proposed Contract Sum with the DB's most-recent, pre-GMP Proposal estimate of the Construction Cost of the scope of Work which is the subject of the GMP Proposal (as that estimate was adjusted on account of DB proposals intended to reconcile that estimate with the Construction Budget that the Contracting Authority has accepted).

5.7.10 The period for the Contracting Authority's acceptance of the proposed GMP Amendment will be no less than the later of the date 30 days after the date of the initial review meeting under **Section 5.7.8** or the date 10 days after the date of any subsequent review meeting under **Section 5.7.8**. After expiration of the acceptance period, the GMP Proposal will not be effective without written acceptance by the DB.

5.7.11 Subject to **Section 5.7.11.1**, the GMP Amendment shall become binding and effective upon execution by the Contracting Authority and DB, with concurrence of the Owner. Thereafter, the GMP Amendment, and the Work will be subject to Modifications as provided in the Contract Documents.

5.7.11.1 It is expressly understood by the DB that none of the rights, duties, and obligations described in the GMP Amendment shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that there is a balance in the Owner's appropriation not already encumbered to pay existing obligations.

5.7.11.2 If the Project is administered using the State's web-based project management software, the Contracting Authority, Owner, and DB shall execute and distribute the GMP Amendment using the "Change Order" or "Contract Modification" business process with the "GMP Amendment" workflow.

5.7.12 If the GMP Amendment is entered into before the completion of the Construction Documents Stage for the associated Work, as the Drawings and Specifications are developed, the AOR shall inform the DB, Owner, and Contracting Authority of the need for any changes in Project requirements or in construction materials, systems, or equipment and of the need for any adjustments in the detailed estimate of Construction Cost and the Project Schedule.

5.7.12.1 Upon prior written approval of the Owner and Contracting Authority of any such changes or adjustments in Project requirements or in construction materials, systems, or equipment, the DB shall revise the detailed estimate of Construction Cost and Project Schedule, as applicable, incorporating such changes or adjustments.

5.7.13 The DB shall revise the GMP Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Amendment. The DB will deliver the revised GMP Documents to the Contracting Authority and Owner for review. When the Contracting Authority, Owner, and DB approve of the revised GMP Documents, the revised GMP Documents will become part of the GMP Amendment.

5.7.14 Before the Contracting Authority accepts the GMP Proposal and issues a Notice to Proceed, the DB shall not incur any cost under the Contract Sum without the Contracting Authority's prior written authorization.

5.8 Building and Trade Permits and Licenses

5.8.1 Plan Approval.

5.8.1.1 The DB shall secure the required structural, plumbing, HVAC, and electrical plan approvals.

5.8.1.2 The DB shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The DB shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The DB shall give the Contracting Authority and Owner reasonable notice of the dates and times arranged for inspections.

- .1 The DB shall pay for any reinspections required as a result of the DB's failure to receive approval of its Work.

5.8.2 Trade Permits and Licenses.

5.8.2.1 The DB shall obtain, maintain, and pay for any permit, inspection, or license applicable to the DB's particular trade.

5.8.3 Local Permits.

5.8.3.1 The DB shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The DB shall give the Contracting Authority and Owner reasonable notice of the date arranged for inspections.

5.8.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit.

5.8.4.1 The DB shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction.

5.8.4.2 The DB shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.8.4.3 The DB shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

ARTICLE 6 - CONSTRUCTION AND CLOSEOUT

6.1 Commencement of Work on the Site

6.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Contract Completion.

6.1.2 Until the Contract Sum and Contract Times are established through a GMP Amendment for a particular scope of Work, the Contracting Authority shall not issue a Notice to Proceed for that scope of Work and the DB shall not commence that scope of Work. This **Section 6.1.2** is not intended to preclude the use of multiple GMP Amendments on the Project or to restrict the appropriate use of Change Directives.

6.2 DB's General Responsibilities

6.2.1 Consistent with the DB Staffing Plan approved by the Contracting Authority, the DB shall maintain a competent, full-time staff at the Site at all times that Work is in preparation or progress on the Project and shall establish and implement on-Site organization and authority so that the Work is accomplished in conformance with the Project Schedule.

6.2.2 The DB shall perform the Work so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the work of Separate Contractors. The DB shall cooperate and coordinate fully with all Separate Consultants and Separate Contractors and shall freely share all of the DB's Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the Separate Consultants and Separate Contractors.

6.2.3 The DB shall afford every Separate Consultant and Separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work.

6.2.4 If the DB damages the property or work of any Separate Consultant or Separate Contractor, or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Separate Contractor who suffers additional expense and damage as a result, the DB is responsible for that damage, injury, or expense.

6.2.5 The intent of **Sections 6.2.2** through **6.2.4** is to benefit the Separate Consultants and Separate Contractors, and to demonstrate that the Separate Consultants and Separate Contractors are intended third-party beneficiaries of the DB's obligations under the Contract.

6.2.6 If the proper execution or results of any part of the Work depends upon work performed or services provided by the Owner, a Separate Consultant, or Separate Contractor, the DB shall inspect that other work and appropriate instruments of service, and promptly report to the Contracting Authority in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Work. The DB's failure so to report will constitute an acceptance of the other work and services as fit and proper for integration with the DB's Work except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the DB's inspection.

6.2.7 The DB shall not delay the Work on account of any claim, dispute, or action between the DB and a Separate Consultant or Separate Contractor.

6.2.8 The DB shall develop and keep current the Construction Progress Schedule in accordance with **Section 6.5**, and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the Contracting Authority's acceptance.

6.2.9 The DB shall monitor the progress of the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required by **Section 6.5.14**.

6.2.10 The DB shall establish the Project's regular working hours, subject to the Owner's approval.

6.2.11 The DB shall coordinate the Work with the activities and responsibilities of the Owner and Contracting Authority to complete the Project in accordance with the Contract Documents.

6.2.12 In the event of default of the DB, the DB shall cooperate with the Owner, Contracting Authority, and DB's Surety to achieve the Substantial Completion date and Contract Completion.

6.2.13 The DB shall remove all snow and ice as may be required for reasonably safe access to the Site including, but not limited to, building entries, driveways, parking lots, and sidewalks.

6.2.14 The DB shall keep a daily log containing a record of weather, number of workers on Site for the DB, identification of equipment, Work accomplished, problems encountered, and other similar relevant data.

6.3 Construction Procedures

6.3.1 The DB is solely responsible for and has control over all construction means, methods, manners, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

6.3.2 The DB shall lay out and coordinate all lines, levels, elevations, and measurements for all of the Work, coordinate and verify existing conditions, and notify the Contracting Authority of discrepancies and conflicts before proceeding with installation or excavation.

6.3.3 The DB shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project, or any part of it.

6.3.3.1 If the DB requires sleeves for the Work, the DB shall furnish and install the sleeves. The DB is responsible for the exact location and size of all holes and openings required to be formed or built for the Work.

6.3.3.2 The DB's patching shall match and blend with the existing or adjacent surface(s).

6.3.4 The DB shall comply with ORC Sections 3781.25 through 3781.32. In addition, before starting excavation or trenching, the DB shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

6.3.4.1 The DB shall give notice at least 2 business days in advance of excavation to the owners of underground utilities registered with the Ohio Underground Utility Protection Services ("OUPS" at <http://oups.org>, phone 811 or 800-362-2764), and the owners of underground utilities shown on the Drawings and Specifications who are not registered members of OUPS. The owner of an underground utility is required within 48-hours' notice to stake, mark, or otherwise designate the location of its utilities in the construction area together with its approximate depth. In the event that any underground utility owner fails to timely perform, the DB shall notify the Contracting Authority and contact the owner of the underground utility.

6.3.5 The DB shall install all Work in accordance with the Contract Documents and any installation recommendations of the manufacturer, including required temperature and humidity limits for installation of the various materials.

6.3.6 The DB shall comply with all requirements and conditions of the NPDES general permit, including, but not limited to, implementing and maintaining the sedimentation and erosion control measures specified in the storm water pollution prevention plan prepared by the DB pursuant to **Section 5.8.4**, which are related to the Work, maintaining records of its construction activities, removing materials no longer required, and taking proper action if there is a reportable quantity spill.

6.4 Construction Supervision

6.4.1 Unless waived by the Contracting Authority in writing, the DB shall provide continuous supervision at the Site by a competent superintendent when any Work is being performed and the DB's superintendent shall not be involved with any work other than the Project.

6.4.2 The DB's project manager and superintendent shall each have the responsibility and authority to act on behalf of the DB. All communications to the DB's project manager or superintendent shall be binding as if given directly to the DB.

6.4.3 For all Subcontracts in excess of \$200,000, the DB shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority no less than 10 days before the Subcontractor is scheduled to begin Work on the Site. For all other Subcontracts, upon receiving a request from the Contracting Authority, the DB shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority.

6.4.3.1 The Contracting Authority may reject the Subcontractor's proposed project manager or proposed superintendent. If the Contracting Authority does not notify the DB of the rejection within 30 days after receiving the required information, it shall indicate that the Contracting Authority has no objection, but does not affect the Contracting Authority's rights under **Section 6.11.2** or any other provision relative to that project manager or superintendent.

6.4.3.2 If the Contracting Authority rejects the Subcontractor's proposed project manager or proposed superintendent, the DB shall cause the Subcontractor to replace the project manager or superintendent (as appropriate) with someone acceptable to the Contracting Authority at no additional cost.

6.4.4 The DB and its Subcontractors subject to **Section 6.4.3** shall not replace their respective project managers or superintendents without prior written approval of the Contracting Authority.

6.4.4.1 If the DB or a Subcontractor subject to **Section 6.4.3** proposes to change its project manager or superintendent, the DB shall submit written justification for the change to the Contracting Authority, along with the name and qualifications of the proposed replacement.

6.4.4.2 The procedure provided in **Section 6.4.3** shall be conducted to evaluate the DB or Subcontractor's (as applicable) proposed replacement project manager or superintendent.

6.5 Construction Progress Schedule

6.5.1 The DB shall prepare and maintain a resource-loaded Construction Progress Schedule using the critical-path method of scheduling that provides the following information:

6.5.1.1 a graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

6.5.1.2 identification of each stage of the Work and any Milestone dates;

6.5.1.3 identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication, shop inspection, and delivery, including, but not limited to, lead time, coordination drawing delivery, Substantial Completion, Punch List, Punch List Correction, Project close-out requirements, occupancy requirements, and Contract Completion;

6.5.1.4 identification of disruptions and shutdowns due to other operations;

6.5.1.5 identification of the critical path of the Work;

6.5.1.6 identification of the crew size and total resource hours for each activity in the schedule; and

6.5.1.7 the DB's signature and date indicating approval.

6.5.2 The DB shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting Authority and shall submit all baseline and updated schedules to the Contracting Authority in the schedules' native electronic format.

6.5.3 The Construction Progress Schedule shall not exceed the time limits current under the Contract Documents, shall provide for reasonable, efficient, and economical execution of the Project, and shall relate to the entire Project to the extent required by the Contract Documents.

6.5.4 The DB shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining Work within applicable Milestones. The Project participants shall use the Construction Progress Schedule as a tool for scheduling and reporting sequenced progress of the Work. The DB shall provide a clear graphics legend and other data including, but not limited to, Milestone dates, constraints, and other items required by the Project, Contracting Authority and Owner. Each submission shall show the Contracting Authority's Project number and Project name, and provide a signature approval and date line for the DB.

6.5.5 The DB shall provide in each schedule: **(1)** activity identification and description for each activity broken down to a maximum duration that is appropriate for the activity, **(2)** responsibility of the DB, DB's resources, and crew size for each activity, and **(3)** early start, early finish, late start, late finish for each activity. Each schedule shall show predecessor activities and successor activities for each activity, entry free float, total float, and percentage of completion, and identify the appropriate predecessors and successors for all related activities.

6.5.6 The Construction Progress Schedule shall show all submittal dates, review and approval durations for Shop Drawings, other action submittals, and mock-up Work.

6.5.7 The DB shall submit the initial and all updates of the Construction Progress Schedule in graphic and tabular form to the Contracting Authority. With each monthly schedule update, the DB shall include a list of all changes to the previously approved baseline schedule or monthly updated schedule.

6.5.7.1 After receiving the Construction Progress Schedule, the Contracting Authority shall review and may accept it or reject and return it to the DB with recommendations for revisions.

6.5.7.2 If the Project is administered using the State's web-based project management software, the DB shall create, approve, and submit the initial and all updates of the Construction Progress Schedule to the Contracting Authority and Owner through the "Schedule Approvals" business process.

6.5.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. The DB shall exhaust existing float before claiming additional time for a Change Order, or show that it is not possible to use float to cover the time requirements of the Change Order.

6.5.9 The DB's failure to timely submit and properly maintain an approved Construction Progress Schedule may result in withholding payment in accordance with **Section 9.2.14**.

6.5.10 For each progress meeting, the DB shall provide a 2- to 6-week look-ahead schedule, as appropriate for the Project.

6.5.11 On a weekly basis, the DB shall prepare and submit to the Contracting Authority a written report describing:

6.5.11.1 activities begun or finished during the preceding week;

6.5.11.2 activities in progress and expected completion;

6.5.11.3 activities to be started or finished in the upcoming 2 weeks, including but not limited to, the DB's workforce size and total resource hours associated with those activities; and

6.5.11.4 other information requested by the Contracting Authority.

6.5.12 The DB shall attach the above information to the minutes of the weekly progress meetings.

6.5.13 The DB shall provide monthly Progress Status Reports to the Contracting Authority and Owner, which shall include recommendations for adjusting the Construction Progress Schedule to meet Milestone dates and the Substantial Completion date.

6.5.13.1 If it is apparent to the Contracting Authority that the DB may be unable to meet critical path activities, Milestone completion dates, or the Substantial Completion date, the Contracting Authority shall direct the DB to submit within 3 days a recovery plan to avoid or minimize the delay to the Project.

6.5.13.2 A recovery plan shall include, but is not limited to, adjustments to one or more of the following:

.1 workforce;

.2 hours per shift;

.3 shifts per workday;

.4 workdays per week;

.5 equipment; and

.6 activity logic.

6.5.13.3 If the Contracting Authority approves the recovery plan, the DB shall prepare a revised Construction Progress Schedule that shall be signed and approved in accordance with **Section 6.5.7**. If the Contracting Authority does not approve the recovery plan, the DB shall submit within 3 days an alternate recovery plan to the Contracting Authority in writing for review and approval in accordance with **Section 6.5.7**.

6.5.14 The DB shall update the Construction Progress Schedule on a monthly basis, or other interval approved by the Contracting Authority, in accordance with **Section 6.5.7**.

6.5.14.1 The updated Construction Progress Schedule signed by the DB shall serve as an affirmation that the DB can meet the requirements of the updated Construction Progress Schedule.

6.5.14.2 The DB shall submit a tabular copy showing all changes to the previously approved schedule including, but not limited to, logic, float, and actual start date of activities. The original or initially approved Construction Progress Schedule and all subsequent Construction Progress Schedules submitted by the DB, and accepted by the Contracting Authority, shall serve as an affirmation that the DB agrees to and can meet the applicable requirements of the updated Construction Progress Schedule.

6.5.15 The DB's failure to timely submit an approved, updated Construction Progress Schedule may result in withholding payment in accordance with **Section 9.2.14**.

6.6 Progress Meetings

6.6.1 The DB shall schedule a weekly progress meeting for the Contracting Authority and other Persons involved in the Project. The purpose of the progress meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

6.6.2 The DB shall be represented at every progress meeting by a Person authorized with signature authority to make decisions regarding possible modification of the Contract Documents or Construction Progress Schedule.

6.6.2.1 The DB shall notify the Contracting Authority and other Persons involved in the Project of the time and place of the progress meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless the Contracting Authority notifies the DB and other Persons involved in the Project of a different day and hour at least 2 days in advance.

6.6.2.2 The DB shall have any of its Subcontractors attend the progress meeting as determined advisable by the DB, or as requested by the Contracting Authority.

6.6.3 The DB shall prepare a written report of each progress meeting and distribute the report to the Contracting Authority and Owner.

6.6.3.1 If any Person in attendance objects to anything in a report of a progress meeting, the Person shall notify the DB, Contracting Authority, and any other affected Person in writing explaining the objection within 5 days.

6.6.3.2 The report of each progress meeting shall reflect any objection made to the report of the previous progress meeting and any response.

6.6.3.3 If the Project is administered using the State's web-based project management software, the DB shall distribute written reports of progress meetings through the "Meeting Minutes" business process, and issues identified during progress meetings that require resolution by one or more Project participants shall be documented through the "Action Items" business process.

6.7 Additional Tests and Inspections

6.7.1 If the Contracting Authority determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the Contracting Authority may order such inspection, testing, or approval.

6.7.1.1 If the special inspection, testing, or approval reveals Defective Work, the DB shall pay all associated costs and will not be entitled to any related adjustment of the Contract Times. Those costs may include, but are not limited to:

- .1** the cost of the special inspection, testing, or approval;
- .2** the cost of additional special inspections, testing, or approvals to evaluate remedial Work;
- .3** the cost of correcting the Defective Work; and
- .4** all related Owner-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

6.7.1.2 The Contracting Authority may deduct the costs described under **Section 6.7.1.1** from payments then or thereafter due the DB. If payments then or thereafter due the DB are not sufficient to cover those amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

6.7.1.3 If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents and the DB believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the DB may request a Change Order by giving written notice under **Section 7.3.2** within 7 days after the special inspection, testing, or approval.

6.7.2 If the DB is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the DB shall timely communicate such information to the Contracting Authority.

6.7.3 Except as described under **Section 6.7.1**, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after the Contract Sum is initially established.

6.7.4 The DB shall coordinate with and give the Contracting Authority and Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

6.7.5 Within 5 days after completion of an inspection, testing, or approval, the DB shall provide an original report/certificate of the inspection, testing, or approval to the Contracting Authority with a recommendation for or against acceptance of the results therein.

6.8 Review of Contract Documents and Field Conditions

6.8.1 Before starting each portion of the Work, the DB shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

6.8.2 If the DB finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the documents provided by the Contracting Authority or Owner, or between any of the those documents and any Applicable Law, the DB, before proceeding with the Work, shall promptly submit a Request for Interpretation (“RFI”) to the Contracting Authority for an interpretation or clarification.

6.8.2.1 Before submitting any RFI to the Contracting Authority, the DB shall carefully review the relevant documents to ensure that those documents do not answer the RFI.

6.8.2.2 The Contracting Authority shall promptly respond to an RFI.

6.8.2.3 Any interpretation or clarification made by any Person other than the Contracting Authority, or in any manner other than writing, shall not be binding and the DB shall not rely upon it.

6.8.2.4 If the Project is administered using the State’s web-based project management software, the DB shall submit RFIs to the Contracting Authority through the “Requests for Interpretation” business process.

6.8.3 If the DB believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued by the Contracting Authority in response to a RFI, the DB may request a Change Order by giving written notice under **Section 7.3.2** within 7 days of receiving the Contracting Authority’s RFI response.

6.8.4 If the DB does not notify the Contracting Authority per **Section 6.8.3**, the DB will have accepted the RFI response without an adjustment to the Contract Sum or Contract Times.

6.9 Protection of the Project

6.9.1 The DB shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Substantial Completion of the Work.

6.9.1.1 The DB shall at all times cover or protect the Work.

6.9.1.2 The DB, at its expense, shall remove, and replace with new, any Work damaged as a result of DB’s failure to provide coverage or protection.

6.9.1.3 The DB, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.

6.9.1.4 After the date of Substantial Completion, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

6.9.2 The DB shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

6.9.3 The DB shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The DB shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

6.9.4 The DB shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

6.9.5 Vibration, Noise, and Dust Control.

6.9.5.1 The DB shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

6.9.5.2 The DB will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building outside the Site. The Project Manager may limit or stop the Work if the DB does not maintain proper air-quality standards.

6.9.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, Work shall be scheduled for other than normal working hours. The DB is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime Work shall be reflected in the Construction Progress Schedule.

6.9.5.4 The DB is responsible for vibration control and control of transmission of noise arising from the Work. Principal considerations which shall be given to noise and vibration control are:

- .1 Noise control in compliance with Occupational Safety and Health Administration (“OSHA”) requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.
- .2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.
- .3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges conducive to study and work or other uses for which the facility is designed.

6.10 Materials and Equipment

6.10.1 The DB shall bring to or store at the Site only the materials and equipment required in the Work. If possible, materials and equipment should be installed in their final positions when brought to the Site.

6.10.1.1 The DB shall properly store and protect all materials and equipment it provides to the Project.

6.10.1.2 The DB shall timely remove from the Site any materials or equipment no longer required for the Work.

6.10.2 The DB shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at or near the Site.

6.10.3 If the DB provides an Acceptable Component, the DB shall be solely responsible for the costs of coordination and modification required.

6.10.4 If the DB provides approved Substitutions that require changes to the Contract Documents, the DB shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design.

6.10.5 The Contracting Authority shall consider Requests for Substitutions after the Contract Sum is initially established only when the DB can conclusively demonstrate to the Contracting Authority the following conditions:

6.10.5.1 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the DB or a Subcontractor, are not available; or

6.10.5.2 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.10.6 The DB’s incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

6.11 Labor

6.11.1 The DB shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors. The DB shall not permit employment of individuals not skilled in tasks assigned to them.

6.11.2 The DB shall dismiss from the Project any individual employed by the DB or a Subcontractor who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

6.11.3 The DB shall employ all legal efforts to minimize the likelihood or effect of any strike, Work stoppage, or other labor disturbance. Informational pickets shall not justify any Work stoppage.

6.12 Safety Precautions

6.12.1 The DB shall take reasonable precautions to ensure the safety of individuals on the Project.

6.12.1.1 The DB is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The DB’s safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner’s safety plan (if any).

6.12.2 The DB shall pay any fine or cost incurred because of the DB’s violation, or alleged violation, of Applicable Law.

6.12.3 Before starting any Work, the DB shall submit to the Contracting Authority a copy of the DB’s site-specific safety plan and safety manuals.

6.12.4 The DB shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

6.12.4.1 The DB shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project, the DB shall inform the Project Manager of the DB’s intent to use blowtorches, welding

apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

6.12.4.2 The DB shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the DB's operations.

6.12.5 Work Stoppage Due to Hazardous Materials.

6.12.5.1 If the DB encounters material the DB reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the DB shall immediately stop Work in the affected area and verbally report the condition to the Contracting Authority, and within 1 business day deliver written notice of the condition to the Contracting Authority.

6.12.5.2 The Contracting Authority will promptly determine the necessity of the Owner retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report. Where appropriate, the Owner will engage a licensed abatement contractor to remove the material or render it harmless as directed.

6.12.5.3 The DB shall resume Work in the affected area upon written notice from the Contracting Authority that **(1)** the suspect material was evaluated and found not to be or contain a Hazardous Material, or **(2)** the suspect material has been removed or rendered harmless.

6.12.5.4 If the DB knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the DB shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from performing the Work in the affected area.

6.12.5.5 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

6.12.6 Safety Data Sheets.

6.12.6.1 The DB shall identify any material it uses at the Site with a Safety Data Sheet ("SDS") meeting the requirements of OSHA's Hazard Communication Standard (formerly known as a Material Safety Data Sheet).

6.12.6.2 The DB shall maintain a notebook containing all of its applicable SDSs. This notebook shall be kept at the Site for the duration of the Project.

6.13 Construction Facilities, Utilities, and Equipment

6.13.1 Facilities.

6.13.1.1 The DB shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

6.13.1.2 The DB shall provide and maintain in a clean condition:

- .1 Suitable facilities, equipment, and services for use by the Contracting Authority;
- .2 Adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and
- .3 Adequate sanitary facilities for use by all Persons at the Site.

6.13.2 Environmental Controls.

6.13.2.1 The DB shall protect its Work and materials from weather and damage from heat, cold, and humidity.

6.13.2.2 Until the permanent HVAC system is complete and available for use:

- .1 The DB shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and
- .2 The DB shall pay the costs incurred in operating the temporary heating and ventilating systems.

6.13.2.3 When the permanent HVAC system is complete and available for use:

- .1 The DB shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.
- .2 If the Project consists entirely of new construction, the DB shall pay the costs of energy consumed in operating the permanent HVAC system until Substantial Completion.
- .3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate

metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

6.13.2.4 From the date of Substantial Completion, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

6.13.2.5 If the permanent HVAC system is used during construction, the DB shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.13.3 Water and Drainage.

6.13.3.1 The DB shall provide water necessary for the Work until the permanent plumbing system is available for use.

6.13.3.2 The DB shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

6.13.3.3 The DB shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

6.13.3.4 When the permanent plumbing system is complete and available for use:

- .1** The DB shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.
- .2** If the Project consists entirely of new construction, the DB shall pay the costs of water consumed and sewerage charges until Substantial Completion.
- .3** If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

6.13.3.5 From the date of Substantial Completion, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

6.13.3.6 If the permanent plumbing system is used during construction, the DB shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.13.4 Electric Service.

6.13.4.1 The DB shall provide temporary light and power; pay the charges for temporary electric service installation, and removal if required.

6.13.4.2 If the Project consists entirely of new construction, the DB shall pay the cost of energy consumed until Substantial Completion.

6.13.4.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

6.13.4.4 From the date of Substantial Completion, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

6.13.4.5 If the permanent electrical system is used during construction, the DB shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.13.5 Hoisting Facilities.

6.13.5.1 The DB shall erect and maintain any hoisting equipment required for its Work.

6.13.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the DB shall provide and pay for all necessary connections.

6.13.5.3 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the DB shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.14 Progress Cleaning

6.14.1 The DB shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location at or near the Site.

6.14.2 The DB shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

6.14.3 The DB shall remove, once each working day or as appropriate for the Project, all waste materials and rubbish from the disposal location at or near the Site.

6.14.4 The DB shall remove, as appropriate for the Project or as the Contracting Authority or Owner directs, any waste materials or rubbish from areas adjacent to the Project.

6.14.4.1 The DB shall dispose of waste materials, rubbish, and construction debris in a lawful manner in approved recycling facilities or landfills.

6.14.5 If the DB fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the DB and at the DB's expense. If the DB fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the DB's expense.

6.14.5.1 The Contracting Authority may deduct the cleaning costs from payments then or thereafter due the DB. If payments then or thereafter due the DB are not sufficient to cover those amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

6.14.6 The DB shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority.

6.14.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the DB shall remove such materials to the designated location.

6.15 Use of Premises

6.15.1 The DB shall use corridors, stairs, and elevators as designated by the Contracting Authority. The DB shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

6.15.2 Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

6.15.3 The DB shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits, and the directions of the Contracting Authority.

6.15.4 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

6.15.5 Smoking and Tobacco Products.

6.15.5.1 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State owned and leased property. The DB shall enforce these restrictions on any individual employed by the DB or a Subcontractor.

6.16 Interruption of Existing Services

6.16.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the DB shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.

6.16.2 Before beginning that Work, the DB shall apply in writing to, and receive approval in writing from, the Owner, through the Contracting Authority, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

6.17 Explosives and Blasting

6.17.1 The DB shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, Owner, and other authorities with jurisdiction.

6.17.2 The DB shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

6.17.2.1 The DB shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the DB shall deliver evidence of that insurance to the Contracting Authority.

6.18 Building Commissioning

6.18.1 If the Project scope includes building commissioning, the DB shall participate in the Commissioning Process, as prescribed in the Contract Documents.

6.18.2 The DB shall permit the Commissioning Agent (“CxA”) access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Substantial Completion.

6.18.3 The CxA shall promptly notify, in writing, the DB of any deficiency identified during the Commissioning Process.

6.18.4 To facilitate the Commissioning Process, the DB shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the Contracting Authority, and CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related DB submittals required by the Contract Documents.

6.19 Action Submittals

6.19.1 Contracting Authority’s Submittal Review. The Contracting Authority shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the Contracting Authority and DB. It is not the purpose of the Contracting Authority’s review of submittals to determine the accuracy and completeness of other details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the DB’s responsibility.

6.19.1.1 If the Project is administered using the State’s web-based project management software, the DB shall submit electronic files of its submittals for review, using the “Submittals” business process.

6.19.2 Risk of Nonpayment. The DB shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the Contracting Authority. If the DB starts Work before the Contracting Authority’s final approval of the submittal, the DB does so at its own risk that payment may not be approved by the Contracting Authority or made by the Owner for the related Work.

6.19.3 Equipment Statement. Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

6.19.3.1 “This equipment submitted for approval shall perform as specified when installed in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories such as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents.”

.1 The DB will be deemed to have included the above statement as required even if the associated Shop Drawing does not actually contain the statement.

6.19.3.2 This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

6.19.4 Domestic Steel Certifications. The DB shall include the following written certifications on the front cover or initial sheet of each structural steel fabrication Shop Drawing, signed and dated prior to fabrication:

6.19.4.1 “Steel Fabricator Certification: The steel fabricator identified below certifies that for this project all load-bearing structural steel has been fabricated or produced, to the best of its knowledge, only from steel made in the United States in accordance with Ohio Revised Code Section 153.011. Further, the steel fabricator hereby certifies that it has read and understands that a monetary penalty for violations may be imposed under the authority of Ohio Revised Code Section 153.99.” This certification shall be followed by the name of the fabrication company, name of the company official signing the certification, the signature of that company official, and the date of that signature.

.1 The DB will be deemed to have included the above certification as required even if the associated Shop Drawing does not actually contain the certification.

6.19.4.2 “Contractor Certification: The contractor identified below certifies that it has required as a condition of purchase, that for this project all load-bearing structural steel shall be fabricated and produced using, to the best of its knowledge, only steel made in the United States in accordance with Ohio Revised Code Section 153.011. Further, the contractor hereby certifies that it has read and understands that a monetary penalty for violations may be imposed under the authority of Ohio Revised Code Section 153.99.” This certification shall be followed by the name of the DB company, name of the company official signing the certification, the signature of that company official, and the date of that signature.

- .1 The DB will be deemed to have included the above certification as required even if the associated Shop Drawing does not actually contain the certification.

6.20 Warranty

6.20.1 The DB warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work. If required by the Contracting Authority, the DB shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.20.1.1 If the DB or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and the Owner accepts that recommendation, the above warranty includes a warranty from the DB to the Owner that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

6.21 Uncovering the Work

6.21.1 If the DB covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the Contracting Authority, the DB shall, if the Contracting Authority requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the DB's expense without adjustment of the Contract Times.

6.21.2 If the DB covers Work in accordance with the Contract Documents and not contrary to a request from the Contracting Authority for an opportunity to observe the Work prior to covering, the DB shall, if the Contracting Authority requests in writing, uncover that Work.

6.21.2.1 If the uncovered Work is Defective Work, the DB shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Times.

6.21.2.2 If the uncovered Work is not Defective Work and the DB believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the uncovering and recovering of the Work, the DB may request a Change Order by giving written notice under **Section 7.3.2** within 7 days after the Contracting Authority observes the uncovered Work.

6.22 Correction of the Work

6.22.1 Before Substantial Completion.

6.22.1.1 If the DB provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority may issue a written notice to the DB and DB's Surety directing the DB to correct the Defective Work or recover schedule deficiencies. Unless otherwise specified in that written notice, the DB shall begin to correct the Defective Work and recover the schedule deficiencies within no more than 3 days after the Contracting Authority issues the written notice ("72-Hour Notice").

6.22.1.2 If the DB fails to promptly commence and diligently pursue correction of Defective Work or recovery of schedule deficiencies required under **Section 6.22.1.1**, the Owner may correct the Defective Work or take action to recover schedule deficiencies without giving further notice to the DB or DB's Surety.

6.22.2 After Substantial Completion.

6.22.2.1 In addition to the DB's other obligations under the Contract Documents, if any of the Work is found to be Defective Work after Substantial Completion, the DB shall correct it promptly after receipt of written notice from the Contracting Authority or Owner to do so, unless the Contracting Authority and Owner have previously acknowledged and accepted the Defective Work in writing. The Contracting Authority or Owner may send a copy of the written notice to the DB's Surety, but are not obligated to do so.

6.22.2.2 During the Correction Period. If the Contracting Authority or Owner issues a notice under **Section 6.22.2.1** during the Correction Period, the Owner may correct the Defective Work itself without giving further notice to the DB or DB's Surety if the DB fails to **(1)** notify the Owner in writing of the DB's intent to correct the Defective Work within 7 days after the Contracting Authority or Owner issues the notice and **(2)** thereafter promptly commence and diligently pursue correction of Defective Work.

6.22.2.3 The Correction Period:

- .1 commences on the date of Substantial Completion of the Work or a designated portion of the Work which the Contracting Authority and Owner have agreed to take Partial Occupancy;
- .2 relates only to the DB's specific obligation and opportunity to correct the Work during the Correction Period;
- .3 does not establish a period of limitation with respect to any of the DB's other obligations under the Contract Documents;
- .4 has no relationship to the time within which the State or Owner may seek to enforce the Contract;
- .5 does not establish a period of limitation within respect to the commencement of litigation to establish the DB's liability under the Contract or otherwise; and
- .6 shall not be extended by corrective Work performed by the DB under this **Section 6.22.2**.

6.22.2.4 After the Correction Period. If the Owner issues notice under **Section 6.22.2.1** after expiration of the Correction Period, the Owner may correct the Defective Work itself without giving further notice to the DB or DB's Surety if the DB fails to **(1)** notify the Owner in writing of the DB's intent to correct the Defective Work within 14 days after the Owner issues the notice and **(2)** thereafter promptly commence and diligently pursue correction of Defective Work.

6.22.3 Emergency Correction of Defective Work.

6.22.3.1 Notwithstanding any other provision of the Contract to the contrary, if in the Contracting Authority or Owner's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, the Contracting Authority or Owner may order the DB to immediately correct Defective Work or the Owner may correct the Defective Work itself without prior notice to the DB or DB's Surety.

6.22.4 Responsibility for Costs of Correction.

6.22.4.1 The DB shall pay all of the costs and damages associated with the correction of Defective Work and the recovery of schedule deficiencies under this **Section 6.22**. Those costs and damages may include, but are not limited to, the related fees and charges of contractors, engineers, architects, attorneys, and other professionals; and the cost of correcting or replacing adjacent work. The Contracting Authority may deduct those costs and damages from payments then or thereafter due the DB. If payments then or thereafter due the DB are not sufficient to cover those amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

6.23 Acceptance of Defective Work

6.23.1 The Owner may accept any Defective Work instead of requiring its removal or correction, in which case the Contract Sum shall be equitably reduced as described under **Article 7**.

6.23.1.1 The Owner may only accept Defective Work though a deduct Change Order that makes explicit reference to this **Section 6.23**.

6.23.2 None of the following will constitute **(1)** acceptance of Defective Work, **(2)** a release of the DB's obligation to perform the Work in accordance with the Contract, or **(3)** a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

- 6.23.2.1** observations or inspections by the Owner or Contracting Authority;
- 6.23.2.2** the making of any payment;
- 6.23.2.3** Substantial Completion or the issuance of a Certificate of Substantial Completion;
- 6.23.2.4** Partial Occupancy and the Owner's use or occupancy of the Work or any part of it;
- 6.23.2.5** Contract Completion or the issuance of a partial or final Certificate of Contract Completion;
- 6.23.2.6** any review or approval of a submittal;
- 6.23.2.7** any inspection, test, or approval by other Persons; or
- 6.23.2.8** any correction of Defective Work by the Owner.

6.24 Project Document Maintenance and Submittal

6.24.1 During Construction.

6.24.1.1 The DB shall maintain in good order at a secure location on the Site:

- .1 a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; RFIs and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines; and
- .2 a set of Drawings and Specifications, approved in accordance with **Section 5.8.1.1**, and the records required by **Section 6.2.14**.

6.24.1.2 Before submitting each DB Payment Request, the DB shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.

6.24.1.3 The DB shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.

6.24.1.4 If the DB uses Shop Drawings to indicate as-built conditions, the DB shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The DB shall note related numbers where applicable.

6.24.1.5 The DB shall at all times permit access to the documents described in this **Section 6.24.1** to authorized representatives of the State, local authorities having jurisdiction, Contracting Authority, Owner, and Criteria A/E.

6.24.2 Before Contract Completion.

6.24.2.1 The DB shall submit the As-Built Documents to the AOR. That submission shall include, but is not limited to:

- .1 Certificate of Occupancy;
- .2 inspection certificates for pressure piping, elevator, boiler, electrical, plumbing or piping purification, etc.;
- .3 Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;
- .4 Operation and Maintenance Manuals, organized into suitable sets of manageable size. Indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;
- .5 neatly and accurately marked sets of As-Built Documents, and other Contract Documents reflecting the actual construction of the Project;
- .6 detailed Drawings reflecting the exact location of any concealed utilities, mechanical or electrical systems, and components;
- .7 assignment to the Owner of all warranties and guarantees, including the most-recent address and telephone number of any Subcontractors or manufacturers;
- .8 an affidavit to certify that all Subcontractors have been paid in full for all Work performed or materials furnished for the Project;
- .9 final certified payroll reports; and
- .10 an affidavit to certify that the DB and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115.

6.24.2.2 By submitting the As-Built Documents to the AOR, the DB certifies that its As-Built Documents are complete, correct, and accurate.

6.24.2.3 The AOR shall revise the original Contract Documents and related Electronic Files with the information contained on the As-Built Documents. The AOR shall label the revised original Contract Documents and related Electronic Files as "Record Documents" and reflect the date of the AOR's incorporation of the As-Built Documents.

6.24.2.4 The DB, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall submit the Record Documents to the Contracting Authority.

6.24.2.5 By submitting the Record Documents to the Contracting Authority, the DB certifies that its Record Documents are complete, correct, and accurate.

6.24.2.6 The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

6.25 Final Cleaning

6.25.1 Before requesting the Substantial Completion inspection of the Work, the DB shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Substantial Completion, the premises are ready for occupancy by the Owner.

6.25.2 If the DB performs any Work after final cleaning, the DB shall clean the affected area as provided above so that upon Substantial Completion, the premises are ready for occupancy by the Owner.

6.25.3 Final cleaning shall be done to the reasonable satisfaction of the Contracting Authority.

6.26 Substantial Completion

6.26.1 DB's Punch List.

6.26.1.1 When the DB considers the Work, or a designated portion thereof, Substantially Complete the AOR shall inspect the Work and prepare a list of Defective Work and incomplete or unacceptable Work ("DB's Punch List"). The AOR shall list all items of Work not in compliance with the Contract Documents, including items the DB is requesting to be deferred.

- .1 The DB shall proceed to correct all items listed on the DB's Punch List and certify that the incomplete items listed on the DB's Punch List are to its knowledge an accurate and complete list by signing the DB's Punch List.
- .2 The DB's or AOR's failure to include an item on the DB's Punch List shall not alter the DB's responsibility to complete the Work in accordance with the Contract Documents.
- .3 The DB shall submit the signed DB's Punch List to the Contracting Authority, together with a request for the Substantial Completion inspection of the Work.

6.26.1.2 If the Project is administered using the State's web-based project management software, the DB shall submit the DB's Punch List, using the "Punch List" business process.

6.26.2 Substantial Completion Inspection.

6.26.2.1 Within 3 business days after receipt of the request for the Substantial Completion inspection of the Work, the Contracting Authority shall notify the DB of acceptance or rejection of the request, stating reasons for any rejection.

- .1 Within 7 days after its acceptance of the DB's request, the Contracting Authority shall conduct the Substantial Completion inspection to determine whether the Work, or the designated portion, is in conformity with the Contract Documents and Substantially Complete. The Contracting Authority shall notify the DB and Owner of the scheduled time of the Contracting Authority's inspection.
- .2 If the Contracting Authority determines that the Work is Substantially Complete, within 3 business days after the Substantial Completion inspection, the Contracting Authority shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and include a list of Defective, incomplete, or unacceptable Work ("Contracting Authority's Punch List"). The Contracting Authority's Punch List shall include **(1)** the items on the DB's Punch List that are not yet completed or corrected as of the date of the Substantial Completion inspection, and **(2)** comments from the Owner.
- .3 The Contracting Authority shall submit the Certificate of Substantial Completion to the Owner and DB for their written acceptance. Upon their acceptance and consent of the DB's Surety, and subject to the Owner's right to withhold payment, the Owner shall release retainage as described under **Section 9.2.13.3**.
- .4 The Contracting Authority's failure to include an item on the Contracting Authority's Punch List shall not alter the DB's responsibility to complete the Work in accordance with the Contract Documents.
- .5 If the Contracting Authority accepts the request for the Substantial Completion inspection and subsequently determines that the Work is not Substantially Complete, the Contracting Authority may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct those additional costs from payments then or thereafter due the DB. If payments then or thereafter due the DB are not sufficient to cover those amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

6.26.3 Completion of Punch List Items.

6.26.3.1 Within 30 days after the date of Substantial Completion and before the date of Contract Completion, the DB shall complete all items on the Contracting Authority's Punch List. After completing all items on the Contracting Authority's Punch List, the DB shall provide a written request for Final Inspection of the Work to the Contracting Authority.

- .1 If Work on the Contracting Authority's Punch List cannot be timely completed, the DB shall justify in writing to the reasonable satisfaction of the Contracting Authority the reasons the items cannot be completed, and the DB may propose, for the Contracting Authority's approval, a time when the DB shall complete those items.
- .2 Within 3 business days after receipt of the DB's request for Final Inspection, the Contracting Authority shall complete a Final Inspection of the Work for compliance with the Contract Documents.
- .3 If multiple inspections of items on the Contracting Authority's Punch List are required due to the DB's failure to properly and timely complete them, the DB shall pay any additional costs incurred by the Contracting Authority and Owner resulting from any attendant delay and re-inspections. The Contracting Authority may deduct those additional costs from payments then or thereafter due the DB. If payments then or thereafter due the DB are not sufficient to cover those amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

6.26.3.2 If the Project is administered using the State's web-based project management software, the DB shall receive the Contracting Authority's Punch List and submit its request for Final Inspection, using the "Punch List" business process.

6.27 Partial Occupancy

6.27.1 The Owner may occupy or use a portion of the Project prior to Contract Completion if:

6.27.1.1 the building authority with jurisdiction over the Project issues a partial certificate of occupancy for the portion of the Project the Owner intends to occupy;

6.27.1.2 the DB with the Owner's assistance has provided written notice of the Partial Occupancy to the insurers providing property insurance for the Project; and

6.27.1.3 the Contracting Authority has received notice of the Partial Occupancy from the DB and has consented to it.

6.27.2 Before the Owner commences Partial Occupancy, the Owner, Contracting Authority, DB, and AOR shall proceed as described under **Section 6.26** for the area designated for Partial Occupancy.

6.27.3 The DB shall be relieved of the obligation to maintain the area accepted for Partial Occupancy of the Work, but shall remain obligated to complete and correct the Work and to carry the insurance required by the Contract Documents during performance of any such Work.

6.28 Demonstration and Training, Operating Appurtenances

6.28.1 The DB, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall perform demonstration and training of the Owner's maintenance personnel as specified in the Contract Documents.

6.28.2 The DB, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall organize and submit operating appurtenances and loose items related to operation and maintenance of the completed Project to the Owner, including, but not limited to:

6.28.2.1 Keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

6.28.2.2 Operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

6.28.2.3 Extra materials (e.g., attic stock).

6.29 Contract Completion

6.29.1 Partial Contract Completion.

6.29.1.1 When items of Work cannot be completed until a subsequent date, the Contracting Authority shall prepare a partial Certificate of Contract Completion that shall include a detailed list of the deferred Work and the date(s) by which the DB will complete that Work.

6.29.1.2 The Contracting Authority shall submit the partial Certificate of Contract Completion to the Owner and DB for their written acceptance. Upon their acceptance of the partial Certificate of Contract Completion and consent of the DB's Surety, the Contracting Authority may release payment to the DB, as determined in the sole discretion of the Contracting Authority.

6.29.2 Final Contract Completion.

6.29.2.1 When all items on the Contracting Authority's Punch List have been completed to the satisfaction of the Contracting Authority, all requirements of the Contract Documents have been completed, and the provisions of **Sections 6.24** through **6.28** have been fulfilled, the Contracting Authority shall prepare and issue a final Certificate of Contract Completion.

6.29.2.2 The date that the Contracting Authority executes the final Certificate of Contract Completion is the date of Contract Completion.

ARTICLE 7 - MODIFICATIONS

7.1 General

7.1.1 Preconstruction Services Amendments.

7.1.1.1 Preconstruction Stage obligations under this Contract may be modified only through a Preconstruction Services Amendment prepared by the Contracting Authority and signed by both the DB and Contracting Authority, with concurrence of the Owner.

7.1.1.2 The DB may initiate a Preconstruction Services Amendment by submitting written notice to the Owner and Contracting Authority accompanied by a Proposal meeting the requirements of **Section 9.1.6** or **Section 9.1.7** as applicable.

7.1.1.3 If the Project is administered using the State's web-based project management software, the DB shall initiate its Preconstruction Services Amendment using the "Change Order" or "Contract Modifications" business process.

7.1.2 Changes in the Work.

7.1.2.1 The Contracting Authority may order changes in the Work without invalidating the Contract. Subject to the limitations stated in this **Article 7** and elsewhere in the Contract Documents, a change in the Work may be accomplished by a Change Order, Change Directive, or order for a minor change in the Work.

- .1** The DB shall proportionately increase the amount of the Bonds whenever the Contract Sum (not including the Construction Stage Design Services Fee) is increased.
- .2** If notice of any change affecting the Contract is required by the provision of any Bond, notice is the DB's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

7.1.2.2 The DB shall not proceed with any change in the Work without the Contracting Authority's prior written authorization except as provided under **Section 1.10**.

7.1.2.3 Except as provided in **Section 1.10**, the DB's failure to obtain prior written authorization for a change in the Work constitutes a waiver by the DB of an adjustment to the Contract Sum or Contract Times, or both, for the related Work.

7.1.2.4 The DB shall perform all changes in the Work under the applicable provisions of the Contract Documents, and the DB shall proceed promptly with the change unless otherwise provided in the Change Order, Change Directive, or order for a minor change in the Work.

7.1.3 Paperwork Consolidation.

7.1.3.1 Related Modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same Change Order.

7.1.3.2 Add and deduct Modifications, with the same or similar justification, may be included on the same Change Order.

7.1.4 Modification Numbering.

7.1.4.1 The DB shall assign a number to each Modification, which shall uniquely identify it.

7.1.4.2 The DB shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.1.4.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

7.1.5 Modification Log.

7.1.5.1 The DB shall create and maintain a Modification Log for the Project, which shall contain the following minimum information:

- .1 number of the Modification;
- .2 a brief description of the Modification;
- .3 cost of the Modification;
- .4 schedule impact of the Modification; and
- .5 dates sent to, and received from, the parties.

7.1.6 Reconciliation of Unit Price Items.

7.1.6.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.1.6.2 The parties shall enter into a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.1.6.3 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the DB shall immediately notify the Contracting Authority. If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or DB, the Contracting Authority shall issue a Proposal Request or the DB shall issue a request for a Change Order (as appropriate). The parties shall thereafter negotiate an appropriate adjustment of the Unit Price and scheduled quantity and enter into an associated Change Order.

- .1 If a Unit Price is adjusted as described under **Section 7.1.6.3**, the new Unit Price will only apply to the units of Work performed that are **(1)** less than the 20 percent threshold if the Unit Price is changed on account of an over-estimation of the scheduled quantity of a Unit Price item involved in the Work or **(2)** in excess of the 20 percent threshold if the Unit Price is changed on account of an under-estimation of the scheduled quantity of a Unit Price item involved in the Work.

7.2 Change Order Procedure

7.2.1 A Change Order is a written instrument prepared by the Contracting Authority and executed by the Contracting Authority and DB stating their agreement upon all of the following:

- 7.2.1.1** a change in the Work;
- 7.2.1.2** the amount of the adjustment of the Contract Sum, if any; and
- 7.2.1.3** the extent of the adjustment of the Contract Times, if any.

7.2.2 Except with the Contracting Authority's written consent as explicitly provided under **Section 7.4.8**, the DB is not entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further adjustment of the Contract Sum or Contract Times, or both, after the DB signs the Change Order. By signing a Change Order, the DB irrevocably certifies that the elements of a Change Order described in **Section 7.2.1** are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Times, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

7.2.3 The Contracting Authority shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order to the DB for signature.

7.2.4 Within 3 days after receiving a Change Order: **(1)** if the DB agrees with the Change Order under **Section 7.2.1**, the DB shall sign the Change Order and transmit the signed Change Order and the updated Change Order Log to the Owner; or **(2)** if the DB does not agree with the Change Order under **Section 7.2.1**, the DB shall provide written notice of the disagreement to the Contracting Authority and Owner.

7.2.5 When the Owner receives the Change Order, the Owner may sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the Contracting Authority; or, if the Owner does not accept the Change Order, the Owner will reject and forward it to the Contracting Authority.

7.2.6 When the Contracting Authority receives the Change Order, the Contracting Authority may sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the Contracting Authority does not accept the Change Order, the Contracting Authority will reject and notify the Owner and DB of the rejection.

7.2.7 When the Change Order is signed by the DB, Owner, and Contracting Authority, the fully executed Change Order modifies the Contract Documents and authorizes and directs the DB to proceed, and the DB shall promptly proceed with the associated change in the Work.

7.2.8 If the Project is administered using the State’s web-based project management software, the DB shall indicate its agreement with the Change Order using the “Change Order” or “Contract Modifications” business process.

7.3 Initiation of Change Orders

7.3.1 Proposal Request.

7.3.1.1 The Contracting Authority shall prepare and issue a Proposal Request to the DB to obtain the DB’s Proposal for the adjustment of the Contract Sum or Contract Times, or both, associated with a contemplated Modification.

- .1 In any Proposal for an adjustment of the Contract Sum, the DB shall specifically identify the items set forth in **Section 7.7**.
- .2 In any Proposal for an adjustment of the Contract Times, the DB shall specifically identify the items set forth in **Section 7.8**.
- .3 The DB’s cost of preparing and providing Proposals is included in the Contract Sum.

7.3.1.2 The DB shall respond with a Proposal to the Contracting Authority within 14 days after receiving the Proposal Request. The allowable time for the DB’s response may be extended by written agreement of the DB and Contracting Authority.

7.3.1.3 The DB shall hold the Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the DB and Contracting Authority. The time limits described under this **Section 7.3.1.3** apply only to Proposals submitted in response to a Proposal Request.

7.3.1.4 A Proposal may be accepted by the Contracting Authority only through a Change Order. A Proposal Request does not authorize the DB to proceed with a change in the Work.

7.3.1.5 If the DB does not timely submit a Proposal within the time required in **Section 7.3.1.2**, the DB waives its right to an adjustment to the Contract Sum or Contract Times, or both, associated with the contemplated change in the Work.

7.3.1.6 If the Project is administered using the State’s web-based project management software, the DB shall respond to a Proposal Request issued by the Contracting Authority with its Proposal using the “Change Order” or “Contract Modifications” business process.

7.3.2 Request for Change Order.

7.3.2.1 The DB may initiate a change in the Work by submitting written notice to the Contracting Authority accompanied by a Proposal as described under **Section 7.3.1**.

7.3.2.2 If the Project is administered using the State’s web-based project management software, the DB shall initiate its Request for Change Order using the “Change Order” or “Contract Modifications” business process with the “Request for Change Order” workflow.

7.4 Change Directives

7.4.1 A Change Directive is a written order prepared and executed by the Contracting Authority directing a change in the Work and may, if necessary:

7.4.1.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.4.1.2 Limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.

7.4.2 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the Contracting Authority may prepare a Change Directive, for the Contracting Authority’s and the Owner’s signatures pursuant to **Section 7.4.1**, authorizing the DB to proceed.

7.4.3 A Change Directive shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.

7.4.3.1 For the purposes of clarity, the Contract refers to a Change Directive as if it is only to be used in the absence of total agreement on the terms of a Change Order concerning the associated change of the Work. A Change Directive may also be used in the absence of agreement as to whether the subject of the Change Directive actually constitutes a change in the Work; such as the situation described under **Section 7.5.3**.

7.4.4 Upon receipt of a Change Directive, the DB shall promptly proceed with the change in the Work involved.

7.4.5 The DB may sign the Change Directive to accept the proposed basis for adjustment, if any, of the Contract Sum or Contract Times, or both. Thereafter, the Contracting Authority shall prepare and the Contracting Authority, Owner, and DB shall promptly execute an associated Change Order as described under **Section 7.2**.

7.4.6 Within 14 days after receiving the Change Directive, the DB shall respond with a Proposal as described under **Section 7.3.1** to the Contracting Authority for adjustment of the Contract Sum or Contract Times, or both, on account of the change, unless the Change Directive is performed on a time and materials basis under **Section 7.4.1.2**. If the Change Directive is performed on a time and materials basis, the DB shall submit its Proposal within 7 days after completing the Work.

7.4.6.1 The Proposal for the adjustment of the Contract Sum, if any, shall include: **(1)** written documentation as described under **Section 7.7**; and **(2)** a written statement from the DB that the proposed adjustment is the entire adjustment in the Contract Sum associated with the change.

7.4.6.2 The Proposal for the change in the Contract Times, if any, shall include: **(1)** written documentation as described under **Section 7.8**; and **(2)** a written statement from the DB that the proposed adjustment is the entire adjustment of the Contract Times associated with the change.

7.4.7 If the DB does not respond to a Change Directive as required under **Section 7.4.5** or **Section 7.4.6**, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the DB does not agree with the Contracting Authority's determination, the DB shall initiate a Claim under **Article 8** within 10 days of the date that the Contracting Authority issues its determination, and the DB's failure to do so shall constitute an irrevocable waiver of the Claim.

7.4.8 Pending final determination of the total adjustment of the Contract Times on account of a Change Directive, the period of time not in dispute for that change in the Work may be included in the Construction Progress Schedule accompanied by a Change Order indicating the parties' agreement with part or all of the time adjustment.

7.4.9 If the Contracting Authority, Owner, and DB agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive, the Contracting Authority shall prepare an appropriate Change Order promptly after receiving the DB's Proposal. The Contracting Authority, Owner, and DB shall promptly sign the Change Order as described under **Section 7.2**.

7.4.10 If the Contracting Authority, Owner, and DB do not agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive within 60 days after the Change Directive is issued, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the DB does not agree with the Contracting Authority's determination, the DB shall initiate a Claim under **Article 8** within 10 days of the date that the Contracting Authority issues its determination, and the DB's failure to do so shall constitute an irrevocable waiver of the Claim.

7.4.11 If the Project is administered using the State's web-based project management software, the DB shall respond to a Change Directive issued by the Contracting Authority with its Proposal using the "Change Order" or "Contract Modifications" business process.

7.5 Minor Changes in the Work

7.5.1 The Contracting Authority may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the DB.

7.5.2 The DB shall promptly carry out each order for a minor change in the Work if the DB agrees that the order does not involve adjustment of the Contract Sum or Contract Times, or both.

7.5.3 If the DB reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of an order for a minor change in the Work, the DB, within 3 business days after receiving the order, shall give the Contracting Authority written notice of the DB's position, and not proceed with the subject Work without first receiving a Change Directive or Change Order related to it.

7.5.4 The DB waives its right to an adjustment of the Contract Sum or Contract Times on account of an order for a minor change in the Work by:

7.5.4.1 starting the Work that is the subject of the order for a minor change in the Work; or

7.5.4.2 failing to give the notice described under **Section 7.5.3** within 3 business days after receiving the order for a minor change in the Work.

7.5.5 If the Project is administered using the State's web-based project management software, the order for a minor change in the Work shall be documented through the "Action Items" business process.

7.6 Differing Site Conditions

7.6.1 If the DB encounters a Differing Site Condition, the DB shall stop Work on that Differing Site Condition and give immediate written notice of the condition to the Contracting Authority.

7.6.1.1 The DB's failure to give notice of the Differing Site Condition as required under this **Section 7.6.1** shall constitute an irrevocable waiver of any associated Claim.

7.6.1.2 The written notice of a Differing Site Condition under this **Section 7.6.1** shall be required before the notice of Claim under **Article 8**.

7.6.2 Promptly after receiving notice from the DB under **Section 7.6.1**, the Contracting Authority shall investigate to determine whether the DB has encountered a Differing Site Condition. The Contracting Authority shall give written notice of its determination to the DB within 10 days after completing the investigation.

7.6.2.1 If the Contracting Authority determines that the DB has encountered a Differing Site Condition and the Owner agrees with the Contracting Authority's determination, the Contracting Authority shall prepare (as appropriate) a resulting Change Order or a Change Directive.

7.6.2.2 If the Contracting Authority determines that the DB has encountered a Differing Site Condition but the Owner disagrees with the Contracting Authority's determination, the Contracting Authority shall process an appropriate Change Directive through which the Owner may convey its disagreement with the Contracting Authority's determination.

7.6.2.3 If the Contracting Authority determines that the DB has not encountered a Differing Site Condition and the DB does not agree with that determination, the DB shall initiate a Claim under **Article 8** within 10 days of the date that the Contracting Authority issues its determination.

7.7 Change Order Cost or Credit Determination

7.7.1 General.

7.7.1.1 The maximum cost or credit resulting from a change in the Work shall be determined as described below.

- .1** Proposals shall include the information required by **Section 7.7.1.4**.
- .2** A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order except for Unit Price Work included in the GMP Amendment.
- .3** The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.7.1.2 The DB shall not assign any portion of the Work to another Person whereby the DB would benefit directly or indirectly from the double application of charges for overhead or profit.

7.7.1.3 The Contracting Authority may require notarized invoices for material costs and may audit the records of the DB and Subcontractors.

7.7.1.4 For each change in the Work, the DB shall furnish a detailed Proposal itemized on the **Proposal Worksheet Summary Form (Design-Builder)** published by the Ohio Facilities Construction Commission through which the DB shall document the related changes in the Contract Sum as described under **Section 7.7.2**. Any Subcontractor pricing shall be itemized on the appropriate **Proposal Worksheet Summary Form**.

7.7.1.5 **Section 7.7.2** establishes the exclusive and maximum amount that the Owner shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work ("Pricing Criteria"). These Pricing Criteria also govern the value of deduct Change Orders and the DB's entitlement to additional compensation or damages through the Claims and dispute resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed in **Section 7.7.2**.

7.7.2 Pricing Criteria.

7.7.2.1 Construction Stage Design Services Fee: The AOR's Services directly involved in the Work on an hourly basis according to the rates set forth in the AOR's Fee Schedule attached to the Agreement.

7.7.2.2 DB Construction Stage Personnel Costs: The DB's on-Site management, supervision, and administrative personnel not subject to prevailing wage under to ORC Chapter 4115. These costs will be calculated on an hourly basis according to the rates set forth in the Personnel Costs Rate Schedule attached to the Agreement.

- .1 In no event will the DB be entitled to an increase in the Contract Sum on account of Construction Stage Personnel Costs unless the DB actually incurs additional Construction Stage Personnel Costs solely on account of the associated change in the Work.
- .2 Under no conditions will the increase under this **Section 7.7.2.2** exceed those additional Construction Stage Personnel Costs the DB actually incurs.

7.7.2.3 Labor: Field labor directly involved in the Work based upon the actual rate of pay to the worker. If the Project is subject to payment of prevailing wage rates, field labor shall be paid according to the relevant classification of labor as established in the applicable prevailing wage determination for the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

- .1 In no event will the DB be entitled to an increase in the Contract Sum on account of labor costs unless the DB actually incurs additional labor costs on account of the associated change in the Work.
- .2 Under no conditions will the increase under this **Section 7.7.2.3** exceed those additional labor costs the DB actually incurs.
- .3 The cost for supervision above the level of working forepersons (such as general forepersons, superintendent, project manager, etc.) is included in the adjustment under **Section 7.7.2.2** for the DB and under **Section 7.7.2.11** for Subcontractors.

7.7.2.4 Fringes: Fringe benefit credit for labor provided under **Section 7.7.2.3** is only allowable for prevailing wage fringe benefits pursuant to ORC Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The DB shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.7.2.5 Allowable Payroll Expenses: Allowable payroll expenses for labor provided under **Section 7.7.2.3** including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item and shall not be credited for compliance with ORC Chapter 4115.

7.7.2.6 Equipment Rentals: All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance and weather delays shall not be allowed. DB shall submit copies of actual paid invoices to substantiate rental costs.

7.7.2.7 Owned Equipment: All charges for certain heavy or specialized equipment owned by the DB or Subcontractor performing the Work at up to 100 percent of the cost listed by the current edition of the Associated Equipment Distributors' *AED Green Book* heavy equipment rental rates. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.7.2.8 Trucking: A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

7.7.2.9 Materials: The actual cost (including all discounts, rebates or related credits) of all materials incorporated into the changed Work. Documentation shall show costs, quantities, or Unit Prices of all items, as appropriate.

- .1 The cost or credit for reusable materials (e.g., concrete form lumber, shoring, or temporary enclosures) shall be limited to 33 percent of the material cost for each use.

7.7.2.10 DB's General Conditions Costs: The DB's General Conditions Costs to the extent attributable to an associated change in the Contract Time for achievement of Substantial Completion resulting from the change in the Work.

- .1 In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to **(1)** the sum of the General Conditions Costs line items in the DB's Schedule of Values attached to the GMP Amendment, **(2)** divided by the total number of days of the original Contract Time for achievement of Substantial Completion.
- .2 The DB shall **(1)** exclude the Bond premium from the Schedule of Values for the purposes of the calculation under **Section 7.7.2.10.1**, and **(2)** include the actual adjustment of the Bond premium attributable to an associated change in the Contract Sum.

- .3 If the DB purchases the builder's risk insurance for the Project, the DB shall **(1)** exclude the builder's risk insurance premium from the Schedule of Values for the purposes of the calculation under **Section 7.7.2.10.1**, and **(2)** include the actual adjustment of the builder's risk insurance premium attributable to an associated change in the Contract Sum.

7.7.2.11 Subcontractor Overhead and Profit: Adjustment of the Contract Sum on account of a change in Subcontractor-performed Work shall include the Subcontractor's aggregate overhead and profit allowance equal to 15 percent of the sum of the Subcontractor's costs described under **Sections 7.7.2.3** through **7.7.2.9** that are associated with that changed Work.

- .1 The allowance applies to DB Affiliated Entities and to each Subcontractor tier.
- .2 The allowance covers: the costs required to schedule and coordinate the Work, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all other home office expense, legal services, travel, and parking expenses.
- .3 An exception is allowed for shop or engineering labor on items in **Section 7.7.2.11.2**, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site. Recovery for these matters shall be allowed on an hourly basis under items in **Sections 7.7.2.3**, **7.7.2.4**, and **7.7.2.5** of these Pricing Criteria.
- .4 An exception is allowed for field supervision labor on items in **Section 7.7.2.11.2**, for those portions of the Change Order Work that will be performed, or were performed, at times when the superintendent is not required to be on site under **Section 6.4**, including but not limited to overtime hours due to acceleration and extensions of the Contract Times. Recovery for this matter will be allowed on an hourly basis under items in **Sections 7.7.2.3**, **7.7.2.4**, and **7.7.2.5** of these Pricing Criteria.

7.7.2.12 DB's Fee: Adjustment of the Contract Sum on account of a change in the Work shall include an allowance for the DB's Fee equal to **(1)** the percentage for the DB's Fee identified in the Agreement times **(2)** the sum of the costs described under **Sections 7.7.2.1** through **7.7.2.11**.

7.7.2.13 Miscellaneous: Adjustment of the Contract Sum on account of a change in Work may include the following costs with no allowance for DB's Fee under **Section 7.7.2.12** or Subcontractor overhead and profit under **Section 7.7.2.11**.

- .1 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in **Sections 7.7.2.3**, **7.7.2.4**, and **7.7.2.5**.
- .2 State sales tax shall be allowed on items as defined by **Section 12.7.2**.

7.7.3 Costs that shall not be reimbursed for Change Order Work include the following:

- 7.7.3.1** Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.
- 7.7.3.2** Employee profit sharing.

7.8 Time Extension

7.8.1 Every adjustment of the Contract Times associated with any change in the Work shall be determined as provided in this **Section 7.8**, which establishes the DB's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work. This **Section 7.8** also governs time adjustments for deduct Change Orders and the DB's entitlement to additional time through the Claims and dispute resolution processes on account of changes in the Work.

7.8.2 The DB shall substantiate all changes in the Contract Times with:

- 7.8.2.1** A written description of the nature of the interference, disruption, hindrance or delay;
- 7.8.2.2** Identification of Persons and events responsible for the interference, disruption, hindrance or delay;
- 7.8.2.3** Date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;
- 7.8.2.4** Identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;
- 7.8.2.5** Anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;
- 7.8.2.6** Specific number of days of extension requested and specific number of days for remobilization requested;

7.8.2.7 Recommended action to avoid or minimize any future interference, disruption, hindrance or delay;

7.8.2.8 A detailed written Proposal as described under **Section 7.7** for an increase in the Contract Sum which would fully compensate the DB for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

7.8.3 Critical Path. Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.

7.8.3.1 A Change Order granting a time extension may provide that the Contract Times shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Liquidated Damages.

7.9 Examination and Audit of DB's Records

7.9.1 The Contracting Authority and Owner may examine all books, records, documents and other data of the DB and its Subcontractors related to the bidding, pricing, or performance of the Work for the purpose of evaluating any DB Payment Request, Proposal, Modification, or Claim.

7.9.2 The above-referenced materials shall be made available at the office of the DB or Subcontractor, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of 6 years after the date of Substantial Completion of all Work.

7.9.2.1 The DB shall maintain, and require its Subcontractors to maintain, complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the DB shall timely make records available, and shall require its Subcontractors to timely make records available, at the office of the Contracting Authority or Owner upon request for the records.

7.9.3 To the extent that the DB or a Subcontractor, as applicable, informs the Contracting Authority or Owner in writing that any documents provided to the Contracting Authority or Owner are trade secrets, the Contracting Authority or Owner shall treat these documents, to the extent permitted by law, as trade secrets of the DB or Subcontractor, as applicable.

7.9.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the DB or Subcontractor as applicable, shall indemnify the Contracting Authority and Owner against all costs, expenses, and damages, including but not limited to attorneys' fees, incurred or paid by reason of that dispute.

7.9.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

7.9.5 If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to the Contracting Authority or Owner for a period of 6 years from the date of any applicable final settlement or payment, as applicable.

7.9.6 Records that relate to disputes, litigation, or settlement of Claims arising out of the performance of the Work shall be made available until the dispute, litigation or Claims have been finally decided or settled.

ARTICLE 8 - DISPUTE RESOLUTION

8.1 Initiation of a Claim

8.1.1 Every Claim shall accrue upon the date of occurrence of the event giving rise to the Claim.

8.1.2 Except as provided under **Section 1.10**, the DB shall initiate every Claim by giving written notice of the Claim to the Contracting Authority within 10 days after occurrence of the event giving rise to the Claim.

8.1.2.1 The 10-day time limit on initiating a Claim arising from a determination of the Contracting Authority concerning a Change Directive begins to run on the date that the Contracting Authority issues its determination under **Section 7.4.7** or **Section 7.4.10**, as applicable.

8.1.2.2 The 10-day time limit on initiating a Claim arising from the response of the Contracting Authority to a RFI begins to run on the date that the Contracting Authority issues the Contracting Authority's response to the RFI.

8.1.2.3 The 10-day time limit on initiating a Claim arising from the Contracting Authority's determination concerning a Differing Site Condition begins to run on the date that the Contracting Authority issues the Contracting Authority's determination under **Section 7.6**.

8.1.3 The DB's written notice of a Claim shall provide the following information to permit timely and appropriate evaluation of the Claim, determination of responsibility, and opportunity for mitigation:

8.1.3.1 nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with **Section 7.7** and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the DB;

8.1.3.2 identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, or delay;

8.1.3.3 identification of activities on the Construction Progress Schedule that will be affected by the impact or new activities that may be created and the relationship with existing activities;

8.1.3.4 anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and

8.1.3.5 recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.

8.1.4 The DB's failure to initiate a Claim as and when required under this **Section 8.1** shall constitute the DB's irrevocable waiver of the Claim.

8.1.5 The Contracting Authority shall respond to the written notice of the Claim within a reasonable time of receipt.

8.2 Substantiation of Claims

8.2.1 Within 30 days after the initiation of a Claim, the DB shall submit 3 copies of all information and statements required to substantiate a Claim as provided in this **Article 8** and all other information that the DB believes substantiates the Claim. The DB shall file the 3 copies by delivery of one copy to the Owner, and two copies to the Contracting Authority.

8.2.2 The DB shall substantiate all of its Claims by providing the following minimum information:

8.2.2.1 a narrative of the circumstances, which gave rise to the Claim, including without limitation the start date of the event or events and the actual or anticipated finish date;

8.2.2.2 detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the Claim;

8.2.2.3 copies of the DB's daily log (**Section 6.2.14**) for each day of impact;

8.2.2.4 copies of relevant correspondence and other information regarding or supporting DB entitlement;

8.2.2.5 copies of the DB's most recent income statement and complete and detailed job-cost report, including segregated general and administrative expenses for the most recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor claim included; and

8.2.2.6 the notarized certification described under **Section 8.5.1.1**.

8.2.3 The DB's failure to comply with the requirements of this **Section 8.2** shall constitute an irrevocable waiver of any related Claim.

8.3 Substantiation of Claims for Increase of the Contract Sum

8.3.1 The DB shall substantiate each Claim for an increase of the Contract Sum with:

8.3.1.1 written documentation as described under **Section 7.7** of the actual additional direct and indirect costs to the DB due to the event giving rise to the Claim;

8.3.1.2 a written statement from the DB that the increase requested is the entire increase in the Contract Sum associated with the Claim; and

8.3.1.3 the general substantiation documentation described under **Section 8.2**.

8.3.2 The DB's failure to comply with the requirements of this **Section 8.3** shall constitute an irrevocable waiver of any related Claim.

8.4 Substantiation of Claims for Extension of the Contract Times

8.4.1 The DB shall substantiate each Claim for an extension of the Contract Times with:

8.4.1.1 written documentation as described under **Section 7.8** of the actual delay to the critical path of the Construction Progress Schedule due to the event giving rise to the Claim;

8.4.1.2 a detailed written Proposal as described under **Section 7.7** for an increase in the Contract Sum that would fully compensate the DB for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with **Section 8.3.1.2**;

8.4.1.3 a written statement from the DB that the extension requested is the entire extension of the Contract Times associated with the Claim; and

8.4.1.4 the general substantiating documentation described under **Section 8.2**.

8.4.2 In addition to the requirements of **Section 8.4.1**, if adverse weather conditions are the basis for a Claim for additional time, the DB shall document the Claim with data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction. The support for and evaluation of all adverse weather Claims shall be based upon average weather conditions during the 5 years immediately preceding the dates at issue in the Claim as those weather conditions were recorded at the government-controlled weather-recording facility nearest to the Site.

8.4.3 The DB's failure to comply with the requirements of this **Section 8.4** shall constitute an irrevocable waiver of any related Claim.

8.5 Certification of the Claim

8.5.1 The DB shall certify each Claim within 30 days after initiating the Claim under **Section 8.1** or before Contract Completion, whichever is earlier, by providing the notarized certification specified in **Section 8.5.1.1**, signed and dated by the DB:

8.5.1.1 "The undersigned Design-Builder certifies that the Claim is made in good faith; that the supporting data is accurate and complete to the best of the Design-Builder's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Design-Builder believes the State is liable; and that the undersigned is duly authorized to certify the Claim on behalf of the Design-Builder."

8.5.2 The date that the DB's certified and fully substantiated Claim is received by the Contracting Authority, or the date that the DB is required to certify and fully substantiate a Claim pursuant to **Sections 8.2.1** and **8.5.1**, shall trigger the 120-day period for exhaustion of administrative remedies pursuant to ORC Section 153.16(B).

8.5.3 The DB's failure to comply with the requirements of this **Section 8.5** shall constitute an irrevocable waiver of any related Claim.

8.6 Delay and Delay Damage Limitations; Derivative Claims

8.6.1 Subject to other provisions of the Contract, the DB will be entitled to an extension of the Contract Times on account of delay in the commencement or progress of Work on the critical path of the Construction Progress Schedule caused by acts of Nature or the public enemy, acts of the government not arising from the DB's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the DB's control.

8.6.2 Notwithstanding any other provision of the Contract Documents to the contrary, the DB shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Times, or both:

8.6.2.1 on account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;

8.6.2.2 to the extent that a delay occurs concurrently with a delay attributable to the DB; or

8.6.2.3 on account of the delay of any Work not on the critical path.

8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the DB shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless **(1)** the delay is caused by the Owner and **(2)** the delay was not authorized or permitted under the Contract.

8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the DB shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, or damages caused by the DB.

8.6.5 Derivative Claims. Notwithstanding any other provision of the Contract to the contrary, if the Owner prosecutes a claim, suit, or appeal against a Separate Consultant or Separate Contractor to recover damages the DB suffers on account

of the acts or neglects of a Separate Consultant or Separate Contractor or a person or entity for whom either is legally responsible, the Owner's liability to the DB shall not exceed the amount the Owner actually recovers from the Separate Consultant or Separate Contractor on account of those damages less the costs the Owner incurs recovering them. The Owner is not obligated to prosecute any such claim, suit, or appeal.

8.7 Liquidated Damages

8.7.1 If the DB fails to achieve a Milestone within the associated Contract Time, it would be difficult, if not impossible, to determine the Owner's resulting damages. Therefore, if the DB fails to achieve a Milestone within the associated Contract Time, the DB shall (at the Owner's option) pay to or credit the Owner the Liquidated Damages per day sum determined according to the following schedule for each day that the DB fails to achieve a Milestone within the associated Contract Time.

Contract Sum	Liquidated Damages per day
Less than \$1,000,000	\$500
From \$1,000,000.01 to \$2,000,000	\$1,000
From \$2,000,000.01 to \$5,000,000	\$2,000
From \$5,000,000.01 to \$10,000,000	\$5,000
From \$10,000,000.01 to \$20,000,000	\$7,500
From \$20,000,000.01 to \$50,000,000	\$10,000
More than \$50,000,000	\$15,000

8.7.2 If the DB simultaneously fails to achieve two or more Milestones, the Owner shall be entitled to recover the sum of the associated Liquidated Damages per day rates.

8.7.3 The Liquidated Damages described in this **Section 8.7** are only intended to compensate the Owner for the damages the Owner itself incurs as a direct result of the DB's failure to achieve the Milestones within their associated Contract Times.

8.7.4 The Liquidated Damages described in this **Section 8.7** are not intended to compensate the Owner for any damages the Owner incurs on account of **(1)** any claims attributable to the DB that are brought by others including Separate Consultants and Separate Contractors as a result of the DB's failure to achieve the Milestones within their associated Contract Times or **(2)** any failure of the DB to timely, properly, and completely perform the Contract other than the failure to achieve the Milestones within their associated Contract Times.

8.7.5 The parties acknowledge that the above-listed Liquidated Damages per day sums are not penalties but are a reasonable estimate of the damages the Owner itself would incur as a direct result of the DB's failure to achieve the Milestones within their associated Contract Times. The parties each irrevocably waive the right (if any) to challenge the validity and enforceability of those Liquidated Damages per day sums. Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the Liquidated Damages per day sums or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages that it incurs on account of the DB's failure to achieve one or more of the Milestones within the Contract Times.

8.7.6 In addition to other rights that the Owner may have relative to Liquidated Damages, the Contracting Authority may deduct Liquidated Damages from the Contract Sum as the damages accrue. If payments then or thereafter due the DB are not sufficient to cover such amounts, the DB shall immediately pay the amount of the insufficiency to the Owner.

8.8 Mutual Waiver of Consequential Damages

8.8.1 Except as provided under **Section 8.8.2**, the Owner and DB each waive against the other all Claims for consequential damages that may arise out of or relate to this Contract.

8.8.1.1 The Owner's waiver includes Claims for loss of use, income, profit, revenue, financing, cost of capital, business and reputation, management and employee productivity, and consequential damages arising from termination of the Contract or related to insolvency.

8.8.1.2 The DB's waiver includes Claims for unabsorbed home-office overhead; any other form of overhead in excess of that specifically provided for under **Section 7.7**; delay damages except as otherwise specifically provided for in **Section 8.6**; increased cost of funds for the Project; lost opportunity to work on other projects; losses of financing, business, and reputation; loss of profit except anticipated profit arising directly from properly performed Work; loss of bonding capacity; and consequential damages arising from termination of the Contract or related to insolvency.

8.8.2 Notwithstanding **Section 8.8.1**, this **Section 8.8**:

8.8.2.1 does not apply to any damages that would be covered by insurance provided in connection with the Project if the Contract did not include **Section 8.8.1**;

8.8.2.2 does not apply to the DB's indemnity obligations for third-party claims against the Indemnified Parties even if those claims are for damages that **Section 8.8.1** would otherwise preclude;

8.8.2.3 does not preclude the Owner's recovery of Liquidated Damages under **Section 8.7**; and

8.8.2.4 does not apply to Claims for damages arising from the Owner's or the DB's gross negligence or willful misconduct.

8.8.3 This **Section 8.8** shall survive termination of the Contract.

8.9 Claim Decision

8.9.1 The Project Manager shall review the DB's Claim and approve or deny all or any part of it, and forward a written decision to the DB, Owner, and Contracting Authority within 30 days after receiving the DB's Claim.

8.9.1.1 The Project Manager may employ independent resources to assist in its review, or refer evaluation of the Claim to a consultant.

8.9.2 If the DB and Owner agree with the Project Manager's decision, the decision shall be incorporated into a Change Order.

8.9.3 Any Claim remaining unresolved after completion of the process described under this **Section 8.9** shall be subject to Claim decision review as described under **Section 8.10**.

8.10 Claim Decision Review

8.10.1 The DB may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.

8.10.1.1 If the Project is administered by the Commission, administered by a School District Board in conjunction with the Commission, or locally administered by authority granted to an agency of the state of Ohio by the Commission, the written notice shall be delivered to the Executive Director of the Commission.

8.10.1.2 If the Project is locally administered by an Institution of Higher Education under ORC Section 3345.50 or ORC Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the Commission.

8.10.2 The Commission or Institutional Designee, if applicable, shall schedule and conduct a meeting within 30 days after receiving the DB's request for review.

8.10.2.1 The Commission or Institutional Designee may employ independent resources to assist in the meeting and review.

8.10.3 The Commission or Institutional Designee, if applicable, shall determine the final disposition of the DB's request for review and provide a written decision to the DB and Owner within 14 days after the meeting.

8.10.4 The decision of the Commission or Institutional Designee is the final administrative decision of the Contracting Authority as described under ORC Section 153.12(B).

8.10.5 If the DB and Owner agree with the Commission's or the Institutional Designee's decision, the decision shall be incorporated into a Change Order.

8.10.6 Any Claim remaining unresolved after completion of the process described under this **Section 8.10** shall be subject to litigation, which may be preceded by Alternative Dispute Resolution ("ADR") as described under **Section 8.12**.

8.11 Delegation

8.11.1 No provision of this **Article 8** shall prevent the Executive Director from delegating the duties or authorities of the Commission to any other person selected at the Executive Director's sole discretion.

8.12 Alternative Dispute Resolution

8.12.1 The intent of the ADR process is to resolve disputes quickly and equitably in a manner agreed upon by all parties to the dispute.

8.12.2 The ADR procedure shall be accepted by all of the Project's key stakeholders.

8.12.3 The accepted ADR methods shall not include binding arbitration; alter any of the requirements for Claim initiation, certification, and substantiation; or alter the administrative process described under this **Article 8**.

8.12.4 The following forms of non-binding ADR may be considered:

8.12.4.1 Negotiation: If negotiation is warranted, the parties to the dispute may agree to a progressive level of negotiators, invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.

8.12.4.2 Dispute Review Board: If a dispute review board is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall jointly select 3 neutral third parties to monitor the progress of construction and provide recommended resolutions to disputes that are brought before them. The costs of the dispute review board shall be shared equally among the parties to the dispute.

8.12.4.3 Mediation: If mediation is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall accept a neutral third party to mediate the dispute. The costs of mediation shall be shared equally among the parties to the dispute.

8.12.4.4 Another ADR procedure accepted by all of the Project's key stakeholders.

8.13 Audit of the Claim

8.13.1 All Claims shall be subject to audit at any time following filing of the Claim, whether or not the Claim is part of a lawsuit.

8.13.2 The audit may be performed by employees of the Contracting Authority or by a consultant engaged by the Contracting Authority.

8.13.3 The audit may begin upon 10-days' notice to the DB or affected Subcontractor.

8.13.4 The DB shall cooperate with the request.

8.13.5 Failure of the DB or a Subcontractor to produce sufficient records to allow the Contracting Authority to audit and verify a Claim shall constitute an irrevocable waiver of the Claim or portion of the Claim that could not be completely audited.

8.13.6 The DB shall make available to the Contracting Authority all DB and Subcontractor documents related to the Claim including, without limitation, the following documents:

8.13.6.1 daily time sheets and superintendent's daily reports;

8.13.6.2 union agreements, if any, and employer agreements;

8.13.6.3 insurance, welfare, fringes, and benefits records;

8.13.6.4 payroll register;

8.13.6.5 earnings records;

8.13.6.6 payroll tax returns;

8.13.6.7 material invoices, purchase orders, Subcontracts, and all material and supply acquisition contracts;

8.13.6.8 material cost distribution worksheets;

8.13.6.9 equipment records (list of DB equipment, rates, etc.);

8.13.6.10 vendor rental agreements and Subcontractor invoices;

8.13.6.11 Subcontractor payment certificates;

8.13.6.12 canceled checks (payroll and vendors);

8.13.6.13 complete and detailed job-cost report;

8.13.6.14 job payroll ledger;

8.13.6.15 general ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

8.13.6.16 cash disbursements journal;

8.13.6.17 financial statements for all years reflecting operations on the Project;

8.13.6.18 income tax returns for all years reflecting operations on the Project;

8.13.6.19 depreciation records on all equipment utilized whether the records are maintained by the DB, its accountant, or others;

8.13.6.20 if a source other than depreciation records is used to develop costs for the DB's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;

8.13.6.21 all documents that reflect the DB's actual profit and Overhead during the years the Project was being performed;

8.13.6.22 all documents related to the preparation of the DB's GMP Proposal, including the final calculations on which the Contract Sum was based;

8.13.6.23 all documents that relate to the Claim together with all documents that support the amount of damages as to the Claim;

8.13.6.24 worksheets used to prepare the Claim establishing the cost components for items of the Claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents that establish the periods of time, individuals involved, the hours and rate of pay for the individuals; and

8.13.6.25 all other documents required by the Contracting Authority to reasonably review the Claim.

8.14 False Certification of the Claim

8.14.1 If the DB falsely certifies all or any part of a Claim, the portion of the Claim falsely certified shall be denied, and may be sufficient cause for the State to debar the DB from future State contracting opportunities as permitted by law.

8.15 Performance and Payment

8.15.1 The DB shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the DB and Contracting Authority in writing.

8.15.2 The Contracting Authority shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a Claim, unless otherwise agreed by the DB and Contracting Authority in writing.

ARTICLE 9 - COMPENSATION AND PAYMENT

9.1 Preconstruction Stage Compensation

9.1.1 Preconstruction Stage Compensation—General Provisions.

9.1.1.1 The Preconstruction Stage Compensation is the sum of **(1)** the Preconstruction Fee, **(2)** Preconstruction Stage Design-Services Fee, **(3)** Preconstruction Stage Personnel Costs, and **(4)** Preconstruction Stage Reimbursable Expenses. The Owner shall pay the Preconstruction Stage Compensation to the DB in exchange for the DB's proper, timely, and complete performance of the Preconstruction Stage Services.

9.1.1.2 If the DB engages a Consultant other than the AOR to perform a portion of the Preconstruction Stage Services, the Consultant's compensation is included in the DB's Preconstruction Stage Compensation as described in the Contract. Unless the Owner and Contracting Authority agree otherwise in writing, the Consultant's Preconstruction Stage compensation will be administered on the same basis as the DB's Preconstruction Stage Compensation.

9.1.2 Preconstruction Fee.

9.1.2.1 The Owner will pay the Preconstruction Fee on a progress basis but **(1)** for each Preconstruction Stage, not in excess of the portion of the Preconstruction Fee allocated to that Preconstruction Stage in the Agreement and **(2)** not in excess of the total Preconstruction Fee stated in the Agreement.

9.1.3 Preconstruction Stage Design-Services Fee.

9.1.3.1 The Owner will pay the Preconstruction Stage Design-Services Fee on an hourly basis according to the rates set forth in the AOR's Fee Schedule for Personnel attached to the Agreement but **(1)** for each Preconstruction Stage Phase/Task, not in excess of the portion of the Preconstruction Stage Design-Services Fee allocated to that Phase/Task in the Agreement and **(2)** not in excess of the total Preconstruction Stage Design-Services Fee stated in the Agreement.

9.1.3.2 If the AOR engages a Consultant to perform a portion of the AOR's Services, the Consultant's compensation is included in the Preconstruction Stage Design-Services Fee as described in the Contract. Unless the Owner and

Contracting Authority agree otherwise in writing, **(1)** the Consultant's hourly rates shall be set forth in the AOR's Fee Schedule for Personnel attached to the Agreement and **(2)** the Consultant's compensation will be administered on the same basis as the Preconstruction Stage Design-Services Fee.

9.1.3.3 For the purpose of invoicing, the DB may group AOR employees within the same category to determine a blended rate.

9.1.3.4 Any Reimbursable Expenses incurred by the AOR shall be requested and paid under **Section 9.1.5**.

9.1.4 Preconstruction Stage Personnel Costs.

9.1.4.1 The Owner shall pay the DB's Preconstruction Stage Personnel Costs on an hourly basis according to the rates set forth in the Personnel Costs Rate Schedule attached to the Agreement, but not in excess of the cap on Preconstruction Stage Personnel Costs stated in the Agreement.

9.1.4.2 For the purpose of invoicing, the DB may group employees within the same category of labor to determine a blended rate.

9.1.5 Preconstruction Stage Reimbursable Expenses.

9.1.5.1 The Owner shall pay the DB on account of the Preconstruction Stage Reimbursable Expenses the DB incurs during the performance of the Preconstruction Services, but not in excess of the cap on Preconstruction Stage Reimbursable Expenses stated in the Agreement. The DB is not entitled to any mark-up on Preconstruction Stage Reimbursable Expenses.

9.1.5.2 Notwithstanding the Preconstruction Stage Reimbursable Expenses Schedule attached to the Agreement, the DB shall obtain the Contracting Authority's written approval before purchasing any tangible property where the DB intends to seek reimbursement of the purchase price from the Owner as a Reimbursable Expense. The DB shall maintain a detailed inventory of all such tangible property.

9.1.6 Allocation of Preconstruction Stage Design-Services Fee, Preconstruction Stage Personnel Costs and Preconstruction Stage Reimbursable Expenses.

9.1.6.1 The Owner, Contracting Authority, and DB will agree upon the allocation of Preconstruction Stage Design-Services Fee, Preconstruction Stage Personnel Costs, and Preconstruction Stage Reimbursable Expenses through the Preconstruction Stages, and the DB shall prepare and maintain the Staffing Plan to reflect those agreed-upon allocations.

9.1.6.2 At the DB's request, the Contracting Authority and the Owner may agree in writing to reallocate costs between the Preconstruction Stage Design-Services Fee cap, Preconstruction Stage Personnel Costs cap, and Preconstruction Stage Reimbursable Expenses cap provided that the sum of the Preconstruction Stage Design-Services Fee cap, the Preconstruction Stage Personnel Costs cap, and Preconstruction Stage Reimbursable Expenses cap does not change.

9.1.7 Preconstruction Compensation Increases.

9.1.7.1 Extension of Project Time. If the DB notifies the Owner and Contracting Authority not less than 30 days before the date set for completion of the Preconstruction Services established in the agreed-upon initial Project Schedule described in **Section 5.2.3.1**, that the Preconstruction Services are reasonably expected to be completed more than 30 days after that date through no fault of the DB, the DB's compensation caps for Preconstruction Stage Design-Services Fee, Preconstruction Stage Personnel Costs, and Preconstruction Stage Reimbursable Expenses to be incurred during that extended period will be negotiated to the mutual satisfaction of the Owner, Contracting Authority, and DB. If as a result of that negotiation, the Owner agrees to pay the DB additional compensation, the Contract shall be amended through a Preconstruction Services Amendment to reflect that agreement before the DB renders any services made necessary because of the extension unless the Owner and Contracting Authority agree otherwise in writing.

9.1.7.2 Change in Project Scope or Budget. The Owner, Contracting Authority, and DB will negotiate a mutually satisfactory adjustment of the DB's caps for Preconstruction Stage Compensation if, through no fault of the DB, the Owner or Contracting Authority materially change the Approved Program of Requirements after completion of the Schematic Design Stage or the Construction Budget after the execution of the Agreement. If as a result of that negotiation, the Owner agrees to pay the DB additional compensation, the Contract shall be amended through a Preconstruction Services Amendment to reflect that agreement before the DB renders any services made necessary because the change in the Approved Program of Requirements or Construction Budget.

9.1.8 DB Preconstruction Invoices.

9.1.8.1 All of the DB's invoices for Preconstruction Services shall:

- .1 describe all Preconstruction Services rendered in sufficient detail to enable the Owner to identify the Preconstruction Services;
- .2 separately identify the portion of the Preconstruction Stage Design-Services Fee, Preconstruction Fee, Preconstruction Stage Personnel Costs, and Preconstruction Stage Reimbursable Expenses included in the total invoiced amount;
- .3 identify the DB's, AOR's, or their Consultants' staff (as appropriate) who performed the Preconstruction Services, the time spent performing the Preconstruction Services, and the related hourly rate(s);
- .4 summarize all Preconstruction Stage Reimbursable Expenses in sufficient detail to enable the Owner to identify the category and amount of the individual Preconstruction Stage Reimbursable Expenses; and
- .5 cover only one calendar month ending on the last day of the month.

9.1.8.2 The DB shall submit its invoices for Preconstruction Services to the Contracting Authority, which will review and forward them to the Owner.

9.1.8.3 Payments for Preconstruction Services shall not be subject to retainage.

9.1.9 Preconstruction Payment Timing.

9.1.9.1 The Owner shall pay the DB on a monthly basis within 30 days after the Contracting Authority's receipt of the DB's invoice unless the Contracting Authority disputes the invoice amount or exercises its rights under **Section 9.1.10**.

- .1 If the Contracting Authority disputes the invoice amount or chooses to exercise its rights under **Section 9.1.10, (1)** the Contracting Authority shall give the DB written notice within 14 days after the Contracting Authority's receipt of the DB's invoice, and **(2)** the Owner shall timely pay all undisputed amounts or amounts not subject to **Section 9.1.10** (as appropriate).
- .2 If the DB takes exception to the withholding of payment under **Section 9.1.10** the DB shall initiate and prosecute a Claim under **Article 8** and continue to perform the Contract.

9.1.10 Right to Withhold Payment.

9.1.10.1 The Contracting Authority may decline to approve any DB invoice or part thereof, or nullify any previous DB invoice, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:

- .1 damage caused by the DB;
- .2 failure to comply with Applicable Law;
- .3 failure to timely make any submittal in the Preconstruction Stage;
- .4 failure to carry out the Work in accordance with the Contract Documents; or
- .5 that which is permitted under other provisions of the Contract Documents.

9.1.10.2 If the DB remedies the basis for withholding payment under **Section 9.1.10.1** to the Contracting Authority's reasonable satisfaction, the Owner shall pay the amounts withheld.

9.2 Construction Stage Compensation**9.2.1 Establishing the Contract Sum—General Provisions.**

9.2.1.1 In exchange for the DB's proper, timely, and complete performance of the Work in the Construction Stage, the Owner shall pay the Contract Sum to the DB except as described under **Sections 9.2.5.6** and **9.2.5.7**.

9.2.1.2 The purpose of **Section 9.2.2** is to establish the parties' understanding of the items described in order to facilitate estimating, evaluating, analyzing, discussing, and establishing the Contract Sum before the parties enter into the GMP Amendment.

9.2.1.3 Since the general financial arrangement for the Contract is lump-sum/fixed-cost and not cost-reimbursable (e.g., cost-plus, cost-plus with a guaranteed maximum price, line-item guaranteed maximum price, target price, etc.), once the parties establish the Contract Sum, **Section 9.2.2** is not relevant to the payment of the Contract Sum.

9.2.1.4 After the parties enter into the GMP Amendment, adjustments of the Contract Sum on account of Modifications and Claims will be governed by **Article 7, Article 8**, and other applicable provisions of the Contract.

9.2.2 Establishing the Contract Sum—Elements.

9.2.2.1 For the purposes of the establishing the Contract Sum through the GMP Amendment, the Contract Sum is the sum of the DB's Fee, plus the estimated Cost of the Work (including Allowances and Unit Price Work), plus the DB's Contingency, plus the Construction Stage Design-Services Fee.

9.2.2.2 The DB shall propose the amount of the Cost of the Work as a part of the proposed GMP Amendment.

- .1** The portion of the Cost of the Work attributable to the DB's Construction Stage Personnel Costs shall not exceed but may be less than the cap on DB's Construction Stage Personnel Costs identified in the Agreement.
- .2** The portion of the Cost of the Work attributable to the General Conditions Costs shall not exceed but may be less than the General Conditions Costs cap identified in the Agreement.

9.2.2.3 The DB shall propose the amount of the DB's Contingency as a part of the proposed GMP Amendment; provided, however, that the DB's Contingency, as a percentage of the Cost of the Work identified by the DB in the proposed GMP Amendment, shall not exceed but may be less than the percentage for the DB's Contingency identified in the Agreement.

9.2.2.4 The DB shall propose the amount of the Construction Stage Design Services Fee as a part of the proposed GMP Amendment; provided, however, that the Construction Stage Design Services Fee, as a percentage of the sum of the Cost of the Work plus the DB's Contingency identified by the DB in the proposed GMP Amendment, shall not exceed the percentage for the Construction Stage Design Services Fee identified in the Agreement.

9.2.2.5 The DB shall propose the amount of the DB's Fee as a part of the proposed GMP Amendment; provided, however, that the DB's Fee, as a percentage of the sum of the Cost of the Work plus the DB's Contingency plus the Construction Stage Design Services Fee, all as identified by the DB in the proposed GMP Amendment, shall not exceed the percentage for the DB's Fee identified in the Agreement.

9.2.3 DB's Fee.

9.2.3.1 After the parties enter into the GMP Amendment, the DB's Fee is subject to adjustment as provided elsewhere in the Contract.

9.2.3.2 After the parties enter into the GMP Amendment and after the Date of Commencement (except as provided under **Section 9.2.10.1.1**), the DB may request payment of the DB's Fee on a percent-complete progress basis.

9.2.3.3 The DB shall account for the DB's Fee as a separate line item of the Contract Sum in all financial reports and like documents presented to the Owner and Contracting Authority during the Project.

9.2.4 General Conditions Costs.

9.2.4.1 After the parties enter into the GMP Amendment, the General Conditions Costs are subject to adjustment as provided elsewhere in the Contract.

9.2.4.2 After the parties enter into the GMP Amendment and after the Date of Commencement, the DB may request payment of the General Conditions Costs on a percent-complete progress basis.

9.2.4.3 The DB shall account for the General Conditions Costs as a separate line item of the Contract Sum in all financial reports and like documents presented to the Owner and Contracting Authority during the Project.

9.2.4.4 Notwithstanding the General Conditions Costs Description attached to the Agreement, the DB shall obtain the Contracting Authority's written approval before purchasing any tangible property where the DB intends to pay for that tangible property with General Conditions Costs paid to the DB. The DB shall maintain a detailed inventory of all such tangible property.

9.2.5 DB's Contingency.

9.2.5.1 After the parties enter into the GMP Amendment and thereby establish the original balance of the DB's Contingency, the DB's Contingency will be further funded by the "buy-out savings," if any, realized as result of a DB's estimate of the cost of a particular Subcontract or DB self-performed scope of Work that is higher than the actual cost of that scope of Work at the time the Contracting Authority approved of **(1)** the award of the related Subcontract or **(2)** the performance of that scope of Work by the DB or a DB Affiliated Entity.

9.2.5.2 After the parties enter into the GMP Amendment and after the Date of Commencement:

- .1** the DB may use the DB's Contingency in its discretion (subject to the concurrence of the Owner and the Contracting Authority) to pay for unexpected events such as: **(1)** a DB's GMP Amendment estimate of the subcontract sum of a particular Subcontract that is lower than the actual subcontract sum of that Subcontract (provided, however, that the foregoing use does not include the scope of any Work performed

- by the DB or a DB Affiliated Entity); **(2)** a Subcontractor's breach of its Subcontract; **(3)** remediation of Defective Work; and **(4)** additional costs required to complete the Work within the Contract Times where the DB would not be entitled to a Modification; and
- .2** the Owner will pay the DB's Contingency to the DB on a cost-reimbursable basis on account of the DB's appropriate use of the DB's Contingency as described under **Section 9.2.5.2.1**.
 - .3** As between the Owner, Contracting Authority, and DB, the entire risk of the occurrence of the events described under **Section 9.2.5.2.1** is allocated to the DB. All costs described under **Section 9.2.5.2.1** shall be funded solely from the DB's Contingency or by the DB, and the DB shall have no claim against the Owner or Contracting Authority for those costs if the DB's Contingency is depleted.

9.2.5.3 The DB's use of the DB's Contingency on account of a Subcontractor's breach of its Subcontract is subject to the DB's obligation to promptly and diligently pursue recovery of those funds from **(1)** the Subcontractor and its Surety, if any, and **(2)** the insurer under an applicable subcontractor default insurance policy, if any. The DB shall return any recovered DB Contingency funds to the Owner.

9.2.5.4 The DB shall account for the DB's Contingency as a separate line item of the Contract Sum in all financial reports and like documents presented to the Owner and Contracting Authority during the Project.

9.2.5.5 Neither the DB nor Owner will be entitled to adjustment of the DB's Contingency on account of a Modification or Claim except as described under **Sections 9.2.5.6** and **9.2.5.7**.

9.2.5.6 Unless otherwise agreed in the GMP Amendment, the dates on which 25 percent, 50 percent, and 75 percent of the Contract Time for achievement of Substantial Completion of all Work has expired will be Contingency Review Dates. On each Contingency Review Date or the next following normal business day, the Owner, Contracting Authority, and DB will meet to review the balance in the DB's Contingency and to sign a deduct Change Order to reduce the Contract Sum by an amount equal to the sum of **(1)** the amount that the balance in DB's Contingency exceeds the original balance of the DB's Contingency as established through the GMP Amendment, plus **(2)** the amount of the DB's Contingency that the DB decides to release to the Owner at that time, plus **(3)** an associated reduction of the DB's Fee.

Example: Assume that **(1)** the original balance of the DB's Contingency established through the GMP Amendment is \$100,000, **(2)** the DB's Fee is established in the Agreement at 3 percent of the sum of the Cost of the Work plus the DB's Contingency plus the Construction Stage Design Services Fee, **(3)** the balance of the DB's Contingency as of the Contingency Review Date is \$125,000, and **(4)** the DB has decided to reduce the DB's Contingency by an additional \$15,000. **Step 1.** The amount that the balance in DB's Contingency exceeds the original balance of the DB's Contingency as established through the GMP Amendment is \$25,000 [$\$125,000 - \$100,000 = \$25,000$]. **Step 2.** The additional amount of the DB's Contingency that the DB decides to release to the Owner at that time is \$15,000. **Step 3.** The associated reduction of the DB's Fee is \$1,200 [$(\$25,000 + \$15,000) \times 3\% = \$1,200$]. **Step 4.** The amount of the deduct Change Order (i.e., the amount by which the Contract Sum is reduced) is \$41,200 [$\$25,000 + \$15,000 + \$1,200 = \$41,200$].

9.2.5.7 Except as provided in **Article 11**, no more than 30 days before final payment to the DB, the parties shall execute the Shared-Savings Change Order described at **Agreement Article 3**.

- .1** The Shared-Savings Change Order shall be based upon only the balance of the funds remaining in the DB's Contingency as of the date on which the Shared-Savings Change Order is entered into and shall not be based upon any DB's Contingency previously released to the Owner as described under **Section 9.2.5.6**.
- .2** Notwithstanding **Sections 9.2.5.2.2** and **9.2.10.1**, in the DB's final Payment Request, the DB may request payment by lump sum of any portion of the DB's Contingency remaining in the Contract Sum after execution of that Shared-Savings Change Order.

9.2.6 Construction Stage Design Services Fee.

9.2.6.1 After the parties enter into the GMP Amendment, the Construction Stage Design Services Fee is subject to adjustment as provided elsewhere in the Contract.

9.2.6.2 After the parties enter into the GMP Amendment and after the Date of Commencement (except as provided under **Section 9.2.10.1.1**), the DB may request payment of the Construction Stage Design Services Fee on an hourly basis according to the rates set forth in the AOR's Fee Schedule attached to the Agreement but not in excess of the total Construction Stage Design-Services Fee stated in the GMP Amendment.

9.2.6.3 The DB shall account for the Construction Stage Design-Services Fee as a separate line item of the Contract Sum in all financial reports and like documents presented to the Owner and Contracting Authority during the Project.

9.2.6.4 Before final payment, an appropriate Change Order shall be issued to reconcile actual amounts due to the DB on account of the Construction Stage Design Services Fee, and the Contract Sum shall be correspondingly adjusted.

9.2.7 Allowances.

9.2.7.1 The Contract Sum includes the Allowances (if any) identified in the GMP Amendment.

9.2.7.2 All Allowances include the cost to the DB (less any applicable trade discounts) of materials and equipment required by the Allowances to be delivered at the Site, and all applicable taxes.

9.2.7.3 The DB's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are not in the stated Allowance amounts but are otherwise included in the Contract Sum.

9.2.7.4 Before final payment, an appropriate Change Order shall be issued to reconcile the Contract Sum so that it reflects actual amounts due to the DB on account of Work covered by Allowances including an associated adjustment on account of the DB's Fee.

9.2.8 Unit Prices.

9.2.8.1 The Contract Sum includes the Unit Price Work (if any) identified in the GMP Amendment.

9.2.8.2 Where the Contract provides that all or part of the Work is to be Unit Price Work, initially the Contract Sum will include for all Unit Price Work **(1)** an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract plus **(2)** the DB's Fee on that Unit Price Work.

9.2.8.3 The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of determining an initial Contract Sum. The Contracting Authority will determine the actual quantities and classifications of Unit Price Work performed by DB.

9.2.8.4 Before final payment, an appropriate Change Order shall be issued as described under **Section 7.1.6** to reconcile the Contract Sum so that it reflects actual amounts due to the DB on account of Unit Price Work actually performed including an associated adjustment on account of the DB's Fee.

9.2.9 Schedule of Values.

9.2.9.1 Within 10 days after receipt of the Notice to Proceed, or other period as mutually agreed by the DB and Contracting Authority, the DB shall prepare the Schedule of Values on a form published by the Commission, with separate amounts shown for labor and materials for each branch of Work, following the numbers and titles of the Construction Specifications Institute's *MasterFormat* for individual work results, or *UniFormat* for assemblies in place.

- .1** The DB shall clearly indicate on the Schedule of Values, the amount(s) allocated for each EDGE-certified Business used in the performance of the Work. The amount(s) shall indicate labor and materials, as appropriate.
- .2** If the Project involves the issuance of more than one Notice to Proceed, the initial Schedule of Values shall cover all Work included in any then-existing GMP Amendment. Within 10 days after receipt of any subsequent Notice to Proceed, or other period as mutually agreed by the DB and Contracting Authority, the DB shall **(1)** revise the Schedule of Values if necessary to cover all Work included in any then-existing GMP Amendment and **(2)** submit the revised Schedule of Values to the Contracting Authority.

9.2.9.2 The grand total shown on the Schedule of Values shall equal the total Contract Sum. The Contracting Authority may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

- .1** The first items shall be a breakdown of General Conditions Costs.
- .2** The amounts for labor and materials shall accurately reflect the cost for each item.
- .3** If the material allocation exceeds 55 percent of the Contract Sum, the DB shall provide, upon request, sufficient information to support the higher percentage.
- .4** Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.
- .5** When more than one major structure is included in the Work, the DB shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.
- .6** The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

- .7 Mechanical and electrical Work shall include separate line items for all major pieces of equipment, and group smaller equipment items by type.
- .8 Line items shall be included for each Allowance, DB's Contingency, DB's Fee, Construction Stage Personnel Costs, Construction Stage Design-Services Fee, Punch List Work, Record Document Submittals, delivery of attic stock, and specified demonstration and training.

9.2.9.3 The Contracting Authority may return the Schedule of Values to the DB for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the Contracting Authority determines that it conforms to this **Section 9.2.9**.

9.2.9.4 No payment shall be made until the Contracting Authority has approved the DB's Schedule of Values.

9.2.9.5 If the Project is administered using the State's web-based project management software, the DB shall submit its Schedule of Values, using the "Contract Schedule of Values" business process.

9.2.10 DB Payment Request.

9.2.10.1 After the parties enter into the GMP Amendment and after the Date of Commencement, the DB may request payment of the Contract Sum. The Owner will pay the Contract Sum (not including the DB's Contingency or the Construction Stage Design Services Fee) to the DB on a percent-complete progress basis. The Owner will pay the DB's Contingency portion of the Contract Sum to the DB on a cost-reimbursable basis as described under **Section 9.2.5.2.2**. The Owner will pay the Construction Stage Design Services Fee on an hourly basis as described under **Section 9.2.6**.

- .1 Notwithstanding **Section 9.2.10.1**, the DB may request payment of a portion of the Contract Sum on account of the DB's procurement of long-lead-time items before the Date of Commencement.
- .2 The Contracting Authority and Owner may audit DB Payment Requests as described under **Section 7.9**.

9.2.10.2 The DB may submit a DB Payment Request to the Contracting Authority each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the DB may submit DB Payment Requests twice a month. The DB shall base each DB Payment Request on the Schedule of Values current as of the date that the DB submits the DB Payment Request.

- .1 The DB shall support each DB Payment Request with documentation substantiating the DB's right to payment. The DB shall supply additional documentation as the Contracting Authority may request in connection with each payment to the DB.
- .2 The DB shall support each use of the DB Contingency in sufficient detail to enable the Contracting Authority and Owner to identify the associated scope of Work and expenditures.
- .3 The Contracting Authority may require proof of the renewal of required insurance as a condition precedent to payment.
- .4 The DB shall attach certified payroll reports for the relevant period to 1 copy of each DB Payment Request, see **Document 00 73 43 - Prevailing Wage Requirements**.
- .5 The DB may list on the DB Payment Request any Change Orders approved and performed prior to submission of the DB Payment Request.
- .6 The DB shall submit its DB Payment Request using the DB Payment Request form or forms current at the time of each application and as provided by the Contracting Authority in the manner prescribed by the Contracting Authority.
- .7 If the Project is not administered using the State's web-based project management software, the DB shall submit 1 draft copy of its DB Payment Request ("Pencil Copy") to the Contracting Authority not less than 1 week prior to submitting multiple copies of its DB Payment Request. The Contracting Authority shall review the Pencil Copy and provide comments to the DB within 3 days of receiving it. The DB shall incorporate the Contracting Authority's comments into its DB Payment Request prior to submitting multiple copies for payment.
- .8 The DB shall clearly indicate on the DB Payment Request, the amount(s) requested for each EDGE-certified Business used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.
- .9 The DB shall submit an electronic copy of the DB Payment Request to the Contracting Authority with its paper copies of the DB Payment Request for collection and reporting of information used for contract compliance evaluation and statistical purposes. The DB may issue the copy in any electronic media acceptable to the Contracting Authority.

9.2.10.3 Payments, except for lump sum items, in Unit Price Contracts shall be made to the DB only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

9.2.10.4 Subject to **Section 9.2.14**, the Owner shall pay an approved DB Payment Request within 30 days from the date the Contracting Authority recommends acceptance of the DB Payment Request.

- .1 Payments due and not paid to the DB, through no fault of the DB, within the 30 day period shall, from the date payment is due, bear simple interest at the applicable statutory rate.

9.2.10.5 If the Project is administered using the State's web-based project management software, the DB shall submit its DB Payment Request, using the "Contractor Pay Request" or "Applications for Payment" business process.

9.2.11 Labor Payments.

9.2.11.1 Partial payments to the DB for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 92 percent of the amount invoiced through the DB Payment Request that shows the Work is 50 percent complete.

9.2.11.2 After the Work is 50 percent complete, as evidenced by payments of at least 50 percent of the Contract Sum including approved Change Orders to date, no additional funds shall be retained from payments for labor.

9.2.12 Material Payments.

9.2.12.1 The Owner shall pay the DB at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

9.2.12.2 The Owner shall pay the DB at the rate of 92 percent of the invoice cost, not to exceed the scheduled value, for materials delivered to the Site, or other off-site storage location approved by the Contracting Authority, provided the DB provides the following information with the DB Payment Request:

- .1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and
- .2 a certification of materials stored off-site, prepared by the DB and signed by the Contracting Authority to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The DB shall directly reimburse the Contracting Authority for all costs incurred to visit a storage site, other than the areas adjacent to the Project.
- .3 The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

9.2.12.3 When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

- .1 The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the DB for credit of an amount proportionate to the value of the extra materials.

9.2.13 Retainage.

9.2.13.1 Payments for Construction Stage Personnel Costs, Construction Stage Design Services Fee, and DB's Fee shall not be subject to retainage.

9.2.13.2 If the total Contract Sum is \$15,000 or more, when the Contract is 50 percent complete, all funds retained for faithful performance of the Work, in accordance with **Section 9.2.11.1**, shall be deposited in an escrow account with a bank in the state in accordance with the terms and conditions provided in an escrow agreement executed by the DB, Contracting Authority, and applicable bank.

9.2.13.3 When the DB has achieved Substantial Completion of all Work, and there is no other reason to retain funds; upon request of the DB, the funds retained in connection with that Work shall be released from escrow and paid to the DB, withholding only that amount necessary to assure faithful completion in the sole discretion of the Contracting Authority, including, but not limited to, compliance with **Section 6.24.2**.

9.2.13.4 Upon consent by the DB's Surety, the Contracting Authority may reduce the amount of funds retained for the faithful performance of Work by 50 percent of the amount of funds required to be retained, provided the DB's Surety remains responsible for all damages that may be caused due to default by the DB, including, but not limited to, the following:

- .1 completion of the Work;
- .2 all interference, disruption, hindrance and delay claims;
- .3 all Liquidated Damages; and

- .4 all additional expenses incurred by the State.

9.2.14 Payments Withheld.

9.2.14.1 The Contracting Authority may decline to approve any DB Payment Request or part thereof, or nullify any previous DB Payment Request, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:

- .1 Defective Work not remedied;
- .2 damage caused by the DB;
- .3 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .4 reasonable evidence that the Work will not be completed within the Contract Times, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;
- .5 failure to comply with Applicable Law including, but not limited to, the requirements of ORC Chapter 4115;
- .6 failure to timely submit EDGE Participation Reports in accordance with **Section 1.8.2**;
- .7 failure to timely identify the DB's proposed lower-tier Subcontractors in accordance with **Section 4.6.2**;
- .8 failure to timely approve a Construction Progress Schedule in accordance with **Section 6.5**;
- .9 failure to carry out the Work in accordance with the Contract Documents; or
- .10 that which is permitted under other provisions of the Contract Documents.

9.2.14.2 If the DB remedies the basis for withholding payment under **Section 9.2.14.1** to the Contracting Authority's satisfaction, the Owner shall pay the amounts withheld.

9.2.15 Final DB Payment Request.

9.2.15.1 The DB, as a condition precedent to Contract Completion and final payment, shall complete all requirements of the Contract Documents.

- .1 The DB and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the DB and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115, and to certify that all of its Subcontractors have been paid in full for all Work performed or materials furnished for the Project.
- .2 If the Owner reimbursed to the DB (either as a Preconstruction Stage Reimbursable Expense or as a General Conditions Cost) the DB's cost to purchase tangible property, and that tangible property has any remaining useful life after Substantial Completion, the DB shall deliver that tangible property to the Owner before the Owner makes final payment to the DB.

9.2.15.2 The Owner shall pay the final DB Payment Request within 30 days from the date the Contracting Authority recommends acceptance of the final DB Payment Request.

- .1 Payments due and not paid to the DB within the 30-day period shall bear interest from the date payment is due under the Contract Documents at the applicable statutory rate.

9.2.15.3 Acceptance of final payment by the DB or a Subcontractor constitutes the payee's waiver of all Claims against the State except those previously made in writing under **Article 8** and identified by that payee as unsettled at the time of the final DB Payment Request.

9.2.15.4 If the Project is administered using the State's web-based project management software, the DB shall submit its final DB Payment Request, using the "Contractor Pay Request" or "Applications for Payment" business process.

ARTICLE 10 - BONDS, INSURANCE, AND INDEMNIFICATION

10.1 Performance and Payment Bonds

10.1.1 Before signing the Agreement, the DB shall provide the Performance Bond and Payment Bond required under OAC Section 153:1-4-02 and below:

10.1.1.1 The Performance Bond shall be in the form of **Document 00 61 13.13 - Performance Bond Form**.

10.1.1.2 The Payment Bond shall be in the form of **Document 00 61 13.16 - Payment Bond Form**.

10.1.1.3 Each Surety under the Bonds shall be licensed to do business in Ohio and satisfactory to the Contracting Authority.

10.1.1.4 If there is more than one Surety under a Bond, each of them shall be jointly and severally liable as surety under that Bond.

10.1.1.5 The penal sum of each of the Bonds, when initially submitted, shall be equal to 100 percent of the Preconstruction Stage Compensation.

10.1.1.6 Bond forms with terms and conditions not compliant with OAC Section 153:1-4-02 and/or riders will not be accepted by the Contracting Authority.

10.1.2 The DB shall submit with each executed Bond **(1)** a certified copy of the authority to act (power of attorney) of the agent signing the Bond on behalf of the Surety and **(2)** a current and signed Certificate of Compliance under ORC Section 9.311 issued by the Ohio Department of Insurance showing the Surety is licensed to do business in Ohio.

10.1.3 If the Preconstruction Stage Compensation increases at any time after the DB provides the Bonds under **Section 10.1.1**, the DB shall cause the penal sums of the Bonds to be increased such that the penal sums equal 100 percent of the increased Preconstruction Stage Compensation.

10.1.4 As a condition precedent to the effectiveness of the GMP Amendment, the DB shall cause the penal sums of the Bonds to be increased such that the penal sums equal 100 percent of the sum of the Preconstruction Stage Compensation plus the Contract Sum established in the GMP Amendment. If the Contract Sum increases at any time after the GMP Amendment, the DB shall cause the penal sums of the Bonds to be increased such that the penal sums equal 100 percent of the increased Contract Sum.

10.1.5 Any time the DB increases the penal sums of the Bonds under **Section 10.1.3** or **Section 10.1.4**, the DB shall deliver to the Contracting Authority new Bonds showing the increased penal sums and written consent of the affected Surety or Sureties confirming the increased penal sums. The Contracting Authority's receipt of replacement Bonds and that written consent is a condition precedent to the Owner's obligation to pay the DB for any portion of the Work associated with the increase.

10.1.6 If at any time prior to final payment, any surety providing Bonds for the Project **(1)** is adjudged bankrupt or has made a general assignment for the benefit of its creditors; **(2)** has liquidated all assets or has made a general assignment for the benefit of its creditors; **(3)** is placed in receivership; **(4)** otherwise petitions a state or federal court for protection from its creditors; or **(5)** allows its license to do business in Ohio to lapse or to be revoked, then the DB shall, within 21 days of any such action listed above, provide the Contracting Authority with new Bonds in the form and amount described in this **Section 10.1**. The Contracting Authority's receipt of replacement Bonds is a condition precedent to the Owner's obligation to pay the DB.

10.1.7 If notice of any change affecting the Contract is required by any Surety or by the provision of any Bond, the DB shall provide that notice.

10.1.8 For the purposes of determining the penal sum of the Bonds under this **Section 10.1** only, the Preconstruction Stage Compensation and the Contract Sum do not include the Design Services Fee.

10.2 DB's General Insurance Requirements

10.2.1 Throughout the performance of the Work or longer as may be described below, the DB shall obtain, pay for, and keep in force, the minimum insurance coverage described in this **Article 10**.

10.2.1.1 Each requirement of this **Article 10** applies to Subcontractors just as it applies to the DB.

10.2.1.2 If a Subcontractor's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Subcontractor, the DB shall submit to the Contracting Authority **(1)** a certificate of insurance evidencing the insurance the Subcontractor will carry without additional compensation and **(2)** if the Contracting Authority requests, a written proposal from the Subcontractor to provide coverage that meets the minimum coverage requirements. The Contracting Authority will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

10.2.1.3 On a case-by-case basis, the Contracting Authority and DB may agree to adjust the below requirements for any particular Subcontractor.

10.2.2 Before starting the Work on the Site, upon renewal of any policy, and upon a change of any insurance carrier, the DB shall deliver to the Contracting Authority certificates evidencing that the required insurance is in force.

10.2.3 With the exception of government-controlled workers compensation coverage:

10.2.3.1 the DB shall place the insurance with companies that **(1)** are satisfactory to the Contracting Authority, **(2)** hold an A.M. Best Rating of A-, X, or higher, and **(3)** are authorized to conduct business in Ohio;

10.2.3.2 the policies shall be endorsed to require the DB's insurance carrier to **(1)** provide at least 30-days' written notice to the Contracting Authority (as certificate holder) of the cancellation or non-renewal of the insurance and **(2)** provide at least 10-days' written notice to the Contracting Authority (as certificate holder) of the cancellation of the insurance for non-payment of premium; and

10.2.3.3 within 30 days of the Contracting Authority's request, the DB shall submit insurance-company certified copies of the policies, the policy endorsements, loss-run reports, or all three.

10.2.4 The DB shall pay all deductibles, or self-insured retentions, or both contained in the DB's policies of insurance required or provided in connection with the Project. The Contracting Authority reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the DB may use to comply with any insurance requirement.

10.2.5 The DB shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the Contracting Authority purchases for the Project. The DB's proportionate share will derive from the percentage of the associated claim or loss attributable to the alleged or actual negligence of the DB, a Subcontractor, or a Consultant.

10.2.6 The Contracting Authority and Owner do not represent that required coverage or limits are adequate to protect the DB.

10.2.7 Failure of the Contracting Authority to demand a certificate or other evidence of full compliance with the insurance requirements or failure of Contracting Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the DB's obligation to maintain the required insurance.

10.2.8 The Contracting Authority may terminate the Contract for cause on account of the DB's failure to maintain required insurance.

10.3 DB's Minimum Coverage Requirements

10.3.1 Workers Compensation. The DB shall maintain workers compensation coverage meeting the requirements of Applicable Law.

10.3.2 Employers Liability Coverage. The DB shall maintain employers liability coverage with **(1)** an each-accident limit of not less than \$1,000,000, **(2)** a disease each-employee limit of not less than \$1,000,000, and **(3)** a disease policy limit of not less than \$1,000,000.

10.3.3 Commercial General Liability. The DB shall maintain commercial general liability ("CGL") coverage that provides **(1)** an each-occurrence limit of not less than \$1,000,000, **(2)** a general-aggregate limit of not less than \$2,000,000, and **(3)** a products and completed-operations aggregate limit of not less than \$2,000,000.

10.3.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

10.3.3.2 The DB shall include the State, Contracting Authority, Owner, and Criteria A/E as additional insureds under the CGL policy using ISO endorsement CG 20 10 07 04 and ISO endorsement CG 20 37 07 04 or a substitute form(s) providing equivalent coverage.

10.3.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the insured's projects.

10.3.3.4 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs that cover the additional insured(s).

10.3.3.5 The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

10.3.3.6 The DB shall maintain the CGL insurance in effect for no less than 5 years after the earlier of the termination the Contract or Substantial Completion of all Work.

10.3.4 Business Automobile Liability. The DB shall maintain business automobile ("BA") coverage written on ISO form CA 00 01 10 01 or a substitute form, providing at least equivalent coverage with a limit of not less than \$1,000,000 each accident.

10.3.4.1 The coverage shall extend to any auto.

10.3.4.2 The DB shall include the State, Contracting Authority, Owner, and Criteria A/E as additional insureds under the BA policy.

10.3.5 Umbrella/Excess Liability. The DB may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

10.3.5.1 The DB shall maintain umbrella/excess liability coverage with a limit of not less than \$2,000,000 (in addition to the above-required limits) if the Work (or the Work to be performed by the Subcontractor) includes any of the following:

- .1 brick/block masonry;
- .2 exterior caulking/sealant;
- .3 cast-in-place or precast concrete;
- .4 curtain wall;
- .5 dampproofing/waterproofing;
- .6 electrical;
- .7 elevator;
- .8 exterior glass and/or glazing;
- .9 exterior marble, granite, and/or other stonework;
- .10 miscellaneous metals;
- .11 plaster/stucco;
- .12 plumbing;
- .13 HVAC;
- .14 roofing and/or sheet metal;
- .15 scaffolding;
- .16 spray-on fireproofing;
- .17 sprinkler and/or fire protection; or
- .18 structural steel and/or metal deck.

10.3.5.2 The DB shall maintain umbrella/excess liability coverage with a limit of not less than \$5,000,000 (in addition to the above-required limits) if the Work (or the Work to be performed by the Subcontractor) includes any of the following:

- .1 caissons and/or piles;
- .2 demolition;
- .3 excavation and/or utility work;
- .4 sheeting, shoring, and/or underpinning;
- .5 window washing equipment; or
- .6 wrecking.

10.3.6 Contractor's Pollution Liability. If the Work includes environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the DB shall maintain a contractor's pollution liability ("CPL") policy with **(1)** a per-claim limit of not less than \$1,000,000 and **(2)** an annual-aggregate limit of not less than \$1,000,000, covering the acts, errors and/or omissions of the DB for damages (including from mold) sustained by the Owner by reason of the DB's performance of the Work.

10.3.6.1 The CPL policy shall have an effective date, which is on or before the date that the DB first started to perform any Project-related services.

10.3.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the DB shall advise the Contracting Authority in writing of any actual or alleged claims that may erode the CPL policy's limits.

10.3.6.3 The DB shall maintain the CPL insurance in effect for no less than 5 years after the earlier of the termination of the Contract or Substantial Completion of all Work.

10.3.7 Professional Liability—DB and AOR. The DB and AOR shall each separately maintain professional liability insurance without design-build exclusions with limits not less than as identified in the following table:

Contract Sum	Each Claim	Annual Aggregate
Up to \$25,000,000	\$1,000,000	\$2,000,000
From \$25,000,000.01 to \$50,000,000	\$2,000,000	\$4,000,000
From \$50,000,000.01 to \$100,000,000	\$5,000,000	\$5,000,000
More than \$100,000,000	\$10,000,000	\$10,000,000

10.3.7.1 The professional liability policy shall have an effective date on or before the date that the DB or AOR (as applicable) first started to provide any Project-related services.

10.3.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the DB shall advise the Contracting Authority in writing of any actual or alleged claims that may erode the professional liability policy’s limits.

10.3.7.3 The DB and AOR shall each maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination of the Contract or Substantial Completion of all Work.

10.3.7.4 If the DB is not authorized under Applicable Law to directly provide professional design services, the DB may satisfy the requirements of this **Section 10.3.7** by providing a contractor’s professional liability insurance policy.

10.3.7.5 If the DB or AOR is a joint venture:

- .1 the DB or AOR (as applicable) may meet the requirements of this **Section 10.3.7** by providing a PL policy under which each joint venturer is the insured; or
- .2 each joint venturer shall individually meet the requirements of this **Section 10.3.7** by providing a PL policy **(1)** under which the individual joint venturer is the insured and **(2)** that covers that joint venturer’s interests in the joint venture by endorsement or otherwise. The certificate of insurance shall reflect that the PL policy covers the joint venturer’s interest in the joint venture.

Example: Assume that the CM **(1)** is the “XY joint venture” of company “X” and company “Y”; and **(2)** is required under **Section 10.3.7** to maintain PL insurance limits of \$1M/\$2M. In order to comply with **Section 10.3.7.5.2**, “X” must maintain PL insurance limits of \$1M/\$2M and “Y” must maintain PL insurance limits of \$1M/\$2M.

10.3.7.6 If the DB or AOR is a limited-liability company, which members consist of two or more separate firms:

- .1 the DB or AOR (as applicable) may meet the requirements of this **Section 10.3.7** by providing a PL policy under which the limited-liability company is the insured; or
- .2 each member of the limited-liability company shall individually meet the requirements of this **Section 10.3.7** by providing a PL policy **(1)** under which the individual member is the insured and **(2)** that covers that member’s interests in the limited-liability company by endorsement or otherwise. The certificate of insurance shall reflect that the PL policy covers the member’s interest in the limited-liability company.

Example: Assume that the CM **(1)** is the “XY limited-liability company,” the members of which are “X” and “Y”; and **(2)** is required under **Section 10.3.7** to maintain PL insurance limits of \$1M/\$2M. In order to comply with **Section 10.3.7.6.2**, “X” must maintain PL insurance limits of \$1M/\$2M and “Y” must maintain PL insurance limits of \$1M/\$2M.

10.3.8 Professional Liability—Consultants. Each Consultant that provides professional design services shall maintain professional liability insurance without design-build exclusions with limits not less than as identified in the following table:

Contract Sum Applicable to Consultant’s Scope of Services	Each Claim	Annual Aggregate
Up to \$25,000,000	\$1,000,000	\$2,000,000
From \$25,000,000.01 to \$50,000,000	\$2,000,000	\$4,000,000
From \$50,000,000.01 to \$100,000,000	\$5,000,000	\$5,000,000
More than \$100,000,000	\$10,000,000	\$10,000,000

10.3.8.1 The professional liability policy shall have an effective date on or before the date that the Consultant first started to provide any Project-related services.

10.3.8.2 Upon submission of the associated certificate of insurance and at each policy renewal, the DB shall advise the Contracting Authority in writing of any actual or alleged claims that may erode the professional liability policy's limits.

10.3.8.3 The Consultant shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination of the Contract or Substantial Completion of all Work.

10.3.8.4 If the Consultant is not authorized under Applicable Law to directly provide professional design services, the Consultant may satisfy the requirements of this **Section 10.3.7.5** by providing a contractor's professional liability insurance policy.

10.3.9 Professional Liability—Subcontractors. If the Work to be performed by a Subcontractor includes any professional design services (including without limitation sprinkler and/or fire protection and other design-build work) the Subcontractor shall maintain professional liability insurance without design-build exclusions with limits not less than as identified in the following table:

Subcontract Sum	Each Claim	Annual Aggregate
Up to \$50,000,000	\$1,000,000	\$2,000,000
More than \$50,000,000	\$2,000,000	\$4,000,000

10.3.9.1 The professional liability policy shall have an effective date on or before the date that the Subcontractor first started to provide any Project-related services.

10.3.9.2 Upon submission of the associated certificate of insurance and at each policy renewal, the DB shall advise the Contracting Authority in writing of any actual or alleged claims that may erode the Subcontractor's professional liability policy's limits.

10.3.9.3 The Subcontractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination of the Contract or Substantial Completion of all Work.

10.3.9.4 If the Subcontractor is not authorized under Applicable Law to directly provide professional design services, the Subcontractor may satisfy the requirements of this **Section 10.3.9** by providing a contractor's professional liability insurance policy.

10.3.10 Aviation Liability. If the DB or a Subcontractor uses aircraft, including helicopters, in performance of the Work, the DB shall maintain aircraft or aviation liability coverage in an amount of no less than \$10,000,000. The Contracting Authority and Owner will not be liable for any damage to any aircraft owned, leased, rented, or borrowed by the DB or Subcontractor.

10.3.11 Watercraft Liability. If the DB or a Subcontractor uses watercraft in performance of the Work, the DB shall maintain watercraft liability coverage including protection and indemnity insurance in an amount of no less than \$5,000,000. The Contracting Authority and Owner will not be liable for any damage to any watercraft owned, leased, rented, or borrowed by the DB or Subcontractor.

10.3.12 Equipment Coverage. The Contracting Authority and Owner will not insure or be liable for damage to any DB or Subcontractor owned, leased, rented, or borrowed tools, equipment, or vehicles. The DB and Subcontractors are solely responsible for maintaining all insurance necessary to cover their tools, equipment, and vehicles.

10.3.13 Ocean Marine Insurance. If the shipment of equipment or materials for the Work will not be covered by the builder's risk insurance required under **Section 10.4**, the DB shall maintain ocean marine insurance to the Site including cost, insurance, and freight with limits of not less than an amount equal to the full replacement cost of equipment/materials shipped to final destination point. The insurance shall include the following minimum requirements:

10.3.13.1 all-risk basis including war risk and all forms of terrorism;

10.3.13.2 coverage for general average and salvage charges;

10.3.13.3 "on deck" coverage;

10.3.13.4 warehouse-to-warehouse coverage;

10.3.13.5 coverage to include losses from strikes, riots, and civil commotions ("SR&CC coverage");

10.3.13.6 coverage to include losses from free of capture and seizure warranty ("FC&S Warranty coverage");

10.3.13.7 "Inchmaree" clause;

10.3.13.8 sue and labor;

10.3.13.9 "both-to-blame" coverage;

10.3.13.10 free of particular average;

10.3.13.11 inland coverage including on-land shipment, port storage, and barge transit upon inland waterways; and

10.3.13.12 damage by saltwater and rainwater perils and cargo sweat.

10.3.14 Additional Property Insurance. For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the DB shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of **Article 10**.

10.4 Builder's Risk Insurance

10.4.1 The DB shall provide and maintain, during the progress of the Work and until Contract Completion, a builder's risk insurance policy to cover all Work in the course of construction including false-work, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit. This insurance shall be on a special cause of loss form that provides coverage on an open perils basis insuring against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.

10.4.1.1 The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than \$25,000 per occurrence. Any deductible over the amount specified shall be authorized in writing by the Owner and Contracting Authority.

10.4.1.2 Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of "express" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.

10.4.1.3 Coverage shall include "soft cost endorsement" including, but not limited to, the reasonable extra costs of the Criteria A/E and reasonable DB extension or acceleration costs.

10.4.1.4 Coverage shall include material in transit or stored off-site and identified for the Project.

10.4.1.5 Coverage shall waive all rights between the Owner, Contracting Authority, DB, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.

10.4.1.6 Coverage shall include appropriate sub-limits for installation coverage.

10.4.1.7 Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.

10.4.1.8 Coverage shall include temporary structures and scaffolding, along with collapse coverage.

10.4.1.9 Coverage shall be primary to all other applicable insurance.

10.4.1.10 The builder's risk policy shall specifically permit and allow for Partial Occupancy by the Owner prior to Contract Completion and coverage shall remain in effect until all punch list items are completed.

10.4.1.11 The DB's tools and equipment shall not be covered under the builder's risk policy. It is the DB's sole responsibility to maintain such coverage, which shall be included in its Overhead and not included as a separate item in the DB's Schedule of Values.

10.4.2 If the DB is involved solely in the installation of material and equipment and not in new building construction, the DB shall purchase and maintain a builder's risk, builder's risk-renovations, or installation floater insurance policy. The policy shall comply with the provisions of **Section 10.4.1**.

10.5 Waivers of Subrogation

10.5.1 To the fullest extent permitted by Applicable Law, the DB waives all rights against the Owner, Contracting Authority, and their agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

10.5.2 The Owner, Contracting Authority, and DB waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or builder's risk insurance applicable to the Work.

10.6 Indemnification for Injury or Damage

10.6.1 Liability Other than Professional Liability. To the fullest extent permitted by Applicable Law and with respect to liability other than professional liability claims, the DB shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense is attributable to:

10.6.1.1 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the DB or a person or entity for whom the DB may be liable;

10.6.1.2 infringement of patent rights or copyrights by the DB or a person or entity for whom the DB may be liable; or

10.6.1.3 a violation of Applicable Law but only to the extent attributable to the DB or a person or entity for whom the DB may be liable.

10.6.2 Professional Liability. To the fullest extent permitted by Applicable Law and with respect to professional liability claims, the DB shall indemnify and hold harmless the State, Contracting Authority, Owner, and their respective officers, officials, and employees from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with **(1)** the failure of the DB or Person for whom the DB is legally liable to comply with the standard of care described under **Section 1.12**; and **(2)** infringement of patent rights or copyrights by the DB or a Person for whom the DB may be liable.

10.6.3 The DB's indemnification obligation under **Section 10.6** exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a Person indemnified under **Section 10.6**. But nothing in **Section 10.6** obligates the DB to indemnify any individual or entity from and against the consequences of that Person's own negligence.

10.6.3.1 The DB's obligations under **Section 10.6** shall not extend to the liability of the Criteria A/E, Criteria A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the Criteria A/E, except to the extent covered by the DB's insurance.

10.6.4 In claims against a Person indemnified under **Section 10.6** by any direct or indirect employee (or the survivor or personal representative of that employee) of the DB or a Person for whom the DB may be liable, the indemnification obligation under **Section 10.6** will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts.

10.6.5 The DB's indemnification obligation under **Section 10.6** will not be limited by any insurance policy provided or required in connection with the Project.

10.6.6 The DB's obligations under **Section 10.6** shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a Person indemnified under **Section 10.6**.

10.6.7 The DB's indemnification obligation under **Section 10.6** will survive termination of the Contract and Contract Completion.

10.6.8 The Contracting Authority may deduct from the Preconstruction Stage Compensation or Contract Sum or both the claims, damages, losses, fines, penalties, and expenses for which the DB is liable under **Section 10.6**. If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of the Preconstruction Stage Compensation or Contract Sum or both, the DB shall immediately pay the difference to the Owner.

ARTICLE 11 - SUSPENSION AND TERMINATION

11.1 Suspension of the Work

11.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the DB in writing to suspend, delay, or interrupt performance of the Work in whole or in part for such period as the Contracting Authority may determine.

11.1.1.1 If the Contracting Authority suspends the Work under this **Section 11.1.1** and the DB complies with **Article 8**, the Preconstruction Stage Compensation, Contract Sum, and Contract Times shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption.

11.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Preconstruction Stage Compensation, Contract Sum, or Contract Times to the extent that:

- .1 performance was, or could have been, suspended, delayed, or interrupted by a cause for which the DB is responsible; or
- .2 an equitable adjustment is made or denied under another provision of the Contract.

11.1.1.3 If the Contracting Authority suspends the Work under this **Section 11.1.1** and the DB submits a proper DB invoice or Payment Request, subject to all other provisions of the Contract Documents, the DB shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values, other appropriate reference documents, or both.

11.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the DB in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period as the Contracting Authority may determine for any of the following reasons: **(1)** Defective Work; **(2)** the DB is causing undue risk of damage to any part of the Project or adjacent area; **(3)** the DB fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or **(4)** any other cause the Contracting Authority reasonably believes justifies suspension.

11.1.2.1 The Contracting Authority's exercise of its right to suspend the Work under this **Section 11.1.2** shall not entitle the DB to any adjustment of the Preconstruction Stage Compensation, Contract Sum, or Contract Times.

11.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Work under this **Section 11.1.2**, the suspension shall be deemed to have been a suspension under **Section 11.1.1**.

11.1.3 Upon receipt of notice of suspension under this **Section 11.1**, the DB shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The DB shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.

11.1.4 The Contracting Authority's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the DB or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.

11.2 Termination for Convenience

11.2.1 The Contracting Authority may terminate the Contract in whole or in part for the Owner's convenience and without cause, at any time upon written notice to the DB.

11.2.2 Upon receipt of the notice of termination for convenience, the DB shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

11.2.2.1 cease operation as specified in the notice;

11.2.2.2 place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

11.2.2.3 terminate all subcontracts and orders to the extent they relate to the Work terminated;

11.2.2.4 proceed with Work not terminated; and

11.2.2.5 take actions that may be necessary, or that the Contracting Authority may direct, for the protection and preservation of the terminated Work.

11.2.3 If the Contract is terminated before the Contract Sum is established, the Owner shall pay the DB for services rendered before the date of termination in accordance with the Personnel Rate Schedule and the AOR's Fee Schedule for Work completed, including any Reimbursable Expenses incurred, but not in excess of the allocations and caps otherwise provide in the Contract.

11.2.3.1 In no event shall the DB be entitled to Preconstruction Fee associated with services the DB did not perform on account of the termination or otherwise.

11.2.4 If the Contract is terminated after the Contract Sum is established, the Owner shall pay the DB in accordance with the Schedule of Values for Work completed, including any retained funds, and the value of materials ordered and delivered, less any salvage credit the DB may receive for them.

11.2.4.1 All materials, equipment, facilities, and supplies at the Site or stored off-site, for which the DB has received payment, shall become the property of the Owner.

11.2.4.2 The DB is entitled to a fair and reasonable profit for Work performed and reasonable expenses directly attributable to termination of the Contract. In no event shall the DB be entitled to **(1)** DB's Fee on Work not performed or **(2)** compensation in excess of the total Contract Sum.

11.2.4.3 Notwithstanding any other provision of the Contract to the contrary, if the Contract is terminated before Contract Completion, the DB shall not be entitled to any portion of the DB's Contingency through the Shared-Savings Change Order described at **Agreement Article 3**.

11.2.5 If the Contracting Authority terminates the Work under this **Section 11.2**, the termination shall not affect the rights or remedies of the State against the DB then existing or which may thereafter accrue.

11.2.6 Notwithstanding **Sections 11.2.3** and **11.2.4**, if the Contracting Authority terminates the Work under this **Section 11.2**, but there exists an event of the DB's default, the DB shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in **Section 11.3**.

11.3 Termination for Cause

11.3.1 The Contracting Authority may terminate all or a portion of the Contract if the DB commits a material breach of the Contract including but not limited to:

11.3.1.1 failure to prosecute the Work with the necessary force or in a timely manner;

11.3.1.2 refusal to remedy Defective Work;

11.3.1.3 failure to supply enough properly skilled workers or proper materials;

11.3.1.4 failure to properly make payment to Subcontractors or Consultants;

11.3.1.5 performance of any services outside of the United States;

11.3.1.6 permitting its Subcontractors or Consultants to perform any services outside of the United States; or

11.3.1.7 disregarding laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

11.3.2 If the Contracting Authority intends to exercise its termination rights under this **Section 11.3**, the Contracting Authority shall issue not less than 5-days' written notice to the DB and the DB's Surety in accordance with ORC Section 153.17 ("5-Day Notice").

11.3.2.1 Notwithstanding any provision of the Contract to the contrary **(1)** the issuance of a 72-Hour Notice under **Section 6.22.1** is not a condition precedent to the Contracting Authority's exercise of its rights under **Section 11.3** and **(2)** the Contracting Authority's decision to not issue a 72-Hour Notice under **Section 6.22.1** will not prejudice the Contracting Authority's rights under **Section 11.3**.

11.3.3 If the DB fails to satisfy the requirements set forth in the 5-Day Notice within 15 days of receipt of the 5-Day Notice, the Contracting Authority may declare the DB in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

11.3.4 If the Contract is terminated, the DB's Surety may perform the Contract. If the DB's Surety does not commence performance of the Contract within 10 days of the date of Contract termination, the Contracting Authority may complete the Work by means the Contracting Authority determines appropriate. The Contracting Authority may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the Owner has paid.

11.3.5 If the Contract is terminated, the DB shall not be entitled to further payment.

11.3.5.1 If the Contract is terminated before the Contract Sum is established and the unpaid balance of the Preconstruction Stage Compensation is exceeded by the costs of finishing the Preconstruction Services, including without limitation the fees and charges of contractors, engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the DB or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

11.3.5.2 If the Contract is terminated after the Contract Sum is established and the unpaid balance of the Contract Sum is exceeded by the costs of finishing the Work, including without limitation the fees and charges of contractors, engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the DB or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

- .1 Notwithstanding any other provision of the Contract to the contrary, if the Contract is terminated before Contract Completion, the DB shall not be entitled to any portion of the DB's Contingency through the Shared-Savings Change Order described at **Agreement Article 3**.

11.3.6 If the DB's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of the DB in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the Contracting Authority to complete the Work.

11.3.7 If the Contracting Authority terminates the Contract under this **Section 11.3**, the termination shall not affect any rights or remedies of the State against the DB then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the DB shall not release the DB or the DB's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

11.3.8 If the Contracting Authority is adjudged to have improperly terminated the Contract under this **Section 11.3**, the termination will be deemed to have been a termination under **Section 11.2**.

11.4 DB Insolvency

11.4.1 Bankruptcy of DB.

11.4.1.1 If the DB files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the DB, the DB as the debtor-in-possession, or the trustee of the DB's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and prosecute that motion within the time limits provided by this **Section 11.4** shall constitute a material breach of the Contract as time is of the essence with respect to DB's performance of all terms of this Contract. The DB agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

11.4.2 Receivership or Assignment for the Benefit of Creditors.

11.4.2.1 If the DB makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the DB's business or property, the Contracting Authority shall serve written notice on the DB and DB's Surety stating that any failure of the DB to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause. Such termination of the Contract need not be evidenced by an order of any court.

ARTICLE 12 - GENERAL PROVISIONS

12.1 DB's Documents and Contract Documents

12.1.1 Ownership.

12.1.1.1 The Owner alone owns the DB's Documents and the Contract Documents and every right, title, and interest therein.

- .1 The DB shall execute and deliver and cause its employees and agents and all Subcontractors and Consultants to execute and deliver, to the Owner any transfers, assignments, documents, or other instruments (if any) necessary to vest in the Owner complete right, title, interest in and ownership of the DB's Documents and the Contract Documents.

12.1.1.2 The DB may retain copies, including reproducible copies, of the DB's Documents and the Contract Documents for information, reference, and performance of the Work.

12.1.1.3 The submission or distribution of the DB's Documents and the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the Owner's

reserved rights in the DB's Documents and the Contract Documents. Any unauthorized use of the DB's Documents and the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

12.1.1.4 The DB shall provide Electronic Files (in native format) to Separate Consultants and Separate Contractors for their use in connection with the Project. The DB shall provide the Electronic Files **(1)** at no additional cost to the Separate Consultants, Separate Contractors, and Owner and **(2)** without requiring the Separate Consultants, Separate Contractors, or Owner to agree to any terms or conditions concerning the provision, receipt, or use of the Electronic Files that differ in any material respect from the Contract.

12.1.2 Intent.

12.1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the DB.

12.1.2.2 The Contract Documents are complementary, and what is required by one is binding as if required by all.

12.1.2.3 The DB shall provide all services, labor, and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

12.1.2.4 The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.

12.1.2.5 The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the DB in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

12.1.2.6 In the event of inconsistency or conflict within the Contract Documents, the DB shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.

12.1.2.7 Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.

12.1.2.8 The Sections of Division 01 - "General Requirements" govern the performance of the Work of all Sections of the Specifications.

12.1.3 Use of Electronic Files.

12.1.3.1 The Owner, Contracting Authority, Criteria A/E, and DB reasonably expect that they will provide Electronic Files to each other to facilitate the design and construction of the Project consistent with current practices and customs in the construction industry.

12.1.3.2 The Owner, Contracting Authority, Criteria A/E, and DB acknowledge that the use of Electronic Files involves risks not generally associated with the use of paper documents. Those risks include, for example and without limitation, alteration (inadvertent or intentional) and deterioration, both of which may not be readily apparent through casual observation.

12.1.3.3 The Owner, Contracting Authority, Criteria A/E, and DB do not warrant to each other that any Electronic File they provide **(1)** was not altered through transmission; **(2)** is compatible with the recipient's computer system or software; **(3)** will not be altered through degradation of the recipient's storage media; or **(4)** is suitable for conversion/translation to and subsequent use in a system or format other than the Electronic File's original system or format.

12.1.3.4 Before relying on any Electronic File it receives, the recipient is responsible for verifying that the Electronic File was not altered through transmission, degradation of the recipient's own storage media, or other causes.

12.1.3.5 If the recipient of an Electronic File converts/translates the Electronic File from its original system or format to an alternate system or format, the recipient assumes the risk that the conversion/translation created errors in the converted/translated file.

12.1.3.6 The Owner, Contracting Authority, Criteria A/E, and DB shall each maintain and operate its own computer systems and storage media in a commercially reasonable way and take reasonable steps to prevent errors in and deterioration of the Electronic Files it creates, provides, and receives.

12.1.3.7 In the event of a discrepancy between information contained in a paper version of a document and the Electronic File of that document, the paper version will govern.

12.1.3.8 This **Section 12.1.3** does not relieve the DB of its responsibility for the preparation, completeness, or accuracy of the DB's Documents.

12.2 Public Relations

12.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control, and with the consent of, the Owner.

12.2.2 Publicity after completion of the Project. After completion of the Project, the DB may exercise reasonable public relations and marketing efforts related to the Project, provided the DB properly identifies the Owner and Contracting Authority, and their participation in the Project.

12.2.3 Professional Photography. If the DB commissions photography of the completed Project, the DB shall include in its photography agreements a release for unrestricted and unlimited use of photographs by the Owner and Contracting Authority, and shall provide the Owner and Contracting Authority with a reasonable quantity of photographs for use in the Owner's and the Contracting Authority's marketing and awareness activities, including, but not limited to, profiles of the Project on their respective websites.

12.2.4 Design Awards, Craft Awards, and Other Recognition. If the DB submits the Project for design awards, craft awards, or other similar venues for recognition of the Project, the DB shall properly identify the Owner and Contracting Authority, and their participation in the Project. In addition, if the Project receives any design award, craft award, or other recognition, the DB shall provide duplicate copies of the award plaque or other memento of the award to the Owner and Contracting Authority.

12.3 Application and Governing Law

12.3.1 The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The DB irrevocably consents to such jurisdiction.

12.3.2 The parties to the Contract shall comply with Applicable Law.

12.3.3 Other rights and responsibilities of the DB, Criteria A/E, Contracting Authority, and Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

12.4 Conditions of the Contract

12.4.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the Ohio Facilities Construction Commission.

12.5 Notice of Commencement

12.5.1 The Contracting Authority shall prepare a Notice of Commencement and make it available as required under ORC Section 1311.252.

12.5.2 Upon request, the Contracting Authority or DB shall furnish the Notice of Commencement to Subcontractors or any other member of the public.

12.6 Written Notice

12.6.1 Notice under the Contract Documents shall be validly given if:

12.6.1.1 delivered personally to a member of the organization for whom the notice is intended;

12.6.1.2 delivered, or sent by registered or certified mail, to the last known business address of the organization; or

12.6.1.3 sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

12.6.2 When the Owner, Contracting Authority, or DB gives notice to one of the other 2, it shall also simultaneously send a copy of that notice to the others.

12.6.3 A copy of all notices, certificates, requests, or other communications to the Contracting Authority shall be sent to the Project Manager.

12.6.4 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the DB shall immediately notify the Contracting Authority and Owner by telephone.

12.6.5 The Contracting Authority, Owner, or DB may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

12.7 Taxes

12.7.1 Only those materials that ultimately become a part of the completed structure or improvement that constitutes the Project shall be exempt from state sales tax and state use tax.

12.7.2 The purchase, lease, or rental of material, equipment, parts, or expendable items such as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.

12.8 Computing Time

12.8.1 When the Contract Documents refer to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

12.8.2 Except as excluded under **Section 12.8.1**, the Contract Times and all other periods referred to in the Contract Documents includes Saturdays, Sundays, and all days defined as legal holidays by **Section 12.8.4**.

12.8.3 The standard workdays for State projects are Monday through Friday, excluding legal holidays.

12.8.4 Legal holidays are as follows:

12.8.4.1 New Year's Day – First Day in January;

12.8.4.2 Martin Luther King Jr. Day – Third Monday in January;

12.8.4.3 Washington-Lincoln (President's) Day – Third Monday in February;

12.8.4.4 Memorial Day – Last Monday in May;

12.8.4.5 Independence Day – Fourth day of July;

12.8.4.6 Labor Day – First Monday in September;

12.8.4.7 Columbus Day – Second Monday in October;

12.8.4.8 Veterans' Day – Eleventh Day of November;

12.8.4.9 Thanksgiving Day – Fourth Thursday of November; and

12.8.4.10 Christmas Day – Twenty-fifth day of December.

12.8.5 If a legal holiday falls on a Saturday, it is observed on the preceding Friday. If a legal holiday falls on a Sunday, it is observed on the following Monday.

12.9 Time of the Essence

12.9.1 Time limits stated in the Contract Documents are of the essence of the Contract and all obligations under the Contract. By signing the GMP Amendment, the DB acknowledges that the Contract Times are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project. By signing the Construction Progress Schedule, the DB acknowledges that the specified Milestone dates are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.

12.9.1.1 The DB acknowledges that the Owner has entered into, or may enter into, agreements for use of all or part of the premises where the Work is to be completed based upon the DB achieving Contract Completion within the associated Contract Time.

12.9.1.2 The DB shall perform the Work in a reasonable, efficient, and economical sequence, and in the order and time as provided in the Construction Progress Schedule.

12.9.1.3 The DB acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Work from any cause. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the Contract Times under **Article 8**, unless otherwise required by ORC Section 4113.62.

12.10 Successors and Assigns

12.10.1 The Contracting Authority and DB each bind themselves, their successors, assigns, and legal representatives, to the other party to this Contract and to the successors, assigns, and legal representatives of the other party with respect to all terms of this Contract.

12.10.2 The Contracting Authority and DB each acknowledge that the Owner is an intended third-party beneficiary of this Contract.

12.10.3 The DB shall not assign, or transfer any right, title, or interest in this Contract without the Contracting Authority's prior written consent.

12.11 Extent of Contract

12.11.1 Entire Agreement. This Agreement, including the attached documents, and the Contract Documents represent the entire and integrated agreement between the Contracting Authority and DB and supersede all prior negotiations, representations, or agreements, either written or oral.

12.11.2 Multiple Counterparts. This Contract may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

12.11.3 Captions. The captions and headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

12.11.4 Precedence. If there are any inconsistencies between the provisions of the Contract Documents and the provisions of the Request for Qualifications or Request for Proposals or this Contract, the provisions of this Contract shall prevail.

12.12 Severability

12.12.1 If any term or provision of this Contract or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Contract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Contract shall be valid and enforced to the fullest extent permitted by Applicable Law.

12.13 Electronic and Facsimile Signatures

12.13.1 Any party hereto may deliver a copy of its counterpart signature page to this Contract via electronic signature software, fax, e-mail, or web-based project management software. Each party hereto shall be entitled to rely upon an electronic, scanned or facsimile signature of any other party delivered in such a manner as if such signature were an original.

12.14 No Third-Party Interest

12.14.1 Except as expressly provided under **Sections 6.2.2** through **6.2.4** and **Section 12.10.2, (1)** no person or entity, other than the Contracting Authority and DB, will have any right or interest under the Contract, and **(2)** the Contract does not create a contractual relationship of any kind between any people or entities other than the Contracting Authority and DB.

12.15 Ohio Retirement System

12.15.1 All individuals employed by the DB that provide personal services to the Contracting Authority or Owner are not public employees for the purposes of ORC Chapter 145, as amended.

12.15.2 If the DB is a PERS retirant, as defined by ORC Section 145.38, the DB shall notify the Contracting Authority of such status in writing prior to commencement of Work. The Contracting Authority, Owner, or State is not responsible for changes to the DB's retirement benefits resulting from entering into this Contract.

12.16 No Waiver

12.16.1 The failure of the Contracting Authority or DB to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract or to exercise any rights under the Contract or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

12.17 Rights and Remedies

12.17.1 The duties, obligations, rights, and remedies under the Contract are in addition to and not a limitation of the duties, obligations, rights, and remedies otherwise imposed by or available under Applicable Law.

12.18 Survival of Obligations

12.18.1 All representations, indemnity obligations, warranties, guarantees, and necessarily continuing obligations under the Contract, will survive final payment, completion and acceptance of the Work, and termination or completion of the Contract.

KEYWORD INDEX

A

acceleration, 48, 49, 51, 69
 Acceptable Components, 32
 Affirmative Action, 2, 8
 Agreement, 2, 23, 24, 46, 48, 55, 56, 58, 59, 63, 72, 73, 77
 Allowance, 20, 24, 58, 60, 61
 Alternative Dispute Resolution (“ADR”), 53, 54
 antitrust claims, 2
 Applicable Law, 1, 2, 4, 5, 8, 13, 14, 17, 24, 31, 32, 33, 35, 38, 47, 51, 57, 63, 65, 69, 70, 75, 78
 approval, 3, 4, 6, 7, 8, 13, 21, 25, 26, 27, 28, 29, 30, 35, 36, 37, 38, 41, 46, 56, 58, 70
 Architect/Engineer of Record (“AOR”), 5, 14, 15, 16, 17, 18, 20, 25, 39, 40, 46, 55, 56, 57, 59, 67, 71
 As-Built Documents, 39
 audit, 46, 49, 54

B

Bankruptcy of DB, 73
 Basis of Design Component, 32
 Bond, 42, 47, 63, 64
 builder’s risk, 48, 68, 69

C

capacity charges, 25
 Certificate of Contract Completion, 38, 39, 41, 42
 certificate of occupancy, 39, 41
 Certificate of Substantial Completion, 40
 Change Directive, 42, 44, 45, 46, 49
 change in the Work, 6, 42, 43, 44, 45, 46, 47, 48, 60
 Change Order, 29, 30, 31, 37, 38, 42, 43, 44, 45, 46, 48, 49, 53, 59, 60, 61, 62, 70, 72, 73
 Claim, 45, 46, 48, 49, 50, 51, 53, 54, 55, 57, 59, 63, 65
 Claim Affidavit, 14
 cleaning, 34, 35, 40
 Commissioning, 36
 Commissioning Agent (“CxA”), 36
 Construction Budget, 16, 17, 19, 20, 21, 22, 23, 24, 56
 Construction Documents Stage, 15, 21, 22, 23, 25
 construction procedures, 27

Construction Progress Schedule, 16, 18, 19, 20, 21, 22, 24, 26, 28, 29, 30, 37, 45, 48, 49, 50, 51, 63, 76
 Construction Specifications Institute (“CSI”), 60
 Construction Stage, 26
 Construction Stage Design Services Fee, 17, 19, 20, 22, 58, 59, 60, 61, 62
 Construction Stage Personnel Costs, 46
 construction supervision, 27
 Contract, 1, 2, 3, 6, 7, 11, 13, 15, 23, 26, 37, 38, 42, 44, 46, 49, 50, 51, 55, 56, 57, 58, 60, 61, 62, 64, 65, 66, 68, 70, 71, 72, 73, 75, 76, 77, 78
 Contract Completion, 25, 26, 28, 39, 40, 41, 42, 51, 63, 69, 70, 76
 Contract Documents, 4, 5, 6, 7, 9, 13, 25, 26, 27, 28, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 51, 52, 55, 57, 62, 63, 71, 73, 74, 75, 76, 77
 Contract Sum, 2, 3, 4, 10, 12, 14, 16, 17, 19, 21, 23, 24, 25, 26, 30, 31, 32, 37, 38, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 55, 57, 58, 59, 60, 61, 62, 63, 64, 67, 70, 71, 72, 73
 Contract Times, 4, 12, 16, 17, 19, 21, 23, 26, 30, 31, 37, 42, 43, 44, 45, 48, 49, 50, 51, 52, 54, 59, 63, 71, 76
 correction of the Work, 37
 Correction Period, 7, 37, 38
 Cost of the Work, 11, 23, 58, 59
 Criteria Architect/Engineer (“Criteria A/E”), 5, 7, 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 39, 65, 69, 70, 74, 75
 critical path, 28, 29, 49, 50, 51

D

daily log, 27, 50
 DB Affiliated Entity, 11, 23, 24, 58, 59
 DB Payment Request, 4, 13, 39, 57, 59, 61, 62, 63, 71
 DB’s Contingency, 17, 19, 20, 22, 23, 58, 59, 61, 72, 73
 DB’s Fee, 17, 19, 20, 22, 23, 48, 58, 59, 60, 61, 62, 72
 default, 26, 62, 72
 Defective Work, 7, 30, 32, 37, 38, 40, 59, 63, 71, 72
 demonstration and training, 41
 Derivative Claims, 51
 Design Development Stage, 19
 Design Services Fee, 64
 Design-Assist Firm, 11, 12, 13
 Differing Site Conditions, 46, 49
 dispute review board, 54

Domestic Steel, 2, 36
 drainage, 17, 34
 Drawings, 17, 19, 21, 25, 27, 39, 70, 74, 75
 Drug Free Safety Program (“DFSP”), 2, 3

E

electric service, 34
 Electronic Files, 39
 electronic signature, 77
 emergency, 4, 75
 Encouraging Diversity, Growth and Equity (“EDGE”), 3, 4, 8, 60, 61, 63
 environmental controls, 33
 Equal Employment Opportunity, 2
 Equal Opportunity Coordinator (“EOC”), 1, 2, 3, 4, 8
 equipment, 14, 16, 18, 20, 21, 23, 25, 26, 27, 29, 32, 33, 34, 36, 37, 47, 54, 55, 60, 61, 66, 68, 69, 72, 76
 explosives, 35

F

facilities, 8, 22, 33, 35
 Field Conditions, 31
 Final Inspection, 25, 40, 41
 Fire Marshal, 25, 39

G

General Conditions, 21, 23, 75
 General Conditions Costs, 23, 47, 58, 60, 63
 General Conditions Work, 8
 GMP Amendment, 22, 23, 24, 25, 46, 47, 57, 58, 59, 60, 61, 64, 76
 Green Building Certification Institute, 5

H

Hazardous Materials, 32, 33, 66
 hoisting facilities, 34

I

indemnification, 70
 Institution of Higher Education, 53
 Institutional Designee, 53
 insurance, 35, 41, 48, 54, 55, 61, 64, 65, 66, 67, 68, 69, 70
 interruption of existing services, 35

J

joint venture, 67

L

labor, 1, 2, 3, 13, 14, 16, 18, 19, 20, 21, 23, 32, 47, 48, 51, 55, 56, 60, 61, 62, 68, 71, 74
 Leadership in Energy and Environmental Design (“LEED”) Rating System, 5

legal holiday, 76
 licenses, 8, 25
 limited-liability company, 67
 Liquidated Damages, 49, 52, 62

M

MasterFormat, 60
 material, 13, 14, 16, 18, 20, 21, 23, 25, 26, 27, 31, 32, 33, 34, 35, 37, 39, 40, 41, 43, 44, 45, 46, 47, 49, 54, 55, 60, 61, 62, 63, 68, 69, 71, 72, 74, 76
 Material Safety Data Sheet, 33
 Material Supplier, 13, 14
 mediation, 54
 Milestone, 28, 29, 49, 52, 76
 minor change in the Work, 42, 45, 46
 Modification, 4, 15, 16, 17, 19, 21, 23, 25, 42, 43, 44, 49, 57, 59

N

National Pollutant Discharge Elimination System (“NPDES”), 25, 27
 negotiation, 54, 56
 Neutral Facilitator, 6, 7
 no damage for delay, 51
 Nondiscrimination, 1
 Notice of Commencement, 75
 Notice to Commence Services, 14
 Notice to Proceed, 6, 25, 26
 Notice, 5-Day, 72
 Notice, 72-Hour, 37, 72

O

Occupational Safety and Health Administration (“OSHA”), 33
 Ohio Building Code, 4
 Ohio Bureau of Workers’ Compensation (“OBWC”), 2, 3
 Ohio Construction Contract Information Report, 2
 Ohio Department of Commerce, 2, 47
 Ohio Department of Insurance, 64
 Ohio Environmental Protection Agency, 25
 Ohio Facilities Construction Commission, 5, 6, 46, 53, 60, 75
 Ohio Homeland Security, 20, 21
 Ohio Underground Utility Protection Services (“OUPS”), 27
 Operation and Maintenance Manuals, 36, 39
 organizational meeting, 15

P

Partial Occupancy, 38, 41, 69
 Pencil Copy, 61
 performance evaluation, 7
 permits, 25
 Plan Approval, 25

Preconstruction Fee, 55, 57, 71
 Preconstruction Services Amendment, 42, 56
 Preconstruction Stage Compensation, 3, 4, 55, 64, 70, 71, 72
 Preconstruction Stage Design Services Fee, 55, 56
 Preconstruction Stage Personnel Costs, 55, 56, 57
 Preconstruction Stage Reimbursable Expenses, 55, 56, 57
 Prevailing Wage Requirements, 61
 Pricing Criteria, 46, 48
 Product Data, 36, 39
 Program Verification Stage, 16
 progress meetings, 29, 30, 33
 Project Budget, 17
 Project Manager, 6, 31, 32, 53, 75
 Project Schedule, 8, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 56, 60
 Proposal, 44, 45, 46, 49, 51
 Proposal Request, 42, 43, 44
 Protection of the Project, 31
 Punch List, 28, 40, 41, 42, 61

R

Record Documents, 39, 61
 Request for Change Order, 44
 Request for Interpretation (“RFI”), 31, 39, 49
 Retainage, 62
 royalties and patents, 2

S

Safety Data Sheet (“SDS”), 33
 Samples, 36, 39
 schedule of submittals, 26
 Schedule of Values, 47, 48, 60, 61, 69, 71, 72
 Schematic Design Stage, 17, 56
 Separate Consultant, 26, 52
 Separate Contractor, 26, 52
 Shop Drawings, 28, 36, 39
 snow and ice, 26
 special inspection, 4, 30
 Specifications, 21, 22, 25, 27, 39, 62, 70, 74, 75
 State, 2, 3, 6, 7, 9, 13, 14, 35, 38, 39, 51, 55, 63, 65, 72, 73, 76

storm water, 25
 structural testing, 4
 Subcontract, 4, 8, 9, 10, 11, 12, 13, 14, 24, 27, 54, 58, 59, 60, 68
 Subcontractor, 2, 3, 7, 8, 10, 11, 12, 13, 14, 21, 22, 23, 24, 27, 28, 30, 32, 35, 37, 39, 46, 47, 48, 49, 50, 54, 55, 59, 63, 64, 65, 66, 68, 69, 72, 73, 74, 75
 Substantial Completion, 26, 28, 29, 31, 33, 34, 36, 37, 38, 40, 47, 49, 59, 62, 63, 65, 66, 67, 68
 Substitutions, 32
 Supplementary Conditions, 21, 75
 Surety, 26, 37, 38, 40, 41, 59, 62, 63, 72, 73
 Suspension of the Work, 70
 sustainability, 5

T

tap fees, 25
 taxes, 48, 76
 Termination for Cause, 72
 Termination for Convenience, 71
 testing, 4, 30, 69
 tests and inspections, 30
 third-party beneficiary, 26, 77

U

U.S. Environmental Protection Agency, 5
 U.S. Green Building Council, 5
 uncovering the Work, 37
UniFormat, 60
 Unit Price, 13, 14, 24, 43, 46, 47, 58, 60, 62
 utilities, 33

W

Waivers of Subrogation, 69
 warranty, 37
 waste materials and rubbish, 34, 35
 water, 34
 weather delay, 51
 written notice, 4, 30, 31, 33, 37, 41, 44, 45, 46, 49, 50, 53, 57, 65, 71, 72, 73, 75

END OF DOCUMENT

Document 00 45 39 - EDGE Affidavit
State of Ohio Standard Requirements for Public Facility Construction

EDGE PARTICIPATION

Certified Statement of Intent to Contract and Perform

Bidder or Proposer: Submit one fully completed form for each EDGE-certified Business

Project: _____

Project Name: _____

A. Bidder or Proposer's Company Name: _____

Mark all that apply:

Multi-Prime Contract General Contract CM at Risk Contract Design-Build Contract

B. EDGE-certified Business information (for contract at ANY tier)

Mark all that apply:

Subcontractor Material Supplier Professional Services Goods & Services

EDGE Business Name: _____

EDGE Business Address: _____

EDGE Certification Number: _____ E-mail: _____

Contact Person: _____ Phone: _____

Insert detailed description of materials, labor, services, supplies, etc. (may use industry codes – continue on separate page):

C. Certification of Intent

By signing below, the Bidder or Proposer certifies that it intends to contract with the EDGE-certified Business for the portion of the contract described above related to its Contract for this Project and for the estimated cost shown below. By signing below, the EDGE-certified Business certifies that it intends to contract with the Bidder or Proposer and intends to provide the portion of the contract described above related to the Contract for this Project for the estimated cost of:

_____ and _____ /100 dollars (\$ _____).

In the event the named Bidder or Proposer is NOT awarded a Contract, this Statement shall be null and void.

EDGE-certified Business

Bidder or Proposer

Authorized Signature

Authorized Signature

Name and Title

Name and Title

Date Signed

Date Signed

END OF DOCUMENT

Document 00 52 54 - State of Ohio Subcontract Form (Design-Build Project) State of Ohio Standard Requirements for Public Facility Construction

This Agreement is made as of the date set forth below between the Design-Builder and the Subcontractor in connection with the Project.

Project Number: <insert number>
Project Name: <insert name>
Site Address: <insert street address>
<insert city, county>

Design-Builder (“DB”): <insert name>
DB’s Principal Contact: <insert name>
Address: <insert street address>
<insert city, state zip code>

Subcontractor: <insert name>
Subcontractor’s Principal Contact: <insert name>
Address: <insert street address>
<insert city, state zip code>

Public Authority: <insert name>
Public Authority Contact: <insert name>
Address: <insert street address>
<insert city, state zip code>

ARTICLE 1 - NATURE OF SUBCONTRACT

1.1 The Subcontractor shall perform the entire Subcontract Work as specified in Exhibit <N> and described in the Contract Documents for the Project.

ARTICLE 2 - COMPENSATION

2.1 The DB agrees to pay for the performance of this Subcontract, subject to additions and deductions as provided in the Contract Documents, the Subcontract Sum of <insert Subcontract Sum>, comprised of the following:

<insert Subcontract Sum component>	\$<insert amount>
<insert Subcontract Sum component>	\$<insert amount>
<insert Subcontract Sum component>	\$<insert amount>
<insert Subcontract Sum component>	\$<insert amount>

ARTICLE 3 - TIME OF PERFORMANCE

3.1 Time is of the essence. The Subcontractor shall diligently prosecute and complete all Subcontract Work in accordance with the construction progress schedule agreed between the parties.

ARTICLE 4 - CONTRACT DOCUMENTS

4.1 To the extent that the contract between the Public Authority and the DB applies to the Subcontract Work:

4.1.1 The DB and the Subcontractor agree to be mutually bound by the terms of the Contract Documents;

4.1.2 The DB assumes toward the Subcontractor the rights, remedies, obligations, and responsibilities that the Public Authority has and assumes toward the DB;

4.1.3 The Subcontractor assumes toward the DB the rights, remedies, obligations, and responsibilities that the DB assumes toward the Public Authority; and

4.1.4 The Subcontractor agrees to perform its portion of the Work in accordance with the Contract Documents.

4.2 The Subcontract and any modifications, amendments, or alterations thereto shall be governed, construed, and enforced by and under the laws of the State of Ohio.

4.3 If any term or provision of the Subcontract, or the application thereof to any Person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Subcontract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of the Subcontract shall be valid and enforced to the fullest extent permitted by law.

4.4 The Subcontract shall be binding on the DB and Subcontractor, their successors and assigns, in respect to all respective covenants and obligations contained in the Contract Documents, but the Subcontractor may not assign the Subcontract without the prior written consent of the DB and the Public Authority.

ARTICLE 5 - EFFECTIVENESS

5.1 The Subcontract shall become binding and effective upon execution by the DB.

5.2 This Subcontract has been executed in several counterparts, each of which shall constitute a complete original Subcontract, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

5.3 Any signatory may deliver a copy of its counterpart signature page to this Subcontract via fax or e-mail. Each signatory shall be entitled to rely upon a signature of any other signatory delivered in such a manner as if such signature were an original.

ARTICLE 6 - REPRESENTATIONS

6.1 Contingent Assignment. The DB's contingent assignment of this Subcontract to the Public Authority, as provided in the Contract, is effective after termination of the DB by the Public Authority and the Public Authority's acceptance of the assignment in writing to the Subcontractor. The Subcontractor consents to the assignment and shall be bound at the same price and terms as in the Subcontract to the Public Authority. Unless the Public Authority takes assignment of the Subcontract, the Subcontractor will not have any contractual rights against the Public Authority.

6.2 Intended Third-Party Beneficiary. The Public Authority is an intended third party beneficiary of the Subcontract, entitled to enforce any rights thereunder for its benefit.

6.3 Insurance. The Subcontractor shall maintain insurance in accordance with the Contract Documents. Exhibit «N» sets forth the minimum limits of liability for the insurance required in the Contract Documents.

6.4 Right to Audit. The Subcontractor agrees that the Public Authority or any agents designated by the Public Authority have access to and the right to audit and the right to copy at the Public Authority's cost all of the Subcontractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work for a period of not less than 3 years following completion of the Work consistent with Ohio Revised Code ("ORC") Section 149.43 with regard to the Public Authority's obligation to maintain confidentiality of trade secrets.

6.5 Indemnity. To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the Public Authority, the DB, their consultants and employees from all claims and expenses for bodily injury and property damage other than to the Work itself that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, but only to the extent caused by the negligent acts or omissions of the Subcontractor or a person or entity for whom the Subcontractor may be liable. This Subcontract does not require a Subcontractor to waive its immunity under the Workers Compensation laws of Ohio from claims brought against the Subcontractor by the Subcontractor's employees.

6.6 Prompt Pay. The DB shall at a minimum make payments to the Subcontractor in accordance with Applicable Law, including ORC Section 4113.61. Progress payments to the Subcontractor for satisfactory performance of Subcontract Work shall be made no later than 10 days after receipt by the DB of payment from the Public Authority for Subcontract Work.

6.7 Retainage. Subcontractor retainage shall be at a rate equal to the percentage retained from the DB's payment by the Public Authority for the Subcontract Work, unless a lesser percentage is otherwise specified.

6.7.1 Labor Payments.

6.7.1.1 Partial payments to the Subcontractor for labor performed shall be made at the rate of 92 percent of the amount invoiced through the Subcontractor's request for payment that shows the Work of the Subcontractor is 50 percent complete.

6.7.1.2 After the Work of the Subcontractor is 50 percent complete, as evidenced by payments of at least 50 percent of the total amount due under the Subcontract, no additional funds shall be retained from payments for labor.

6.7.2 Material Payments.

6.7.2.1 The DB shall pay the Subcontractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

6.7.2.2 The DB shall pay the Subcontractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Subcontractor provides the following information with its request for payment:

- .1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and
- .2 a certification of materials stored off-site, prepared by the Subcontractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Subcontractor shall reimburse the A/E, through the DB, for all costs incurred to visit a storage site, other than the areas adjacent to the Project.
- .3 The DB shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

6.8 Warranty. The Subcontractor fully warrants, for the benefit of the Public Authority, that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents and free from defective workmanship or materials.

6.9 Non-Waiver of Lien Rights or Payment Bond Rights. This Subcontract shall not prohibit a Subcontractor from exercising its rights under ORC Chapter 1311 or under any DB-provided payment bond.

6.10 Non-Discrimination. The Subcontractor agrees to fully comply with Applicable Law regarding equal opportunity, including ORC Section 153.59 and, to the extent applicable, all Executive Orders issued by the Governor of the state of Ohio.

6.11 Dispute Resolution. The supplemental conditions to this Subcontract shall provide for a dispute resolution process comparable to the Contract's dispute resolution process in terms of timing, notice, substantiation, and informal dispute resolution efforts. The dispute resolution process provided in the supplemental conditions shall result in prompt access to the ultimate dispute resolution mechanism selected by the parties.

6.12 In the event that any supplemental conditions or other Subcontract terms conflict with the **State of Ohio Subcontract Form**, the **State of Ohio Subcontract Form** takes precedence and this Subcontract shall be read and enforced to include the provisions of the **State of Ohio Subcontract Form**.

6.13 The following exhibits are attached to and are a part of this Subcontract:

6.13.1 Exhibit A:

6.13.2 Exhibit B:

6.13.3 Exhibit C:

6.13.4 Exhibit D:

SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Subcontract Form.

«INSERT SUBCONTRACTOR'S NAME»

«INSERT DB'S NAME»

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

END OF DOCUMENT

Document 00 61 13.13 - Performance Bond Form
State of Ohio Standard Requirements for Public Facility Construction

(Form of Performance Bond prescribed by Ohio Administrative Code Section 153:4-1-02)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____
_____, as Principal,
and _____ as Sureties,
are hereby held and firmly bound unto _____
_____ as Obligee(s), in the penal sum of _____ dollars,
for the payment of which well and truly to be made, we jointly and severally bind ourselves, our heirs, executors,
administrators, successors, and assigns.

SIGNED AND SEALED this _____ day of _____, _____.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal did on the
_____ day of _____, _____, enter into a Contract with the Obligee, which said Contract is
made a part of this Bond the same as though set forth herein and which is more fully described as:

Project Number: _____

Project Name: _____

Contract Description: _____
(e.g., Construction Manager at Risk, Design-Build)

NOW, THEREFORE, if the above-named Principal shall well and faithfully do and perform the things agreed by the
Principal to be done and performed according to the terms of said Contract then this obligation shall be void; otherwise the
same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and
all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of
said Contract or in or to the Plans and Specifications therefore shall in any way affect the obligations of said Surety on its
bond, and it does hereby waive notice of any such modifications, omissions or additions in or to the terms of the Contract, the
Work or the Contract Documents, including without limitation the Plans and Specifications.

PRINCIPAL:

Principal Signature

By: _____

Title: _____

SURETY:

Surety Signature

By: _____
Attorney-in-Fact

SURETY INFORMATION:

Street

City State Zip

Telephone Number

SURETY AGENT'S INFORMATION:

Agency Name

Street

City State Zip

Telephone Number

END OF DOCUMENT

Document 00 61 13.16 - Payment Bond Form

State of Ohio Standard Requirements for Public Facility Construction

(Form of Payment Bond prescribed by Ohio Administrative Code Section 153:4-1-02)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____
_____, as Principal,
and _____ as Sureties,
are hereby held and firmly bound unto _____
_____ as Obligee(s), in the penal sum of _____ dollars,
for the payment of which well and truly to be made, we jointly and severally bind ourselves, our heirs, executors,
administrators, successors, and assigns.

SIGNED AND SEALED this _____ day of _____, _____.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal did on the
_____ day of _____, _____, enter into a Contract with the Obligee, which said Contract is
made a part of this Bond the same as though set forth herein and which is more fully described as:

Project Number: _____

Project Name: _____

Contract Description: _____
(e.g., Construction Manager at Risk, Design-Build)

NOW, THEREFORE, if the above-named Principal shall pay all lawful claims of subcontractors, material suppliers,
and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said
Contract; we agreeing and assenting that this undertaking shall be for the benefit of any material supplier or laborer having a
just claim, as well as for the Obligee(s) herein; then this obligation shall be void; otherwise the same shall remain in full force
and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in
no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of
said Contract or in or to the Plans and Specifications therefore shall in any wise affect the obligations of said Surety on its
bond, and said Surety hereby waives notice of any such modifications, omissions or additions in or to the terms of the
Contract, the Work or the Contract Documents, including without limitation the Plans and Specifications.

PRINCIPAL:

Principal Signature

By: _____

Title: _____

SURETY:

Surety Signature

By: _____
Attorney-in-Fact

SURETY INFORMATION:

Street

City State Zip

Telephone Number

SURETY AGENT'S INFORMATION:

Agency Name

Street

City State Zip

Telephone Number

END OF DOCUMENT

Document 00 73 43 - Wage Rate Requirements (Design-Build Project)

State of Ohio Standard Requirements for Public Facility Construction

PREVAILING WAGE RATES

1.1 Payment of Prevailing Wage Rates

1.1.1 The DB shall pay the prevailing wage rates of the Project locality, as issued by the Ohio Department of Commerce, Wage and Hour Bureau to laborers and mechanics performing Work on the Project.

1.1.2 The DB shall comply with the provisions, duties, obligations, and is subject to the remedies and penalties of ORC Chapter 4115.

1.1.3 If the DB or its Subcontractors fail to comply with ORC Chapter 4115, the Contracting Authority may withhold payment pursuant to **Section 9.2.14.1.5** of the **General Conditions**. The DB is liable for violations committed by the DB or its Subcontractors to the extent provided in ORC Chapter 4115.

1.1.4 The DB shall submit all payroll reports in compliance with the requirements of **Section 1.4** for all of the employees of the DB and of the DB's Subcontractors.

1.1.5 By executing a Contract, the DB certifies that it based its Bid upon the prevailing rates of wages as ascertained by the Ohio Department of Commerce, Wage and Hour Bureau for the Project as provided in ORC Sections 4115.03 through 4115.14, which are inserted at the end of this Document.

1.2 Prevailing Wage Rate Revisions

1.2.1 The Contracting Authority shall, within 7 business days after receipt of a notice of a change in the prevailing wage rates, notify the DB of the change. The prevailing wage rates are available at the Ohio Department of Commerce's web site: <http://com.state.oh.us/>.

1.2.2 The DB shall pay any revised wage rates issued during the term of the Contract.

1.3 Payroll Schedule

1.3.1 Within 10 days of the date of the Notice to Proceed, the DB shall provide the Contracting Authority's Prevailing Wage Coordinator a schedule of dates during the term of the Contract on which wages shall be paid to employees for the Project.

1.4 Payroll Reports

1.4.1 The DB shall submit payroll reports with each DB Payment Request, which reports shall be certified by the DB that the payroll is correct and complete and the wage rates shown are not less than those required by the Contract. The DB is responsible for submitting all payroll reports of its Subcontractors.

1.4.1.1 Each payroll report shall indicate the period covered and include a list containing the name, address and social security number of each employee of the DB and its Subcontractors paid for the Work.

1.4.1.2 Each payroll report shall list the number of hours each employee worked each day on the Project during the reporting period, the total hours each week on the Project, the employee's hourly rate of pay, job classification, hourly rate of fringe benefits, and all deductions from wages and net pay.

1.4.1.3 Each payroll report shall list each fringe benefit and state if it is paid as cash to the employee or to a named plan.

1.4.1.4 The DB and its Subcontractors shall submit apprenticeship agreements for all apprentices utilized on the Project.

END OF DOCUMENT