

GARFIELD COUNTY, COLORADO
STANDARD FORM OF AGREEMENT BETWEEN
OWNER AND CONTRACTOR

THIS AGREEMENT made as of this 12th day of August, in the year Two Thousand and Nineteen (2019)

BETWEEN the Owner: Board of County Commissioners
Garfield County, State of Colorado
108 8th Street, Suite 219
Glenwood Springs, CO 81601

and the Contractor: ARC Abatement, Inc.
707 Arrowest Road, Suite B
Grand Junction, CO 81505

The Project: IFB-GC-FG-04-19, 1217 Howard Ave Asbestos Abatement

The Owner and Contractor agree as set forth below:

ARTICLE 1

THE CONTRACT DOCUMENTS

The Contract Documents are set forth in the General Conditions.

ARTICLE 2

THE WORK

The Contractor shall perform all the Work required by the Contract Documents for general construction.

ARTICLE 3

TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The Work to be performed under this Contract shall be performed commencing on the date set forth in the Contract Documents, with substantial completion concluding no later than December 31, 2019.

ARTICLE 4

CONTRACT SUM

The Owner shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Sum of Thirty-One Thousand, Two Hundred Ninety-Five Dollars and Zero Cents (\$31,295.00).

ARTICLE 5

PROGRESS PAYMENTS

Progress Payments shall be rendered as set forth in the General and Special Conditions to this Agreement.

ARTICLE 6

FINAL PAYMENT

Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor when the Work has been completed, and State and Federal statutory claims have been paid or resolved, all the contract terms have been fully performed, and a final Certificate of Payment has been issued by the Owner.

ARTICLE 7

COMPENSATION/APPROPRIATION

The amount to be expended pursuant to this Agreement shall not exceed Thirty-One Thousand, Two Hundred Ninety-Five Dollars and Zero Cents (\$31,295.00). The Owner has lawfully appropriated an amount that is equal to or in excess of the compensation set forth herein, which amount shall constitute the contract amount. Such amount may be altered by mutual written consent of parties.

This appropriation is limited solely to the work to be accomplished during fiscal year ending December 31, 2019. The Owner is not obligated to make any future apportionment or allocation to this Agreement. Any work performed in excess of amounts appropriated shall be solely the risk of the Contractor. Notwithstanding any other terms of this Agreement, it is expressly understood and agreed that: (1) Any Owner financial obligation, whether direct or contingent, for all or any part of the work under this Agreement, shall extend only to monies duly and lawfully appropriated and budgeted by the Owner and irrevocably pledged pursuant to the purposes of this Agreement; (2) The Owner does not by this Agreement irrevocably pledge present cash reserves for payments in this or future fiscal years; (3) This Agreement is not intended to create a multiple/fiscal year direct or indirect financial obligation of the Owner; (4) The obligation of the Owner for expenditures, if any, arising during subsequent fiscal years in which this Agreement could be extended and be in effect, shall only extend to utilization of monies appropriated and budgeted and encumbered for the purpose of this Agreement in the fiscal year in which obligations arise; and (5) No change order may be issued requiring compensation for work which causes the aggregate payable amount under this Agreement to exceed the amounts appropriated, budgeted and encumbered for the payment of this Agreement in the fiscal year in which such obligations arise, unless the Contractor receives written assurance by the Owner that lawful appropriations to cover the cost of the additional work have been made. Any work completed for this Agreement shall be secured from harm until future monies are appropriated so that additional work may commence. In the event any future appropriation is made by the Owner for the purposes of this Agreement, the Owner will inform the Contractor in writing of any amounts appropriated for work proposed herein and will tender a renewed or amended Agreement covering the work to be compensated by such appropriation.

ARTICLE 8

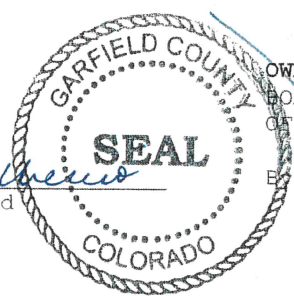
MISCELLANEOUS PROVISIONS

8.1 Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meaning designated in those Conditions.

8.2 This Agreement, together with all documents forming the entire Contract form the full and complete understanding of the parties. No agreement, statement or representation set forth outside of the written contents of those documents shall be considered a part of this Contract.

ATTEST:

Jean M. Alvarez
Clerk to the Board



OWNER:
BOARD OF COUNTY COMMISSIONERS
OF GARFIELD COUNTY, COLORADO

By: [Signature]
Chairman

ATTEST:

[Signature]
Secretary

CONTRACTOR:
ARC Abatement, Inc.

By: [Signature]

Kieran McQuade
Type Name/Title

AMENDMENT TO AIA DOCUMENT A201-1997

GENERAL CONDITIONS TO THE CONTRACT FOR CONSTRUCTION

THIS AMENDMENT shall modify the terms and conditions of AIA Document A201-1997 - General Conditions of the Contract For Construction. This amendment shall modify the terms and conditions of that document to the extent that it shall supplement and supersede all conditions of that document as set forth below. Any conflict between the terms of this amendment and AIA Document A201-1997 shall be resolved in favor of the terms of this amendment. At all points where the paragraph number is set forth below, it is to correspond and supplement a similarly numbered paragraph in AIA Document A201-1997. This document shall be considered a part of the Contract Documents as if fully set forth in the Agreement.

At all points within the Agreement, whenever the term "architecture" is used, the term "engineering" shall be substituted.

At all points within the Agreement, whenever the term "Architect" is used, the term "Owner" shall be substituted.

The deletions, modifications and additions to AIA Document A201-1997 are set forth below:

1.1.1. The Contract Documents consist of all documents set forth in similarly numbered paragraphs of A201 in addition to the following:

1. Instructions to bidders;
2. Notification of bid;
3. Specifications;
4. Executed bid form;
5. Notice of Award;
6. Notice to Proceed;
7. Non-Collusion Affidavit;
8. Performance and Payment Bonds;
9. The form of agreement fully executed.

1.6.1. This paragraph shall read as follows:

All drawings, specifications, data, documents or software prepared by the Architect for the purpose of this contract and required by the scope of services of this contract shall belong exclusively to the Owner and shall be deemed to be "works made for hire" under the copyright laws of the United States. To the extent any of those items may not, by operation of law or otherwise, be works made for hire, the Architect hereby assigns to the Owner the ownership of the copyright in the deliverable items, and the Owner shall have the right to obtain and hold in its own name, copyrights, registrations, and similar protections. The Architect agrees to give the Owner or its designee all assistance reasonably required to perfect such rights. To the extent that any pre-existing materials are contained in the deliverable items, the Contractor grants to the Owner an irrevocable, non-exclusive, worldwide, royalty-free license to use, execute, publish, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing materials and derivative works thereof and to authorize others to do any, some, or all of the foregoing.

2.1.1. The following shall be added to this paragraph:

Additionally, at all points within this Agreement, the term Architect shall be stricken and the term Owner substituted. Whenever performance is required by the Architect, such performance shall be read to be performed by the Owner. Whenever performance is to be achieved by the Architect in relationship to the Owner, the Owner alone shall be responsible for the duties set forth therein.

2.2.1. This paragraph shall be stricken.

2.4.1. This paragraph shall read as follows:

If the Contractor defaults or neglects to carry out the work in accordance with the Contract Documents and fails within a seven (7) day period (after receipt of written notice by the Owner) to commence and continue correction of such default and neglect with diligence and promptness, the Owner may, after such seven day period, give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor, within such second seven-day period, after receipt of such second notice, fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate change order shall be issued deducting from payments then or thereof due the Contractor the cost of correcting such

deficiencies, including compensation for the Architect and its respective consultants additional services and expenses made necessary by such default, neglect or failure. If payments then or thereof due to the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

3.2.1. Strike the last sentence of this paragraph and add the following to this paragraph:

The Contractor recognizes that all Contract Documents were reviewed prior to the submittal of its bid. All errors, inconsistencies, or omissions shall be reported to the Owner and Architect prior to commencement of the Work. Failure to comply with this provision shall bar any claim by the Contractor for inconsistencies, errors or omissions in the contracts.

3.2.3. This paragraph shall read as follows:

If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the architect in response to the Contractor's notices or requests for information pursuant to Subparagraphs 3.2.1. and 3.2.2., the Contractor shall make Claims as provided in Subparagraphs 4.3.6. and 4.3.7. If the Contractor fails to perform the obligations of Subparagraphs 3.2.1. and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect or Owner.

3.10.3. This paragraph shall read as follows:

The Contractor shall perform the Work in accordance with the most recent schedule submitted to the Owner and Architect.

3.18.1. This paragraph shall read as follows:

To the fullest extent permitted by law, the Contractor shall indemnify, hold harmless and defend the Owner, Architect, Architect's and Owner's consultants, agents and employees of any of them from and against all claims, damages, losses and expenses included, but not limited to, attorney's fees arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, death or injury to or destruction of tangible property,

but only to the extent caused by the negligent acts or omissions of the Contractor, subcontractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or a person described in this paragraph.

4.1.1. This paragraph shall be stricken.

4.2.2. This paragraph shall read as follows:

The Architect as representative of the Owner will visit the site at intervals appropriate to the stage of the Contractor's operation:

(1) To become familiar with and keep the Owner informed about the progress and quality of the portion of the Work completed; and

(2) To guard the Owner against defects and deficiencies in the Work; and

(3) To determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents.

The Architect will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the work, since these are solely the Contractor's rights and responsibility under the Contract Documents.

4.2.3. The following shall be added to the existing paragraph:

However, the Architect shall be responsible to report to the Owner the failure of the Contractor to perform Work in accordance with the Contract Documents to the extent the Architect knew or should have known of such failures through the exercise of its professional expertise.

4.2.7. This paragraph shall read as follows:

The Architect will review and approve or take other appropriate action upon the Contractor's submittal such as Shop Drawing, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design

concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.13. This paragraph shall be stricken.

4.3.2. The time frames expressed in this paragraph shall be altered to ten (10) days.

4.3.4. The time frames expressed in this paragraph shall be altered to ten (10) days.

4.4.1. This paragraph shall read as follows:

Decision of Architect. Claims, including those alleged as an error/omission by the Architect, but excluding those arising under Paragraphs 10.3 through 10.5 shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to any further action by the Contractor.

4.4.2. This paragraph shall read as follows:

The Architect will review claims and within ten (10) days of receipt of the claim take one or more of the following actions:

- (1) Request additional supporting data from the claimant or a response with supporting data from the other party;
- (2) Reject the claim in whole or in part;
- (3) Approve the claim;
- (4) Suggest a compromise; or
- (5) Advise the contractor that the Architect is unable to resolve the claim if the Architect lacks sufficient information to evaluate the merits of the claim or if the Architect concludes

that in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the claim.

4.4.3. This paragraph shall read as follows:

In evaluating claims, the Architect may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Architect in rendering a decision.

4.4.5. This paragraph shall read as follows:

The Architect will approve or reject claims by written decision which shall state the reasons therefore and which shall notify the parties of any change in the contract sum or contract time, or both. The approval or rejection of a claim by the Architect shall be advisory and subject to further action by the Owner.

4.4.6. This paragraph shall be stricken.

4.4.7. This paragraph shall be stricken.

4.4.8. This paragraph shall be stricken.

4.5. All provisions of this paragraph on mediation shall be stricken.

4.6. All provisions of this paragraph on arbitration shall be stricken.

6.1.4. This paragraph shall be stricken.

7.3.3.4. This phrase shall be stricken.

7.3.6. This paragraph shall be stricken.

7.5.1. This paragraph shall be added and read as follows:

Change Order Appropriation. No Change Order shall be issued pursuant to this section which causes the aggregate amount payable under this Contract to exceed the amount appropriated for the original Contract Price unless the Contractor has received written assurance from the Owner that additional lawful appropriations to cover costs of additional Work have been made or unless other remedies are provided herein that allow the Contractor to receive compensation for such additional Work.

8.3.1. This paragraph shall read as follows:

If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or an employee of either, or of a separate Contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unavoidable casualties or other causes beyond the Contractor's control, then the contract time shall be extended by change order for such reasonable time as the Architect and Owner may determine if a claim for such delay is submitted within ten (10) days of the act giving rise for the need for an extension.

8.3.3. This paragraph shall read as follows:

This Paragraph No. 8.3.3 does not preclude recovery of damages for delay by either party under other provisions of the contract if a claim is submitted as required by this Agreement.

9.4.2. This paragraph shall read as follows:

The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner based upon the Architect's evaluation of the Work, and the data comprising the application for payment, that the Work has progressed to the point indicated and that the quality of Work is in accordance with the Contract Documents. The foregoing representations are subject to evaluation of the Work for conformance with the Contract Documents upon substantial completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate of Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the order to substantiate the Contractor's right to payment, or made examination to ascertain how or for what purpose the Contractor has used money previously paid on account for the contract sum. However, such certification shall be a representation to the Owner that the Architect does not have knowledge of any reasonable evidence that any subcontractor has or will be able to assert a claim against the Owner for non-payment.

9.6.1. The following shall be added to this paragraph:

A public entity awarding a contract exceeding one hundred fifty thousand dollars for the construction, alteration, or repair of any highway, public building, public work, or public improvement, structure, or system shall authorize partial payments of the amount due under such contract at the end of each calendar month, or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract. The public entity shall pay at least Ninety-Five percent of the calculated value of completed work. The withheld percentage of the contract price of any contracted work, improvement, or construction may be retained until the contract is completed satisfactorily and finally accepted by the public entity.

9.6.7. This paragraph shall read as follows:

Payments received by the Contractor for Work properly performed by subcontractors and suppliers shall be held by the Contractor for those subcontractors or suppliers who perform the Work or furnished materials or both under contract with a Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not co-mingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach for the requirements of this provision.

9.7 This paragraph shall be stricken.

9.9.1. This paragraph shall read as follows:

The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibility assigned to each of them for payment, retainage, if any, security, maintenance, heat, utilities, damage to the Work, and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of the warranties required by the Contract Documents. When the Contractor considers a portion of the Work substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under subparagraph 9.8.2, "Consent of the Contractor to Partial Occupancy or Use Shall Not Be Unreasonably Withheld." The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor.

9.10.2. The final two sentences of this paragraph shall be stricken.

10.3.3. This paragraph shall be stricken.

10.5. This paragraph shall be stricken.

11.1.2. This paragraph shall read as follows:

The insurance required by subparagraph 11.1.1.1 shall be the minimum required by law. For all other required insurance coverage set forth in subparagraph 11.1.1 the minimum coverage shall be no less than \$1,000,000 with a single limit combined aggregate limitation of \$2,000,000 or as specified in the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as amended. If any aggregate limits set forth above are reduced below the stated amount because of claims made or paid during the required policy period, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish a certificate or other document showing compliance with this provision.

11.2.1. This paragraph shall be stricken.

11.3.2. This paragraph shall be stricken.

11.3.3. This paragraph shall read as follows:

The Contractor shall include the Owner and Architect as persons or entities, as additional insureds on the Contractor's liability insurance coverage required under Paragraph 11.1. Additionally, if Contractor's insurer determines that the Owner has an insurable interest as a result of the contractual relationship created herein, the Owner shall also be named as an additional insured on the Comprehensive Automobile Liability Policy. Proof of Workers' Compensation & Employer's Liability and Unemployment Insurance is required. Certificate(s) of insurance or copies of policies and appropriate endorsements required by this Contract shall be delivered to the Owner at the time originals of this Contract, executed by the Contractor, are delivered to the Owner's Representative, identified below, for execution by the Owner.

11.4. All provisions of this paragraph shall be stricken.

11.5.1. This paragraph shall read as follows:

Unless otherwise provided in the Contract Documents, the Contractor shall be required to furnish both a payment bond and a

performance bond, both bonds in the full amount of the contract amount and together covering faithful performance of the contract and payment of obligations arising thereunder.

12.2.2.3. This paragraph shall read as follows:

The one-year period for correction of Work shall be extended by corrective work performed by the Contractor pursuant to this paragraph.

12.3.1. This paragraph shall read as follows:

If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the contract sum shall be reduced as appropriate and equitable. Such adjustments shall be effected whether or not final payment has been made.

13.1.2 This paragraph is added and shall read as follows:

The commencement of statutory limitation periods, together with the length of such statutory limitation periods, shall be controlled by Colorado Law existing at the time of execution of this Agreement and shall include the provisions of § 13-80-104, C.R.S., as amended.

13.6.1. This paragraph shall read as follows:

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate of 0.00 percent.

13.7 This paragraph shall be stricken.

14.1.1.4 of this paragraph shall be stricken.

14.2.1.3 of this paragraph shall read:

disregards law, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or

14.2.2 The first paragraph of this provision shall read:

When any of the above reasons exists, the Owner, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days written notice, terminate employment of the Contractor and may;

ARTICLE 15 ADDITIONAL PROVISIONS

The following shall be added:

15.1 LIQUIDATED DAMAGES

15.1.1 For failure to complete the Work defined for substantial completion of this agreement as specified in the Contract Documents by the 31st day of December, 2019, the Contractor shall be assessed liquidated damages in the amount of not less than \$0 per calendar day.

15.2 LOCAL LABOR

15.2.1 The Contractor agrees that he will comply with the provisions of §8-17-101, C.R.S., as amended concerning the use of Colorado Labor in development of this project. The Contractor further agrees that it will not utilize, nor propose utilization of any employee who is not a lawful resident or citizen of the United States, and that any such person so employed shall be removed from the site forthwith upon the Contractor gaining knowledge of unlawful resident status of such employee.

15.3 ILLEGAL ALIENS - PUBLIC CONTRACTS

15.3.1 The Contractor (entity or sole proprietor) shall execute the certification attached hereto as Exhibit __, in conformance with the provisions of § 8-17.5-102(1) and § 24-76.5-101, C.R.S., as amended.

15.3.2 The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services; or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

15.3.3 The Contractor shall confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program of the Department Program.

15.3.4 The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.

15.3.5 If the Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall:

(1) Notify the subcontractor and the Owner within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (1), above, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

15.3.6 The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to its authority.

15.3.7 Notwithstanding any other provision of this public contract for services, if the Contractor violates any provision of this paragraph, the Owner may terminate this public contract for services and the Contractor shall be liable for all actual and consequential damages resulting from that termination.

15.3.8 Except where exempted by federal law and except as provided in § 24-76.5-103(3), C.R.S., as amended, the Contractor receiving Garfield County funds under this public contract for services must confirm that any individual natural person eighteen (18) years of age or older is lawfully present in the United States pursuant to § 24-76.5-103(4), C.R.S., as amended, if such individual applies for public benefits provided under this public contract for services. If the Contractor has verified that the County has accomplished such confirmation prior to the effective date of this public contract for services, the Contractor is relieved of responsibility under this paragraph.

15.4 Sole Source Contracting - Campaign Contribution - Compliance

15.4.1 The parties hereby incorporate by reference all provisions of Article XXVIII, Section 15, Section 16, and Section 17 of the Constitution of the State of Colorado (individually and

collectively, "Article XXVIII"), as well as the definitions set forth at Article XXVIII, Section 2(4.5), (8.5), (14.4), (14.6) and any other definitions of terms used herein that are included in Section 2 of Article XXVIII.

15.4.2 Pursuant to the provisions of Section 15 of Article XXVIII, the Contractor hereby agrees, to the extent this Agreement or Contract ("Contract") is a sole source government contract, if the Contractor is, a "Contract Holder" under Section 2(4.5) of Article XXVIII, for the duration of this Contract and for two years after the termination date of this Contract, shall cease making, causing to be made or inducing by any means, a contribution, directly or indirectly, on behalf of the Contractor or on behalf of his or her immediate family member and for the benefit of any political party or the benefit of any candidate for any elected office of the State or any of its political subdivisions, as such are defined in Article XXVIII. Further, in accordance with Section 17(2) of Article XXVIII, the Contractor certifies that the Contractor has not made a contribution intended to promote or influence the result of an election on a ballot issue if this Contract is a sole source government contract relating to that particular ballot issue.

15.4.3 Pursuant to the terms of this Contract and the provisions of Section 17(3) of Article XXVIII, the parties hereby agree that any violation of the provisions of this Paragraph No. 15.4 shall be considered a breach of the terms of this Contract, permitting the BOCC to terminate this Contract or exercise any other remedies for breach available at law. Additionally, the parties agree that for any intentional violation of Article XXVIII, Section 15 or 17(2), the Contractor shall be ineligible to hold any sole source government contract, including this Contract, or public employment with the State or any of its political subdivisions for a period of three years.

15.4.4 Pursuant to the provisions of Section 16 of Article XXVIII, the Contractor shall be solely and exclusively responsible for preparing and tendering to the State all required information as set forth in that Section.

15.4.5 The Contractor shall be solely and exclusively responsible for determining the cumulative amount of all sole source government contracts with all governmental entities involving the Contractor during any calendar year, as detailed in Section 2(14.4) of Article XXVII.

15.4.6 The Contractor shall be solely and exclusively responsible for determining the natural persons and entities to whom the provisions of this Paragraph No. 15.4 shall be applied,

as such are listed as Contract Holders in Section 2(4.5) of Article XXVIII.

15.4.7 The terms of this Section shall apply to any non-governmental entity or natural person, who is a party to a government contract that was not the subject of a public and competitive bidding process involving at least three bids prior to award. The Contractor shall be solely and exclusively responsible for determining the applicability of the definition of "sole source government contract", contained herein and in Section 2(14.4) of Article XXVIII.

15.5 OWNER AND CONTRACTOR REPRESENTATIVES:

15.5.1 Notices to be provided under this Contract shall be given in writing either by hand delivery or by certified return receipt requested United States mail, to the following:

County Board of Commissioners:

Attn: Frank Coberly, Facilities Director
195 West 14th Street, Building D, Suite 310
Rifle, CO 81650

AND Procurement and Contracts Director
810 Pitkin Avenue
Glenwood Springs, CO 81601

Contractor:

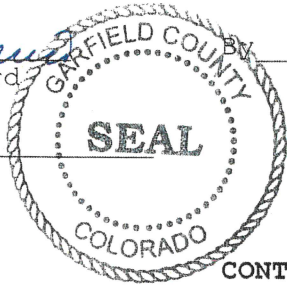
ARC Abatement, Inc.
Mike Griffin, General Manager
707 Arrowest Road, Suite B
Grand Junction, CO 81505

OWNER:

BOARD OF COUNTY COMMISSIONERS
OF GARFIELD COUNTY, COLORADO

ATTEST:

Jean M. Albert
Clerk to the Board



[Signature]
Chairman

Dated: 8/13/19

CONTRACTOR:

ATTEST:

ARC Abatement, Inc.

[Signature]

By [Signature]

Kieran McQuade
(Type or Print Name)

Dated: 8/13/19

Title: Contracts Manager

END OF AMENDMENT TO AIA DOCUMENT A201-1997

#1-County as Const. Manager

AIA DOCUMENT A201-1997

General Conditions of the Contract for Construction

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document has been approved and endorsed by The Associated General Contractors of America.



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AIA DOCUMENT A201-1997
GENERAL CONDITIONS
OF THE CONTRACT FOR
CONSTRUCTION

CAUTION: You should use an original AIA document with the AIA logo printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced.

The American Institute
of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

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ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

1.1.2 THE CONTRACT

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

1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are



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complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.3 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 CAPITALIZATION

1.3.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

1.4 INTERPRETATION

1.4.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

1.5 EXECUTION OF CONTRACT DOCUMENTS

1.5.1 The Contract Documents shall be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.

1.5.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

1.6 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

1.6.1 The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in



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ARTICLE 2 OWNER

2.1 GENERAL

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Subparagraph 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

~~2.2.1 The Owner shall, at the written request of the Contractor, prior to commencement of the Work and thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.~~

2.2.2 Except for permits and fees, including those required under Subparagraph 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

2.2.4 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in



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accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a three-day period. If the Contractor within such three-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

3.1 GENERAL

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Subparagraph 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting the obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

3.2.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Architect.



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3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Subparagraphs 3.2.1 and 3.2.2, the Contractor shall make Claims as provided in Subparagraphs 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Subparagraphs 3.2.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any resulting loss or damage.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor may make substitutions only, with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract



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Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.7 PERMITS, FEES AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

3.8 ALLOWANCES

3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

- 1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- 2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances;
- 3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect
 - (1) the difference between actual costs and the allowances under Clause 3.8.2.1 and
 - (2) changes in Contractor's costs under Clause 3.8.2.2.

3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work.



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3.9 SUPERINTENDENT

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect without action.

3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by



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the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action.

3.12.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice the Architect's approval of a resubmission shall not apply to such revisions.

3.12.10 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Subparagraph 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.



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3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

3.14 CUTTING AND PATCHING

3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.15 CLEANING UP

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

3.17 ROYALTIES, PATENTS AND COPYRIGHTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.18 INDEMNIFICATION

3.18.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Paragraph 11.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be



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construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

4.1 ARCHITECT

~~4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.~~

4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

4.1.3 If the employment of the Architect is terminated, the Owner shall employ a new Architect against whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the former Architect.

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. ~~However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 3.3.1.~~

4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.



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4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Architect will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4.

4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor.



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The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

~~4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~

4.3 CLAIMS AND DISPUTES

4.3.1 Definition. A Claim is a demand or assertion by one of the parties 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. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

4.3.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Subparagraph 9.7.1 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. ~~The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.~~



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4.3.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.6.

4.3.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Paragraph 4.3.

4.3.7 CLAIMS FOR ADDITIONAL TIME

4.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.3.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

4.3.8 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

4.3.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

4.3.10 Claims for Consequential Damages. The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

- 1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- 2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there; for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Subparagraph 4.3.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 Decision of Architect. Claims, including those alleging an error or omission by the Architect but excluding those arising under Paragraphs 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a



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condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

4.4.2 The Architect will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

4.4.3 In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense.

4.4.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

4.4.5 The Architect will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to mediation and arbitration.

~~4.4.6 When a written decision of the Architect states that (1) the decision is final but subject to mediation and arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.~~

~~4.4.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

~~4.4.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, by mediation or by arbitration.~~

~~4.5 MEDIATION~~

~~4.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be~~



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subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

4.5.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

4.5.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~4.6~~ ARBITRATION

4.6.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 4.3.10, 9.10.4 and 9.10.5, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Paragraph 4.5.

4.6.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

4.6.3 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.4.6 and 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.

4.5.4 ~~Limitation on Consolidation or Joinder.~~ No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. ~~No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~



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~~4.6.5 Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~4.6.6 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

ARTICLE 5 SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitute.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the



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Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Paragraph 4.3.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

~~6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the~~



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~~Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.~~

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Subparagraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

7.1 GENERAL

7.1.1 ~~Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.~~

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.



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7.2 CHANGE ORDERS

7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:

- 1 change in the Work;
- 2 the amount of the adjustment, if any, in the Contract Sum; and
- 3 the extent of the adjustment, if any, in the Contract Time.

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- 1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- 2 unit prices stated in the Contract Documents or subsequently agreed upon;
- 3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- ~~4 as provided in Subparagraph 7.3.6.~~

7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

~~7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 7.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:~~

- ~~1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;~~
- ~~2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;~~
- ~~3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;~~



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- ~~4. costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and~~
- ~~5. additional costs of supervision and field office personnel directly attributable to the change.~~

7.3.7. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim in accordance with Article 4.

7.3.9 When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8 TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the Agreement.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given



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by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending mediation and arbitration, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents.

9.3.1.1 As provided in Subparagraph 7.3.8, such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

9.3.1.2 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.



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9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's



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opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 3.3.2, because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 PROGRESS PAYMENTS

9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.



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~~9.7 FAILURE OF PAYMENT~~

~~9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by arbitration, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.~~

9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

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

9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

9.9 PARTIAL OCCUPANCY OR USE

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Clause 11.4.5 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and



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have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. ~~If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.~~

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that



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portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

1. liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.



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10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 HAZARDOUS MATERIALS

10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall; upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

10.3.2 The Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7.

~~10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Subparagraph 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death; or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.~~

~~10.4 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.~~

~~10.5 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.~~

10.6 EMERGENCIES

10.6.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or



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extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
4. claims for damages insured by usual personal injury liability coverage;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
7. claims for bodily injury or property damage arising out of completed operations; and
8. claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

~~11.2 OWNER'S LIABILITY INSURANCE~~

~~11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.~~

11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

11.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner



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shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Clauses 11.1.1.2 through 11.1.1.5.

~~11.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.~~

11.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability Insurance coverage under Paragraph 11.1.

11.4 PROPERTY INSURANCE

~~11.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company of companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.~~

~~11.4.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.~~

~~11.4.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.~~

~~11.4.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.~~

~~11.4.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.~~

~~11.4.1.5 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial~~



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occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.4.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

11.4.3 **Loss of Use Insurance.** The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

11.4.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

11.4.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 11.4.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.4.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Paragraph 11.4. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

11.4.7 **Waivers of Subrogation.** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Paragraph 11.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.



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~~11.4.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.4.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.~~

~~11.4.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.6. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.~~

~~11.4.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved as provided in Paragraphs 4.5 and 4.6. The Owner as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.~~

11.5 PERFORMANCE BOND AND PAYMENT BOND

11.5.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

11.5.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

~~12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.~~

~~12.1.2 If a portion of the Work has been covered which the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.~~



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12.2 CORRECTION OF WORK

12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

12.2.1.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

12.2.2 AFTER SUBSTANTIAL COMPLETION

12.2.2.1 In addition to the Contractor's obligations under Paragraph 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Paragraph 2.4.

12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Paragraph 12.2.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.5 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.



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ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Subparagraph 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

13.2.2 The Owner may, without consent of the Contractor, assign the Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Subparagraph 13.5.3, shall be at the Owner's expense.



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13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 INTEREST

13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

- 1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;
- 2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
- 3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform a duty or obligation by the Contractor or Owner, whichever occurs last.



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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

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

- 1 issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
- 2 an act of government, such as a declaration of national emergency which requires all Work to be stopped;

- 3 because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- ~~4 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.~~

14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

14.1.3 If one of the reasons described in Subparagraph 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.3.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

- 1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- 2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- 3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- 4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- 1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- 2 accept assignment of subcontracts pursuant to Paragraph 5.4; and
- 3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.



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14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Subparagraph 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.



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Broomfield, CO 80020

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Garfield County

IFB-GC-FG-04-19
1217 Howard Ave
Asbestos Abatement

ARC Abatement Inc
707 Arrowest Rd Ste B
Grand Juntion, CO 81505
970-208-0120
mikegriffin@arcabatement.com



800.495.4ARC TOLL FREE
303.635.6800 PHONE
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Statement of Qualifications





Attachment F

**IFB-GC-FG-04-19
1217 Howard Ave Asbestos Abatement**

Statement of Qualifications

COMPANY INFORMATION

Legal Name of Company: ARC Abatement Inc

Trade Name, if any, of Company: _____

Street Address: 707 Arrowest Rd Ste B

City, State & Zip Code: Grand Junction CO 81505

Principal Owner/Officer Name: Mike Griffin

Title: General Manager

Federal Employer Identification Number: 74-2611597

Telephone Number: 970-208-0120

Facsimile Number: 303-635-6806

Company E-mail Address: Mikegriffin@arcabatement.com

Contact: Mercedes Fradl

Contact E-mail Address: Mercedesfradle@arcabatement.com

COMPANY HISTORY

If a Colorado corporation or limited liability company, is the company in “good standing” with the Colorado Secretary of State? X yes _____ no

If a foreign corporation or limited liability company, is the foreign corporation or limited liability company registered to do business in Colorado and in “good standing” with the Colorado Secretary of State? _____ yes _____ no



How long has the company been in business in Colorado? 11 years.

How long has the company been in business in Garfield County? 2 years.

Has the company, or any officer or director acting in an official capacity, ever been successfully sued? yes no

If yes, complete the chart below, and any additional pages if necessary:

Court	Case Number	Year	Judgment	Amount

Has the company, or any of its officers or directors, ever been disbarred, suspended, or disqualified from any public procurement? yes no.
if yes, attach a summary

Has the company, or any of its officers or directors, ever been involved in a voluntary or involuntary bankruptcy proceeding? yes no
If yes, attach a summary.

PREVIOUS WORK EXPERIENCE

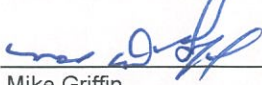
Has your company ever performed services similar to the services that are the subject of this IFB for Garfield County? yes no

If yes in what years: _____

If yes, what was the total dollar amount of that contract? \$ _____

CERTIFICATION

The undersigned, as an authorized officer/owner of the company, states that the undersigned has actual authority to sign this Statement of Qualifications; and to the best of my knowledge, information, and belief, the information submitted in this Statement of Qualifications is true and accurate as of the date of this Statement of Qualifications is submitted.

Signature: 
Printed Name: Mike Griffin
Legal Title: General Manager
Date: July 31, 2019

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Bid





Attachment B

**IFB-GC-FG-04-19
1217 Howard Ave Asbestos Abatement**

Bid Schedule

Item 1. Asbestos Abatement

Cost: \$ 31,295.00

Written Dollar amount: Thirty one thousand, two hundred ninety five Dollars

Acknowledgement of Addendum # 1, 2, 3, 4

Date: 07/25/2019

Initial:

By signing below, the undersigned affirmatively states that: it has read and fully understands the requirements of IFB-GC-FG-04-19 and all attachments thereto; and, has familiarized itself with the requirements of that IFB. The undersigned submits the following bid to provide Asbestos Abatement services for the Fairgrounds Department at the prices quoted herein.

ARC Abatement

707 Arrowest Road, Suite B

Firm Submitting Bid

Address

Mike Griffin

Grand Junction, CO 81505

Printed Name and Title of Signer

City, State, Zip

Authorized Signature

Date

7/31/2019

303-635-6800

303-635-6806

Telephone Number

Fax No.

mikegriffin@arcabatement.com

Email Address



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GENERAL POWER OF ATTORNEY

I, Ron Daniel, Chief Executive Officer of ARC Abatement, Inc "ARC", located at 225 S. 12th Street, Waco, Texas 76701, hereby appoint Mike Griffin "Agent", General Manager for ARC's Denver Colorado Division, located at 7180 W. 117th Avenue, Suite E, Broomfield, CO 80020 as ARC's Attorney-in-Fact for the areas of Colorado, Utah, Nebraska, Wyoming, Kansas and Nevada.

ARC's Agent shall have full power and authority to act on its behalf. This power and authority shall authorize ARC's Agent to manage and conduct ARC's affairs and to exercise certain legal rights and powers with respect to the Company's operations, including rights and powers that it may acquire in the future. ARC's Agent's powers shall be limited to the power to:

1. Enter into binding contracts on ARC's behalf.
2. Maintain and/or operate ARC's business in the geographical regions outlined above.
3. Employ professional and business assistance as may be appropriate.
4. Prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authorization to:
 - a. Obtain information or documents from any government or its agencies, and negotiate, compromise, or settle any matter.
 - b. Prepare applications, provide information, and perform any other act reasonably requested by any government or its agencies.

This Power of Attorney shall be constructed broadly as a Special Power of Attorney.

Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney.

I authorize Agent to indemnify and hold harmless any third party who accepts and acts under this document.

Agent shall be entitled to reasonable compensation for any services provided as my Agent. Agent shall be entitled to reimbursement of all reasonable expenses incurred in connection with this Power of Attorney.

Agent shall provide accounting for all funds handled and all acts performed as ARC's Agent, but only if so requested by an authorized representative or fiduciary acting on my behalf.





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This Power of Attorney shall become effective immediately and shall continue in effect until December 31, 2020. This Power of Attorney may be revoked by me at any time by providing written notice to my agent.

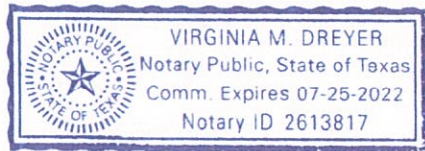
Dated February 26, 2019, at Waco, Texas.

A handwritten signature in dark ink, appearing to read "Ron Daniel", is written over a horizontal line.

Ron Daniel, CEO
ARC Abatement, Inc.

SWORN TO AND SUBSCRIBED by me this 26th day of Feb., 2019
Virginia M. Dreyer State of Texas.
(Signature of Notary Public)

My Commission expires 07/25/2022





Attachment D – Immigration Affidavit

**1217 Howard Ave Asbestos Abatement
IFB-GC-FG-04-19**

**BOARD OF COUNTY COMMISSIONERS OF GARFIELD COUNTY
CERTIFICATION AND AFFIDAVIT REGARDING ILLEGAL ALIENS**

The Contractor, whose name and signature appears below, certifies and agrees as follows:

1. The Contractor shall comply with the provisions of C.R.S. 8-17.5-101 *et seq.* The Contractor shall not knowingly employ or contract with an illegal alien to perform work for the Board of County Commissioners of Garfield County, Colorado (ABOCC@) or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.

2. The Contractor represents, warrants, and agrees that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program and otherwise shall comply with the requirements of C.R.S. 8-17.5-102(2)(b).

3. The Contractor shall comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or C.R.S. 8-17.5-101 *et seq.*, the BOCC may terminate work for breach and the Contractor shall be liable for actual and consequential damages to the State.

4. If the Contractor is a sole proprietor, the undersigned hereby swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):

I am a United States citizen, or

I am a Permanent Resident of the United States, or

I am lawfully present in the United States pursuant to Federal law.

5. I understand that this sworn statement is required by law because I am a sole proprietor entering into a contract to perform work for the BOCC. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to starting work for the BOCC. I further acknowledge that I will comply with the requirements of C.R.S. 24-76.5-101 *et seq.* and will produce the required form of identification prior to starting work.

6. I acknowledge that making a false, fictitious, or fraudulent statement or representation in



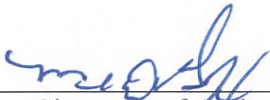
this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under C.R.S. 18-8-503.

CERTIFIED and AGREED to this 31st day of July, 2019

CONTRACTOR:

ARC Abatement Inc
(Contractor Full Legal Name)

74-26-11597
FEIN or Social Security Number

By: 
Signature of Authorized Rep

General Manager
Title



Attachment E - Non-Collusion Affidavit

**1217 Howard Ave Asbestos Abatement
IFB-GC-FG-04-19**

I hereby attest that I am the person responsible for the final decision as to the price(s) and amount of my firm's bid for this project, or the person with this responsibility has given me written authorization, attached hereto, to make the following statements on his/her behalf and on behalf of my firm:

I further attest that:

1. In arriving at the price(s) and amount of my firm's bid, my firm and I acted independently and did not engage in any consultation, communication or agreement having the purpose or effect of restricting competition in the bidding for this project.

2A. My firm and I have not disclosed any price(s) or amount(s) of my firm's bid to any other prime bidder or potential prime bidder, and my firm and I will not make any such disclosure prior to the bid opening.

2B. No other prime bidder or potential prime bidder has disclosed any price(s) or amount(s) of its bid to my firm or me.

3A. My firm and I have not attempted and will not attempt to solicit, cause or induce any other prime bidder or potential prime bidder to refrain from bidding for this project, to bid higher than my firm's bid, to bid lower than my firm's bid, or to submit any high, low or other form of a noncompetitive or complementary bid for this project.

3B. No prime bidder or potential prime bidder has solicited my firm or me to refrain from bidding for this project. No prime bidder or potential prime bidder has solicited my firm or me to bid higher than another prime bid, to bid lower than another prime bid, or to submit any high, low or other form of a noncompetitive or complementary bid for this project.

4. My firm and I have not reached any understanding, made any agreement, or engaged in any consultation, communication or discussion concerning my firm's bidding higher than another prime bid, my firm's bidding lower than another prime bid, or my firm submitting any high, low, or other form of a noncompetitive or complementary bid for this project. My firm and I are submitting my firm's bid in good faith and not pursuant to any such understanding, agreement, consultation, communication or discussion.

5. My firm has not afforded to award a subcontract, has not offered to award any other agreement pertaining to the purchase or sale of services or materials, and has not offered to pay money or anything else of value in consideration of a promise from another prime bidder or potential prime bidder to refrain from bidding, to bid higher than my firm, to bid lower than my firm, or to submit any high, low or other form of a noncompetitive or complementary bid for this project.



6. No prime bidder or potential prime bidder has offered to award my firm a subcontract, to award my firm any other agreement pertaining to the purchase or sale of services or materials, or to pay my firm money or anything else of value in consideration of a promise from my firm to refrain from bidding, to bid higher than another prime bid, to bid lower than another prime bid, or to submit any high, low or other form of a noncompetitive or complementary bid for this project.

7. I have made a diligent inquiry of all the members, officers, employees and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid for this project. I have been advised by each of them that he/she has not engaged in any communication, meeting, discussion, agreement, understanding or other conduct inconsistent with any of the statements and representations made in this affidavit.

8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from Garfield County, of the true facts relating to the submission of bids for this project.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS AND ATTESTATIONS ARE TRUE, ACCURATE AND COMPLETE.

ARC Abatement Inc

(Please Type Contractor's Firm or Company Name)

DATE: 7/31/2019

By: [Signature]
Name: Mike Griffin
Title: General Manager

(Please type name of 2nd Contractor's Firm or Company Name, if Joint Venture)

DATE: _____

By: _____
Name: _____
Title: _____

SUBSCRIBED AND SWORN TO before me in the County of Broomfield, State of Colorado, this 31st day of July, 2019.

My commission expires on: July 17, 2022

[Signature]
Notary Public

Note: This document must be signed in ink.



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303.635.6806 FAX



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Broomfield, CO 80020

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General Abatement Contractor License





Colorado Department
of Public Health
and Environment

General Abatement Contractor

This certifies that

ARC Abatement, Inc.

GAC No.: 18524

has met the certification requirements of 25-7-507, C.R.S. and Air Quality Control Commission Regulation No. 8, Part B, and is hereby authorized to perform asbestos abatement activities in the state of Colorado.

Issued: July 03, 2019

Expires: July 03, 2020

Jacqueline Barreto
Authorized APCD Representative

SEAL



**IFB-GC-FG-04-19
1217 Howard Ave Asbestos Abatement**

Addendum #1 – Q & A Document

Q1: The ECOS Asbestos Report of 6-5-19 (Revised) has a map of the ACM material designated for removal. This map does not show the WEST exterior wall of the area and therefore, I cannot determine if any of the interior drywall associated with that wall is asbestos containing. Please clarify.

A1: The West walls are shown on the diagram on page 14 of the ECOS report and are highlighted in red denoting asbestos was found in the walls & ceilings.

Q2: If ECOS is clearing the project, what is the schedule for Final Air Clearances: will ECOS be reading the samples on site or will they send in the samples to others for analysis or will they take the samples back to their office for analysis? Therefore, what is the estimated length of time between taking the samples on-site and when the result will be given to the contractor?

A2: The successful abatement contractor will be responsible for final air clearances, not ECOS.

Q3: Will ECOS be bidding the project as a General Abatement Contractor?

A3: No.

Q4: Is county providing water and power for the duration of the project?

A4: No. Water and power have been turned off and must be provided by the contractor.

Q5: Are we able to place two 40 yard enclosed dumpsters on site?

A5: Yes.

Q6: Is the county going to handle the final air clearance for the project once the abatement is complete?

A6: No, this is the contractor's responsibility.

Q7: Do we need to provide a porta potty for the project?

A7: Yes.



Attachment A

IFB-GC-FG-04-19 1217 Howard Ave Asbestos Abatement

Scope of Work

In accordance with Article 5.2 of the Garfield County Procurement Code (“GCPC”), Garfield County is soliciting competitive sealed bids from qualified individuals or companies to complete Asbestos Abatement services for the Garfield County Fairgrounds Department. This project is located at 1217 Howard Avenue, Rifle, Colorado, 81650.

SCOPE OF SERVICES

Removal of select asbestos containing material as shown in the ECOS Asbestos Inspection Report, revised June 5th, 2019. Materials included in the abatement are those highlighted on the sketch included in the asbestos report - approximately 3,500 SF ACM textured drywall found in the main floor of the original structure, as well as two rooms of the addition.

1. All work is to be completed in accordance with local, State, EPA and OSHA regulations. Workers will be in appropriate PPE, including hard hat, steel toe boots, TYVEK coverall, eye protection and respirator.
2. Apply critical barriers over all openings between work area and clean areas, draw negative pressure through HEPA filtered negative air machine.
3. Set up three stage worker decontamination and two stage waste load out; pre-clean all surfaces in the work area using HEPA vacuum and wet wiping.
4. Construct full containment including two layers 6 mil poly on all floor surfaces, two layers 4 mil poly on all walls to remain in the work area and one layer 4 mil poly on ceiling surfaces to remain in the work area.
5. Using wet methods and hand tools, remove ACM drywall from walls and ceiling throughout the work area.
6. Double bag and goose neck tie all debris in 6 mil poly ACM bags for manifested disposal at an EPA approved landfill; disposal included in price.
7. Detail and final clean the work area to achieve third party visual and final air clearance standards as set forth by the Colorado Department of Public Health and Environment.



Environmental & Disaster Restoration, Inc.

ECOS Environmental & Disaster Restoration

6690 HWY. 82

Glenwood Springs, CO 81601

Office - (970) 945-4407

info@ecosenvironmental.com

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ASBESTOS INSPECTION REPORT

CLIENT: Frank Coberly

ADDRESS: 1217 Howard Ave Rifle Co 81650

EMAIL: fcoberly@garfield-county.com

PHONE: 970-625-5921

ECOS JOB NUMBER 1217 Howard Ave G-19-0307-AT

PROJECT LOCATION: FULL STRUCTURE

DEMOLITION

DATE OF INSPECTION: 05/13/2019

REVISED JUNE 5, 2019

SUMMARY

ECOS Environmental & Disaster Restoration (ECOS) was retained to conduct a limited asbestos inspection at the above location in reference to **determining if there is asbestos containing material (ACM)**, in building materials that are located within and around the structure located at 1217 Howard Ave which is scheduled for a full demolition. The inspection was performed in accordance with the Standards of Practice of the Colorado Regulation 8 Part B in effect at the time of this Inspection. This inspection is not intended to be technically exhaustive. The inspection included all accessible building materials in or on the structure, however, should any additional building materials be discovered during demolition, those materials must be sampled and analyzed prior to continuing with the work. Thirty Six (36) samples were collected of all suspect materials throughout the structure, as listed in the Lab Data Table located on Page 9 and 10 of this report.

The Inspector has prepared this written asbestos Inspection Report for the sole use and benefit of the client. The asbestos inspection report shall identify, report, and make recommendations for future evaluation. Client agrees to read the entire asbestos inspection report when received and shall promptly call the inspector with questions or concerns regarding the report. The use of this report and information contained herein by others, in whole or in part, is not authorized without the written mutual consent of the client and ECOS Environmental.

INSPECTOR QUALIFICATIONS

This inspection was performed by Peter T. Mercer, Colorado State Department of Public Health and Environment Certification Number 25264.

SAMPLE ANALYSIS PROCEDURE

ECOS collected bulk samples of the homogenous materials in a random and representative manner, as determined by the Inspector. A minimum of one composite core samples that included all layers within the suspect material was obtained from each homogenous area. Samples of soft friable materials were obtained by removing a small portion using wetting techniques. The sampler cleaned equipment following collection of each sample to minimize cross-contamination between samples. The sampler assumed that materials in inaccessible locations were similar to those in accessible locations, in order to limit destruction during the sampling process. All samples were placed in sealed, labeled containers, and the sample descriptions and locations were recorded. Samples were delivered under a chain of custody for analysis to Aerobiology Laboratory in Denver, CO. Samples were analyzed by Polarized Light Microscopy.

Performance of this asbestos inspection is intended to reduce, but not eliminate, uncertainty regarding the presence of ACBM in connection with the above referenced property. No guarantee is expressed or implied that all ACBM was identified in the inspection. Therefore, ECOS Environmental cannot be held accountable for restrictions placed on us by the client, conditions or information that remained unknown, or areas that were inaccessible at the time of the inspection.

TRANSMITTAL OF BUILDING

One (1) copy of the results of the building/structure asbestos survey shall be immediately transmitted by the building/structure owner as follows:

- One copy of the completed asbestos survey shall be sent by the owner or their agent to the local government entity charged with issuing a permit for such demolition, renovation, remodeling or repair work under applicable State or local laws.
- The completed asbestos survey shall be kept on the construction site with the asbestos notification and variance, if required, throughout the duration of the asbestos project and any associated demolition, renovation, remodeling or repair project.

BUILDING/STRUCTURE ASBESTOS SURVEY INFORMATION

The asbestos survey shall, at a minimum, identify and assess with due diligence, the locations, quantities, friability and conditions of all building material types at the affected portion of the building/structure. The certified asbestos inspector is responsible for identification and assessment of all type within the affected portion of the building/structure.

All building materials visually assessed shall be assumed to be asbestos containing building material (ACBM), unless bulk sampling is conducted as per standard EPA and OSHA accepted methodologies. The subsequent analysis is performed by a laboratory that meets the requirements and the analyses satisfies both CO STATE ELAP and federal requirements, including multi-layered sample analyses, to document non-asbestos containing material.

The building/structure asbestos survey shall also include the building/structure name, address, the building/structure owner's name and address, the name and address of the owner's agent, the name of the firm performing the asbestos survey and a copy of the firm's current asbestos handling license, the names of the certified inspector(s) performing the survey and a copy of the current asbestos handling certificate for each inspector utilized, the dates of the asbestos survey, a listing of homogeneous areas identifying which ones are ACBM, all laboratory analysis reports for bulk samples collected, and copies of the appropriate certifications for the laboratory used for analysis of samples taken during the asbestos survey.

REMOVAL REQUIREMENT

If the building/structure asbestos survey finds that the portion of the building/structure to be demolished, renovated, remodeled, or have repair work contains asbestos containing building material (ACBM), which is impacted by the work, the owner or the owner's agent shall conduct, or cause to have conducted, asbestos removal performed by a licensed asbestos abatement contractor in conformance with all standards set forth.

All ACBM impacted by the demolition, renovation, remodeling or repair project shall be removed, prior to access or disturbance by other uncertified trades or personnel. No demolition, renovation, remodeling or repair work shall be commenced by any owner or the owner's agent prior to the

completion of the asbestos abatement in accordance with the notification requirements. For multi-phased work, the access restriction for uncertified trades or personnel applies to each intermediate portion of the entire project. Upon completion of the intermediate portion of the asbestos project, other trades, or personnel may access that portion of the work site. For demolition projects that are exempt from asbestos survey requirements due to being structurally unsound, the demolition is considered an asbestos project.

All building/structure owners and asbestos abatement contractors on a demolition, renovation, remodeling, or repair project shall inform all trades on the work site about the ACBM at the work site.

UNIDENTIFIED AND UNASSESSED ASBESTOS

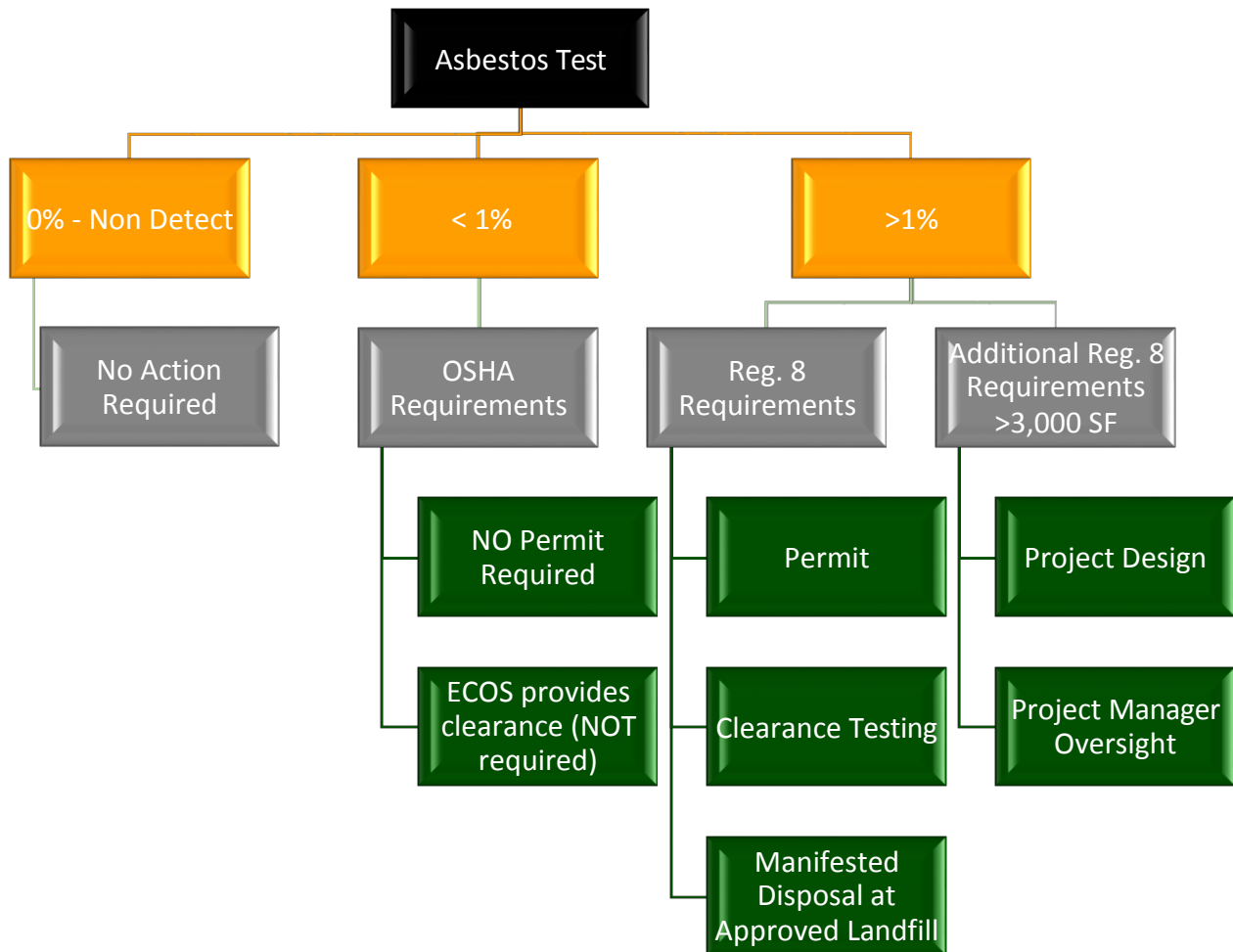
When any construction activity, such as demolition, remodeling, renovation or repair work, reveals suspect ACBM that has not been identified by the asbestos survey, or has not been identified by other inspections as per current OSHA or EPA requirements, all activities shall cease in the area where the suspect ACBM is found. Unassessed suspect miscellaneous ACBM shall be treated and handled as ACBM and assumed to be ACBM, unless proven otherwise by standard EPA and OSHA accepted methods. To document non-asbestos containing material, analysis must be performed by a laboratory that meets the requirements of the DOH; and the analysis satisfies both CO STATE ELAP and federal requirements.

ASBESTOS PROJECTS

An asbestos project is any work that involves the removal, encapsulation, enclosure, repair or disturbance of friable or non-friable asbestos, or any handling of asbestos material that may result in the release of asbestos fibers. For the purpose of compliance an asbestos project shall include any disturbance of asbestos fibers, and the planning, asbestos survey, design, background air sampling, inspection, air sampling and oversight of abatement work, cleanup, and the handling of all asbestos material subject to abatement, as well as the supervising of such activities. An asbestos project starts with Phase I when the planning, asbestos survey, and design work begins or is required to begin. The project shall not be considered completed until Phase II D is complete. (See Table 1 below).

Phase I (Prior to Asbestos Abatement Contractor)		Phase II Start -> Abatement -> End			
A	B	A	B	C	D
Asbestos survey, planning, and design	Background air sampling	Regulated abatement work area(s) preparation and enclosure construction	Asbestos handling including gross removal or abatement, initial cleans, and waste	Final cleaning and clearance air samples	Final waste removal from site
Start -> Asbestos Project ->Final Clearance					

ASBESTOS RESULTS FLOW CHART



ASBESTOS PROJECT SIZE

Large asbestos project: An asbestos project involving the removal, disturbance, enclosure, encapsulation, repair or handling of 160 square feet or more of ACBM, or 260 linear feet or more of ACBM.

Small asbestos project: An asbestos project involving the removal, encapsulation, enclosure, repair, disturbance or any handling of more than 10 and less than 160 square feet of ACBM or more than 25 and less than 260 linear feet of ACBM.

Minor asbestos project: An asbestos project involving the removal, disturbance, repair, encapsulation, enclosure or handling of 10 square feet or less of ACBM or 25 linear feet or less of ACBM.

Homogenous areas sampling requirement: SF= Square Footage. LF= Linear Footage

<u>HOMOGENOUS MATERIAL TYPE</u>	<u>QUANTITIES</u>	<u>MINIMUM # OF SAMPLES</u>
SURFACING MATERIAL	0 TO < 1,000 SF	3
	1,000 TO 5,000 SF	5
	>5,000 SF	7
THERMAL SYSTEM INSULATION	EACH MATERIAL	3
	PATCH < 6 SF, LF	1
MISCELLANEOUS MATERIALS	EACH MATERIAL	2

ASBESTOS REMOVAL CATEGORIES

Category I Non-Friable ACBM: *NESHAP classification* - Asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products, containing more than one percent (1%) asbestos, that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Category II Non-Friable ACBM: *NESHAP classification* - Any material, excluding Category I Non-Friable ACM, containing more than one percent (1%) asbestos that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Class I Asbestos Work: *OSHA term* meaning activities involving the abatement of Thermal Systems Insulation (TSI) and surfacing ACBM and PACM.

Class II Asbestos Work: *OSHA term* meaning activities involving the abatement of ACBM which is not TSI or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastics.

Class III Asbestos Work: *OSHA term* meaning Repair and Maintenance operations, where no more than a minor quantity of ACM, including TSI and surfacing ACBM and PACM, is likely to be disturbed.

Class IV Asbestos Work: *OSHA term* meaning Maintenance and Custodial Activities during which employees contact but do not disturb ACBM or PACM and activities to clean up non-ACBM dust, waste and debris resulting from Class I, II and III activities.

DEFINITIONS

Abatement: Procedures to control fiber release from asbestos material. This includes removal, encapsulation, enclosure, repair, and disturbance of friable asbestos or any handling of asbestos material that may result in the release of asbestos fibers.

Amosite: An Asbestiform mineral of the amphibole group containing approximately 50% silicon and 40% Iron (II) Oxide, and is made up of straight brittle fibers, light gray to pale brown in color.

Amphibole: One of the two major groups of minerals from which the Asbestiform minerals are derived, distinguished by their chain-like crystal structure and chemical composition.

Asbestos: A generic name given to a number of naturally occurring hydrated mineral silicates that possess a unique crystalline structure, are incombustible in air, and are separable into fibers. Asbestos includes the asbesti-form varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummington-grunerite); anthophyllite; and actinolite.

Asbestos Project: Work undertaken by a contractor which at any time involves any aspect of the removal, encapsulation, enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber, except work in an owner-occupied single-family dwelling performed by the owner of such dwelling. An asbestos project shall include the planning, design, monitoring, inspection, and air sampling of abatement work, as well as the supervising of such activities.

Building Owner: The person in whom legal title to the premises is vested unless the premises are held in land trust, in which instance building owner means the person in whom beneficial title is vested.

Electron Microscopy: A method of asbestos sample analysis which utilizes an electron beam to differentiate between fibers.

Emergency: An unexpected, unanticipated or unforeseen occurrence, including but not limited to, a steam, chemical, gas or water line rupture, a boiler failure, or a building collapse, which poses (a) an imminent danger to the health and safety of the public, the response to which will constitute an asbestos project; or (b) an asbestos- related risk to the health and safety of the public from exposure to asbestos fibers.

Friable Asbestos: Any materials that contain asbestos and can be crumbled, pulverized, or reduced to powder by hand pressure.

HEPA Filter Vacuum Equipment: Vacuuming equipment with a high efficiency particulate air filtration system. This filter is capable of trapping and retaining 99.97 percent of asbestos fibers greater than 0.3 microns equivalent aerodynamic diameter.

Homogenous: Evenly mixed and similar in appearance and texture throughout.

NESHAP: National Emission Standard for Hazardous Air Pollutants

OSHA: Occupational Safety and Health Administration

Operations and Management Plan (OMP): Specific procedures and practices developed for the interim control of asbestos-containing materials in buildings until it is removed.

Polarized Light Microscopy (PLM): An optical microscopic technique used to distinguish between different types of asbestos fibers by their shape and unique optical properties.

Repair: Corrective action using required work practices to control fiber release from damaged asbestos material.

TSI: Thermal Systems Insulation

ACBM: Asbestos containing building material

Surfacing Material – material that is sprayed on, troweled on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, or other purposes.

Thermal System Insulation – material applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain, or water condensation, or for other purposes.

Miscellaneous Materials – interior building material on structural components, structural members or fixtures, such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation.

HOMOGENOUS AREAS SAMPLED DURING INSPECTION

Sample	Material	LOCATION	DETECT?	% ACBM	Friability	Condition	POT. FOR DIST.	# OF SAMPLES	APPR. SF
A1	Drywall, Tape, Compound, Texture, Paint.	Hallway	N	0	F	G	D	1	1546
A2	Drywall, Tape, Compound, Texture, Paint.	SE. entry	N	0	F	G	D	1	1546
A3	Drywall, Tape, Compound, Texture, Paint.	SE hall bedroom	Y	2	F	G	D	1	1546
A4	Drywall, Tape, Compound, Texture, Paint.	SW Master Bedroom	N	0	F	D	D	1	1546
A5	Drywall, Tape, Compound, Texture, Paint.	NE Entry	Y	2	F	D	D	1	1546
B1	Drywall, Tape, Compound, Texture, Paint.	NE Hallway	Y	2	F	D	D	1	376
B2	Drywall, Tape, Compound, Texture, Paint.	SW Hallway	Y	2	F	G	D	1	376
B3	Drywall, Tape, Compound, Texture, Paint.	NW Living Room	Y	2	F	G	D	1	376
C1	Drywall, Tape, Compound, Texture, Paint.	NW Studio	N	0	F	G	D	1	1704
C2	Drywall, Tape, Compound, Texture, Paint.	NE Bath	N	0	F	G	D	1	1704
C3	Drywall, Tape, Compound, Texture, Paint.	NE Bedroom	N	0	F	G	D	1	1704
C4	Drywall, Tape, Compound, Texture, Paint.	NE Bedroom	N	0	F	G	D	1	1704

C5	Drywall, Tape, Compound, Texture, Paint.	NW Bedroom	N	0	F	G	L	1	1704
D1	Drywall, Tape, Compound, Texture, Paint.	Basement ceiling	N	0	F	G	L	1	162
D2	Drywall, Tape, Compound, Texture, Paint.	SW Living area	N	0	F	G	D	1	162
D3	Drywall, Tape, Compound, Texture, Paint.	N Living area basement	N	0	F	G	L	1	162
E1	Sheet Flooring & Mastic	SE kitchen floor	N	0	N	G	L	1	162
E2	Sheet Flooring & Mastic	NE. Kitchen Floor	N	0	N	G	L	1	162
F1	Sheet Flooring	Bath floor	N	0	N	G	L	1	162
F2	Sheet Flooring	NW bath floor	N	0	N	G	L	1	162
G1	Sheet Flooring	E studio floor	N	0	N	G	L	1	162
G2	Sheet Flooring	NW studio floor	N	0	N	G	L	1	162
H1	Sheet Flooring	E bath 2 flooring	N	0	N	G	L	1	162
H2	Sheet Flooring	W bath 2 flooring	N	0	N	G	L	1	162
I1	Tile/Mastic	Kitchen Tile border NE	N	0	N	G	D	1	50
I2	Tile/Mastic	NW tile border	N	0	N	D	D	1	50
J1	Brick/Mortar	NW. Roof of Original Structure	N	0	N	D	D	1	800
J2	Brick/Mortar	SW. Roof of Original Structure	N	0	N	D	D	1	800
K1	Brick/Mortar	SE. Roof of Laundry Addition	N	0	N	G	D	1	900
K2	Brick/Mortar	Exterior	N	0	N	G	L	1	900
L1	Insulation	Attic Insulation	N	0	F	G	L	1	999
L2	Insulation	Attic Insulation	N	0	F	G	L	1	999
M1	Window Glaze	Caulking Exterior windows and door S wall	N	0	N	G	L	1	200 LF
M2	Window Glaze	Window/ door caulking exterior E wall	N	0	N	G	L	1	200 LF
N1	Roof Material	Roofing felt of shed	N	0	N	G	L	1	120
N2	Roof Material	Roofing felt	N	0	N	G	L	1	120

KEY:

CONDITION

G= NO VISIBLE DAMAGE

D= VISIBLE DAMAGE <10% OVER ENTIRE MATERIAL OR 25% LOCALIZED

SD= VISIBLE DAMAGE >10% OVER ENTIRE MATERIAL OR 25% LOCALIZED

FRIABLE CATEGORY

F= **FRIABLE MATERIAL**; MATERIALS THAT CAN CRUMBLE OR BE REDUCED TO POWDER BY HAND PRESSURE

NFI= **CATEGORY I NON-FRIABLE MATERIAL**; MATERIALS THAT CANNOT BE CRUMBLD OR REDUCED TO POWDER BY HAND PRESSURE THAT DO NOT INCLUDE CATEGORY I NON-FRIABLE MATERIALS.

POTENTIAL FOR DISTURBANCE

L= LOW POTENTIAL FOR DAMAGE

D= POTENTIAL FOR DAMAGE

SD= POTENTIAL FOR SIGNIFICANT DAMAGE

INVENTORY

SAMPLE	LOCATION/FUNCTIONAL SPACES INCLUDED IN HOMOGENOUS AREA	DESCRIPTION
<u>A</u>	<u>MAIN LEVEL ENTRY, KITCHEN BEDROOMS</u>	<u>DRYWALL, TAPE, COMPOUND, TEXTURE, PAINT</u>
<u>B</u>	<u>HALLWAY</u>	<u>DRYWALL, TAPE, COMPOUND, TEXTURE, PAINT</u>
<u>C</u>	<u>STUDIO AND BATHROOM</u>	<u>DRYWALL, TAPE, COMPOUND</u>
<u>D</u>	<u>BASEMENT</u>	<u>DRYWALL, TAPE, COMPOUND, TEXTURE, PAINT</u>
<u>E</u>	<u>KITCHEN FLOORING</u>	<u>VINYL FLOORING</u>
<u>F</u>	<u>BATHROOM FLOORING</u>	<u>VINYL FLOORING</u>
<u>G</u>	<u>STUDIO FLOORING</u>	<u>VINYL FLOORING</u>
<u>H</u>	<u>STUDIO BATH FLOORING</u>	<u>VINYL FLOORING</u>
<u>I</u>	<u>KITCHEN TILE</u>	<u>TILE FLOORING</u>

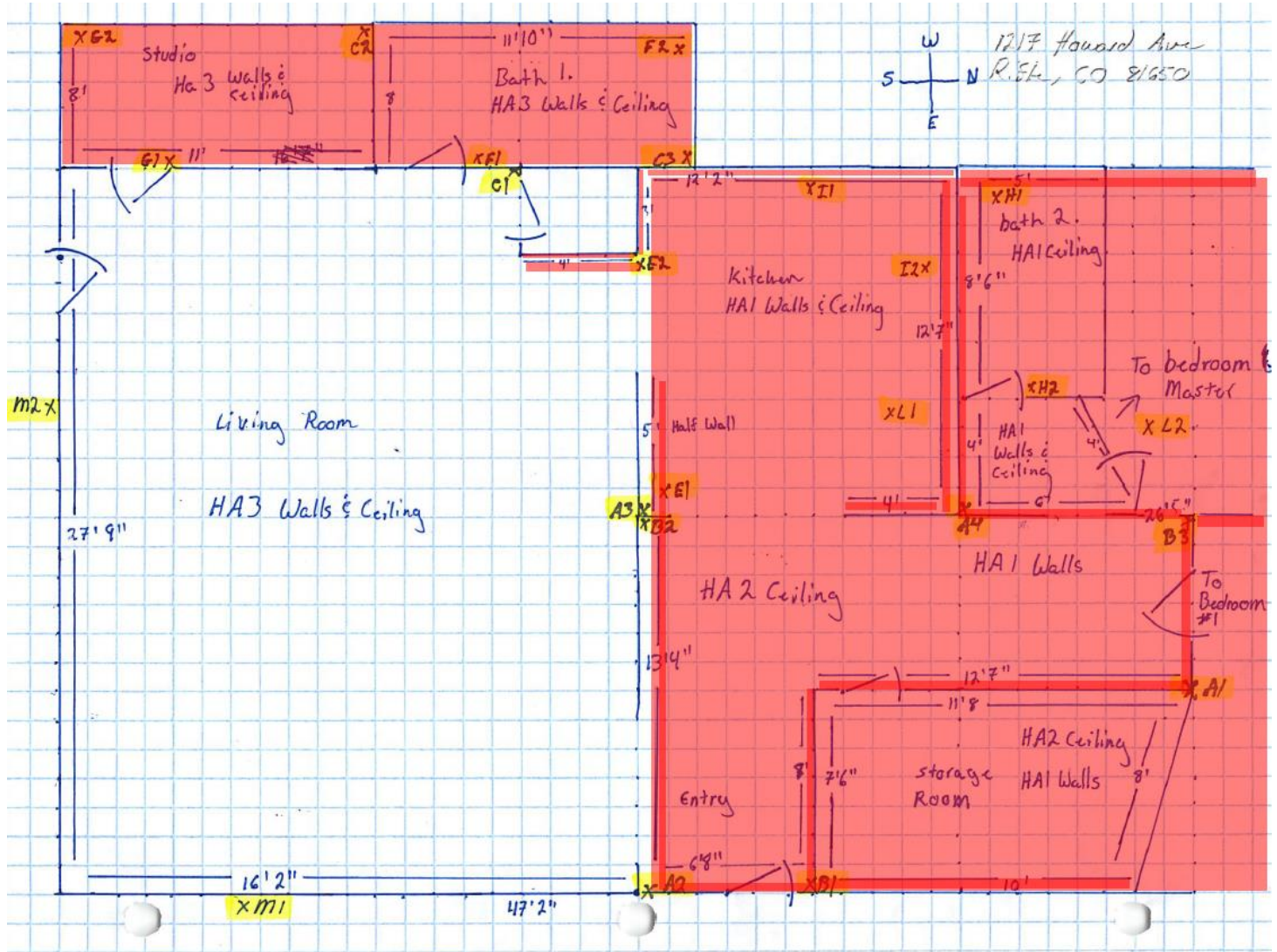
<u>I</u>	<u>BRICK AND MORTAR</u>	<u>BRICK AND MORTAR</u>
<u>K</u>	<u>STONE MORTAR BASEMENT</u>	<u>BRICK AND MORTAR</u>
<u>L</u>	<u>ATTIC INSULATION</u>	<u>INSULATION</u>
<u>M</u>	<u>CAULKING EXTERIOR WINDOWS</u>	<u>CAULKING</u>
<u>N</u>	<u>ROOF</u>	<u>FELT/SHINGLE</u>

CONCLUSION

Visual inspection was completed of building materials within and around the Structure located at 1217 Howard Ave. Thirty six (36) samples were collected and sent to Aerobiology Laboratories in Golden, CO, for analysis using Polarized Light Microscopy (PLM). **Samples A3, A5, B1, B2, B3 Came Back positive with Asbestos.**

These materials are made friable during removal and must be handled in accordance with Colorado State Regulation 8, OSHA, and the EPA. If these materials are to be disturbed they must be removed by a certified abatement contractor to protect the health of the property owner, the public, and the workers.

LAB RESULTS AND COC



Areas highlighted in red are the areas that came back positive for asbestos in the walls/ceiling.



Environmental & Disaster Restoration, Inc.



Lab Use
19019735



NVLAP Lab Code 200860-0 (CO)
NVLAP Lab Code 200826-0 (VA)
NVLAP Lab Code 500007-0 (AZ)
NVLAP Lab Code 203376-1 (CA)

163063 (CA)
210229 (AZ)
210991 (CA)
228263 (FL)

Aerobiology Client		ECOS Environmental		AZ, CA, CO, GA, VA, NJ	
Field Contact	Peter Mercer		Collected By/Date:	PMMS/13/2019	
Address	6690 Hwy 82 Glenwood Springs, CO 81601		Requisitioned By/Date:	PM 05/13/2019	
Phone	970-318-1214		Received By/Date:	5/15/19 @ 9:35 am AA	
Reporting Email(s)	pmercer@ecosenvironmental.com		Sampler Type:	Anderson	Clear
Routine	24 Hour	Same Day	4 Hour	2 Hour	
SAMPLING LOCATION ZIP CODE		81650		POI/Job#:	1417 - Howard - Ave - G - 19 - 0207-FT (per page 2 of 3)
				Project Name:	1217 Howard Ave, Rifle, CO 81650 2005 05/19
				Notes:	Celexin, Frank - Full Demo -
				Lab Contacts:	Ben Nelson (866) 620-9348 Gary Grammon (801) 755-3544

Sample No.	Test Code	Sample Location	Total Volume/Area
1 A1	3002	HA1 Garage Bal - NE Hallway	1,546 Ft ²
2 A2		SE Entry	↓
3 A3		SE Kitchen	
4 A4		SE Hall - Bedroom	
5 A5		SW Master Bedroom	↓
6 B1		HA2 Hood Texture NE Entry	376 Ft ²
7 B2		NE Entry Hallway	↓
8 B3		SW Hallway	↓
9 C1		HA3 Heating Spray Texture NW Living Room	1,704 Ft ²
10 C2		NW Studio	↓
11 C3		NE Bath 1	
12 C4		NE Bedroom 3	
13 C5		NW Bedroom 3 closet	↓
14 D1		HA4 Basement Ceiling Texture NE LR	162 Ft ²
15 D2		SW Living area Room (LR) Basement	↓

1054	Direct, Non-viable Spore Trap	1015	Culture - WATER Legionella
1055	Direct, Viable Spore Trap	1017	Culture - SWAB Legionella
<p>LAB USE ONLY</p> <p>A: <i>PK/LW/JL</i> 5/22/19 (+)</p> <p>V: _____</p> <p>Q: <i>20 05/22/19</i></p>		1010	WATER - Potable - E. coli/total coliforms
		1012	SWAB - E. coli/total coliforms
		1028	Sewage Screen (E. coli/Enterococcus/fecal coliforms)
		2056	Heterotrophic Plate Count
		3001	ASBESTOS - Point count
		3002	ASBESTOS - PLM Analysis
		3003	ASBESTOS - Particle characterization
		3004	ASBESTOS - PCM Analysis

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 MI 486-1177 Fax (866) 496-0005 - email: m@aerobiology.net
 MO 620-8313 Fax (770) 947-2930 - email: ATL@aerobiology.net
 NJ 620-8348 Fax (303) 232-0203 - email: denver@aerobiology.net
 NY (877) 648-8160 Fax (877) 596-0946 - email: info@aerobiology.net
 TN 2649 - (714) 895-8401 - (866) 895-8132 - email: social@aerobiology.net
 TX (856) 738-6619 Fax (802) 441-2818 - email: phoenix@aerobiology.net



Lab Use:
190197B5



NVLAP Lab Code 200860-G (CO) 187983 (CA) 183762 (GA)
 NVLAP Lab Code 200829-G (VA) 162977 (VA) 252129 (AZ)
 NVLAP Lab Code 190387-G (AZ) 327747 (AZ) 318981 (CA)
 NVLAP Lab Code 201216-G (CA) 233003 (TX)

Aerobiology Client		ECOS Environmental	
Field Contact	Peter Mercer		Collected By/Date:
Address	6690 Hwy 82 Glenwood Springs, CO 81601		PM 05/13/2018
Phone	970-318-1214		Relinquished By/Date:
Reporting Email(s)	pmercer@ecosenvironmental.com		PM 05/13/2018
Routine	24 Hour	Same Day	4 Hour
SAMPLING LOCATION ZIP CODE		81650	
Lab Contacts:		Ben Nelson (866) 626-5348 Gary Grammon (801) 755-3544	

Sample No.	Test Code	Sample Location	Total Volume/Area
16 D3	3002	HALL N. Living area - basement	162 ft ²
17 E1		Kitchen Vinyl Floor SE. Kitchen Floor	
18 E2		NE. Kitchen Floor	
19 F1		Bath 1 floor Vinyl E. Bath 1 floor	
20 F2		NW Bath 1. floor	
21 G1		Studio Floor Vinyl E. Studio Floor	
22 G2		NW. Studio Floor	
23 H1		Bath 2 floor Vinyl E. Ba 2. floor	
24 H2		W. Ba 2 floor	
25 I1		Kitchen Tile Border NE.	50 ft ²
26 I2		NW tile Border	
27 J1		Brick & Mortar W. Basement	800 ft
28 J2		S. Basement	
29 K1		stone mortar S. Basement foundation	900 ft
30 K2		N. Basement Basement foundation	

1054	Direct, Non-viable Spore Trap	1015	Culture - WATER Legionella
1051	Direct, Qualitative - Swab/Tape	1017	Culture - SWAB Legionella
1050	Direct, Qualitative - Bulk	1010	WATER - Potable - E. coli/total coliforms
1005	AIR Culture - Bacterial Count w/ ID's	1012	SWAB - E. coli/total coliforms
1030	AIR Culture - Fungal Count w/ ID's	1028	Sewage Screen (E. coli/Enterococcus/fecal coliforms)
1008	SWAB Culture - Bacterial Count w/ ID's	2056	Heterotrophic Plate Count
1031	SWAB Culture - Fungal Count w/ ID's	3001	ASBESTOS - Point count
1008	BULK Culture - Bacterial Count w/ ID's	3002	ASBESTOS - PLM Analysis
1033	BULK Culture - Fungal Count w/ ID's	3003	ASBESTOS - Particle characterization
1007	WATER Culture - Bacterial Count w/ID's	3004	ASBESTOS - PCM Analysis

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 780 Simms Street, Suite 104, Golden, CO 80401 - (866) 626-6348 Fax (303) 232-0283 - email: denver@aerobiology.net
 43760 Trade Center Place, Suite 100, Dulles, VA 20166 - (877) 648-8160 Fax (877) 558-0946 - email: info@aerobiology.net
 15081 Springdale Street, Suite 111, Huntington Beach, CA 92649 - (714) 895-8401 - (858) 895-8132 - email: socal@aerobiology.net
 2228 West Northern Avenue, Suite B110, Phoenix, AZ 85021 - (855) 738-5419 Fax (602) 441-2818 - email: phoenix@aerobiology.net



Lab Use
1909735



NVLAP Lab Code 200860-0 (CO) 152963 (CO) 163063 (GA)
 NVLAP Lab Code 200819-0 (VA) 162977 (VA) 202228 (AZ)
 NVLAP Lab Code 090097-0 (AZ) 162747 (AZ) 218961 (CA)
 NVLAP Lab Code 201076-1 (CA) 238303 (FL)

Aerobiology Client		ECOS Environmental	
Field Contact	Peter Mercer	Collected By/Date:	PM 05/13/2019
Address	6690 Hwy 82 Glenwood Springs, CO 81601	Reinquished By/Date:	PM 05/13/2019
		Received By/Date:	5/15/19 @ 9:35 am AA
Phone	970-318-1214	Sampler Type	Andersen SAS
Reporting Email(s)	pmercer@ecosenvironmental.com	Sample Type	AeroTrap
Routine	24 Hour Same Day 4 Hour 2 Hour	Other	BioCulture
SAMPLING LOCATION ZIP CODE		81650	Project Name:
			1217 Howard Ave. R/F/W, CO 81650
			Notes: Cobbley, Frank - Demo -
		Lab Contacts:	Ben Nelson (866) 826-9348 Gary Grammon (801) 755-3544

31
33
35
36

Sample No.	Test Code	Sample Location	Total Volume/Area
L1	3002	A.Hic Insulation	999 ft ²
L2			↓
M1		Caulking - Exterior Windows & Doors Small	200 ft.
M2		Elkell Window	↓
N1		Roofing Felt - Shed	120 ft ²
IV2		Roofing Felt - Shed	↓

1054	Direct, Non-viable Spore Trap	1015	Culture - WATER Legionella
1051	Direct, Qualitative- Swab/Tape	1017	Culture - SWAB Legionella
1050	Direct, Qualitative- Bulk	1010	WATER - Potable - E. coli/total coliforms
1005	AIR Culture - Bacterial Count w/ ID's	1012	SWAB - E. coli/total coliforms
1030	AIR Culture - Fungal Count w/ ID's	1028	Sewage Screen (E. coli/Enterococcus/fecal coliforms)
1008	SWAB Culture - Bacterial Count w/ ID's	2056	Heterotrophic Plate Count
1031	SWAB Culture - Fungal Count w/ ID's	3001	ASBESTOS - Point count
1008	BULK Culture - Bacterial Count w/ ID's	3002	ASBESTOS - PLM Analysis
1033	BULK Culture - Fungal Count w/ ID's	3003	ASBESTOS - Particle characterization
1007	WATER Culture - Bacterial Count w/ID's	3004	ASBESTOS - PCM Analysis

5253 Northwest 33rd Avenue, Ft. Lauderdale, FL 33309 - (954) 451-3725 - email: info@aerobiology.net
 7184 North Park Drive, Pennsauken, NJ 08109 - (856) 486-1177 Fax: (856) 486-0005 - email: nj@aerobiology.net
 2400 Herodian Way, Suite 190, Smyrna, GA 30080 - (888) 820-9313 Fax: (770) 947-2938 - email: ATL@aerobiology.net
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Attn: Peter Mercer
Client Project Name: 1217-Howard-Ave-G-19-0307-AT / 1217 Howard Ave., Rifle, CO 81650



Date Collected: 05/13/19
Date Received: 05/15/19
Date Analyzed: 05/22/19
Date Reported: 05/22/19
Project ID: 19019735

Test Requested: 3002, Asbestos in Bulk Samples
Method: EPA/600/R-93/116. Method for the Determination of Asbestos in Bulk Building Materials

Sample Identification		Physical Description of Sample/Layer	Homo- geneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
A1	19019735-1A	White Compound with White Paint	N	10%	ND			100	C,G
	19019735-1B	White Tape	N	10%	ND		98	2	
	19019735-1C	White Joint Compound	N	15%	ND			100	C
	19019735-1D	White/Tan Drywall	N	65%	ND		30	70	G
A2	19019735-2A	White Compound with Red Paint	N	10%	ND			100	C,G
	19019735-2B	White Tape	N	10%	ND		98	2	
	19019735-2C	White Joint Compound	N	15%	ND			100	C
	19019735-2D	White/Tan Drywall	N	65%	ND		30	70	G
A3	19019735-3A	White Compound with Multicolored Paint Layers	N	10%	ND			100	C
	19019735-3B	White Tape	N	10%	ND		98	2	

Jenna Leimberger

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Talena Oliver

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Asbestos Lab Supervisor

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 CHRY = Chrysotile MW = Mineral Wool G = Gypsum M = Mica
 CR = Crocidolite OT = Other OP = Organic
 TR = Tremolite SYN = Synthetic TL = Talc
 Trace = < 1% W = Wollastonite P = Perlite
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Sample Identification		Physical Description of Sample/Layer	Homo- geneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
A3	19019735-3C	White Joint Compound	N	10%	ND			100	C
	19019735-3D	Off-White Compound	N	5%	CHRY	2		98	C
	19019735-3E	White/Tan Drywall	N	65%	ND		30	70	G
A4	19019735-4	White/Tan Drywall with Multicolored Paint Layers	N	100%	ND		30	70	G
A5	19019735-5A	Off-White Compound with Multicolored Paint Layers	N	30%	CHRY	2		98	C
	19019735-5B	White/Tan Drywall	N	70%	ND		40	60	G
B1	19019735-6A	Off-White Compound with Multicolored Paint Layers	N	5%	ND			100	C
	19019735-6B	White Compound with White Paint	N	5%	CHRY	2		98	C
	19019735-6C	White Compound with Multicolored Paint Layers	N	5%	ND			100	C
	19019735-6D	White Caulking	N	20%	ND			100	C

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Client	Lab Sample Number								
B1	19019735-6E	White/Tan Drywall	N	65%	ND		30	70	G
B2	19019735-7A	White Compound with White Paint	N	5%	CHRY	2		98	C
	19019735-7B	White Caulking	N	10%	ND			100	C
	19019735-7C	Off-White Compound with Multicolored Paint Layers	N	10%	ND			100	C
	19019735-7D	White/Tan Drywall	N	75%	ND		30	70	G
B3	19019735-8A	White Compound with White Paint	N	10%	ND			100	C
	19019735-8B	White Caulking	N	15%	ND			100	C
	19019735-8C	Off-White Compound	N	5%	CHRY	2		98	C
	19019735-8D	White/Tan Drywall	N	70%	ND		30	70	G
C1	19019735-9A	White Texture with White Paint	N	37%	ND			100	C

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Sample Identification		Physical Description of Sample/Layer	Homo- geneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
C1	19019735-9B	White Tape	N	3%	ND		99	1	
	19019735-9C	White Joint Compound	N	40%	ND			100	C
	19019735-9D	White/Tan Drywall	N	20%	ND		15	85	G
C2	19019735-10A	White Texture with Tan Paint	N	37%	ND			100	C
	19019735-10B	White Tape	N	3%	ND		99	1	
	19019735-10C	White Joint Compound	N	50%	ND			100	C
	19019735-10D	White/Tan Drywall	N	10%	ND		15	85	G
C3	19019735-11A	White Texture with Pink Paint	N	10%	ND			100	C
	19019735-11B	White Tape	N	3%	ND		99	1	
	19019735-11C	White Joint Compound	N	40%	ND			100	C

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Sample Identification		Physical Description of Sample/Layer	Homogeneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
C3	19019735-11D	White/Tan Drywall	N	47%	ND		15	85	G
C4	19019735-12A	White Texture with White Paint	N	20%	ND			100	C
	19019735-12B	White Tape	N	5%	ND		99	1	
	19019735-12C	White Joint Compound	N	40%	ND			100	C
	19019735-12D	White/Tan Drywall	N	35%	ND		15	85	G
C5	19019735-13A	White Texture with White Paint	N	10%	ND			100	C
	19019735-13B	White Tape	N	3%	ND		99	1	
	19019735-13C	White Joint Compound	N	20%	ND			100	C
	19019735-13D	White/Tan Drywall	N	67%	ND		15	85	G
D1	19019735-14A	White Compound with White Paint	N	8%	ND			100	C

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Sample Identification		Physical Description of Sample/Layer	Homo- geneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
D1	19019735-14B	White/Tan Drywall	N	92%	ND		15	85	G
D2	19019735-15A	White Texture with White Paint	N	30%	ND			100	C
	19019735-15B	White/Tan Drywall	N	70%	ND		15	85	G
D3	19019735-16A	White Texture with White Paint	N	4%	ND			100	C
	19019735-16B	White/Tan Drywall	N	96%	ND		15	85	G
E1	19019735-17A	White Sheet Vinyl with White Fibrous Backing	N	47%	ND		40	60	B,C
	19019735-17B	Yellow Mastic	N	3%	ND			100	B
	19019735-17C	White Sheet Vinyl with Gray Fibrous Backing	N	40%	ND		40	60	B,C
	19019735-17D	Yellow Mastic	N	8%	ND			100	B
	19019735-17E	Brown Mastic	N	2%	ND			100	B

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Client	Lab Sample Number								
E2	19019735-18A	White Sheet Vinyl with Gray Fibrous Backing	N	42%	ND		40	60	B,C
	19019735-18B	Yellow Mastic	N	10%	ND			100	B
	19019735-18C	White Sheet Vinyl with White Fibrous Backing	N	43%	ND		40	60	B,C
	19019735-18D	Yellow Mastic	N	5%	ND			100	B
F1	19019735-19A	White Sheet Vinyl with White Fibrous Backing	N	80%	ND		40	60	B,C
	19019735-19B	Yellow Mastic	N	10%	ND			100	B
	19019735-19C	Tan Fibrous Material with White Paint	N	10%	ND		90	10	B
F2	19019735-20A	White Sheet Vinyl with Tan Fibrous Backing	N	75%	ND		40	60	B,C
	19019735-20B	Gray Resinous Material	N	10%	ND			100	B
	19019735-20C	White Compound	N	15%	ND			100	C

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Client	Lab Sample Number								
G1	19019735-21A	White Sheet Vinyl with Off-White Fibrous Backing	N	80%	ND		40	60	B,C
	19019735-21B	Yellow Mastic	N	20%	ND			100	B
G2	19019735-22A	White Sheet Vinyl with Off-White Fibrous Backing	N	65%	ND		40	60	B,C
	19019735-22B	Yellow Mastic	N	20%	ND			100	B
	19019735-22C	White Compound with White Paint	N	5%	ND			100	C
	19019735-22D	Gray Granular Material	N	10%	ND			100	Q
H1	19019735-23A	White Sheet Vinyl with Tan Fibrous Backing	N	98%	ND		40	60	B,C
	19019735-23B	Yellow Mastic	N	2%	ND			100	B
H2	19019735-24A	White Sheet Vinyl with Tan Fibrous Backing	N	90%	ND		40	60	B,C
	19019735-24B	Yellow Mastic	N	5%	ND			100	B

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Client	Lab Sample Number								
H2	19019735-24C	Brown Mastic	N	5%	ND			100	B
I1	19019735-25A	White Ceramic Tile	N	80%	ND			100	
	19019735-25B	White Resinous Material	N	15%	ND			100	B
	19019735-25C	White Compound	N	5%	ND			100	C
I2	19019735-26A	White Ceramic Tile	N	85%	ND			100	
	19019735-26B	White Resinous Material	N	10%	ND			100	B
	19019735-26C	White Compound	N	5%	ND			100	C
J1	19019735-27A	Tan Granular Material with White Paint	N	80%	ND			100	Q
	19019735-27B	Gray Granular Material	N	20%	ND			100	Q
J2	19019735-28	Tan Brick with White and Tan Paint	N	100%	ND			100	

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 City, State ZIP: Glenwood Springs, CO 81601
 Attn: Peter Mercer
 Client Project Name: 1217-Howard-Ave-G-19-0307-AT / 1217 Howard Ave., Rifle, CO 81650



Date Collected: 05/13/19
 Date Received: 05/15/19
 Date Analyzed: 05/22/19
 Date Reported: 05/22/19
 Project ID: 19019735

Test Requested: 3002, Asbestos in Bulk Samples
 Method: EPA/600/R-93/116: Method for the Determination of Asbestos in Bulk Building Materials

Sample Identification		Physical Description of Sample/Layer	Homo- geneous (Y/N)	Layer Percentage	Asbestos Detected	Asbestos Percentage	Non-Asbestos Fiber Percentage	Non-Fibrous Material Percentage	Matrix Material Composition
Client	Lab Sample Number								
K1	19019735-29	Gray Granular Material	N	100%	ND			100	Q
K2	19019735-30	Gray Granular Material	N	100%	ND			100	Q
L1	19019735-31	Brown Fibrous Material	N	100%	ND		99	1	
L2	19019735-32	Brown Fibrous Material	N	100%	ND		99	1	
M1	19019735-33A	Brown Resinous Material	N	80%	ND			100	B,C
	19019735-33B	Brown Wood	N	20%	ND			100	
M2	19019735-34A	Brown Resinous Material	N	85%	ND			100	B,C
	19019735-34B	Brown Wood	N	15%	ND			100	
N1	19019735-35	Black Fibrous Tar with Brown Paint	N	100%	ND		80	20	T
N2	19019735-36	Black Fibrous Tar with Brown Paint	N	100%	ND		80	20	T

Jenna Leinberger

Jenna Leinberger
 Laboratory Analyst

Talena Oliver

Talena Oliver
 Asbestos Lab Supervisor

AC = Actinolite AH = Asbestial Hair B = Binder Q = Quartz
 AM = Amosite CL = Calcite C = Calcareous T = Tar
 AN = Anthophyllite FG = Fibrous Glass D = Diatoms V = Vermiculite
 CHRY = Chrysotile MW = Mineral Wool G = Gypsum M = Mica
 CR = Crocidolite OT = Other OE = Organic
 TR = Tremolite SYN = Synthetic TL = Talc OP = Opaques
 Trace = < 1% ND = None Detected W = Wollastonite P = Perlite



780 Simms Street
Suite 104
Golden, CO, 80401
303.232.3746
www.aerobiology.net

Certificate of Analysis

Client Name: ECOS Environmental
Street address: 6690 HWY 82
City, State ZIP: Glenwood Springs, CO 81601
Attn: Peter Mercer
Client Project Name: 1217-Howard-Ave-G-19-0307-AT / 1217 Howard Ave., Rifle, CO 81650



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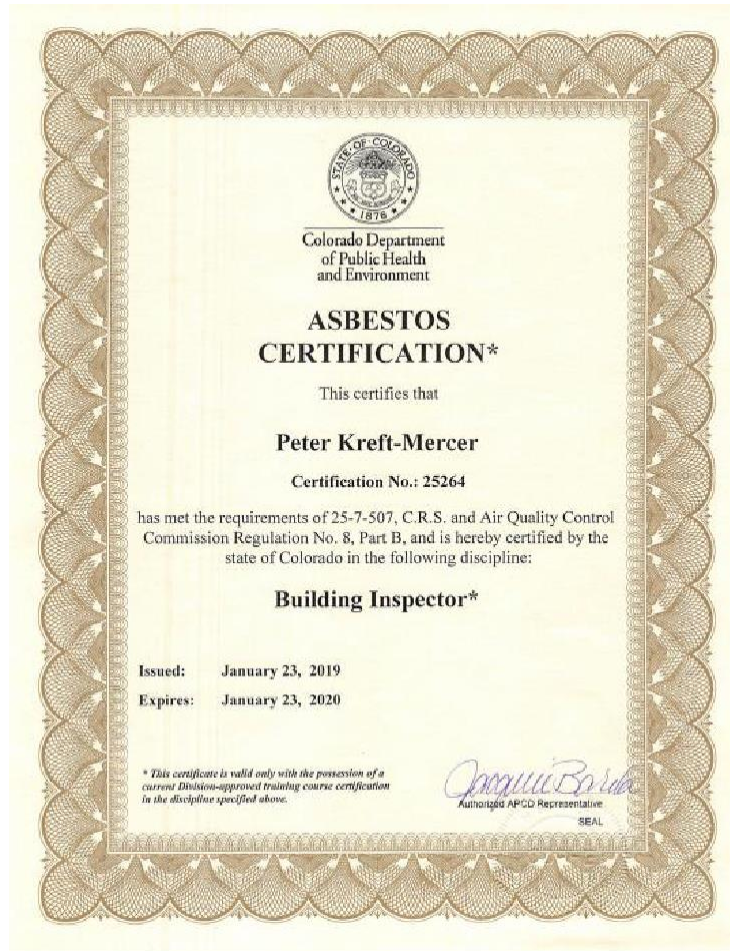
General Notes

- ND indicates no asbestos was detected; the method detection limit is 1 %.
- Trace or "< 1%" indicates asbestos was identified in the sample, but the concentration is less than 1% and cannot be quantified without point counting.
- Samples identified as inhomogeneous (more than one layer) are separated into individual layers, and each layer is analyzed and reported separately.
- All regulated asbestos minerals (i.e. chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite) were sought in every layer of each sample, but only those asbestos minerals detected are listed. Amosite is the common name for the asbestiform variety of the mineral cummingtonite and grunerite. Crocidolite is the common name used for the asbestiform variety of the mineral riebeckite.
- Tile, vinyl, foam, plastic, and fine powder samples may contain asbestos fibers of such small diameter (< 0.25 microns in diameter) that these fibers cannot be detected by PLM. For such samples, more sensitive analytical methods (e.g. TEM, SEM, and XRD) are recommended if greater certainty about asbestos content is required. Semi-quantitative bulk TEM floor tile analysis is accepted under NESHAP regulations.
- These results are submitted pursuant to Aerobiology Laboratory Associates, Inc.'s current terms and conditions of sale, including the company's standard warranty and limitation of liability provisions. No responsibility or liability is assumed for the manner in which the results are used or interpreted.
- Unless notified in writing to return the samples covered by this report, Aerobiology Laboratory Associates, Inc. will store the samples for a minimum period of thirty (30) days before discarding. A shipping and handling charge will be assessed for the return of any samples.
- Aerobiology does not guarantee the results of tape lifts, microvac, wipe, and/or debris samples. Accurate analysis cannot be performed due to particle size, media used, and/or amount of material given. Analysis of these materials should be performed by a TEM. *A result of ND does not indicate that the sample area does not contain asbestos. It means the analyst could not identify asbestos in the specific sample for the reasons listed above.*

Notes Required by NVLAP

- This report must not be used by the client to claim product certification, approval, or endorsement by NVLAP, NIST, or any agency of the Federal Government.
- This test report relates only to the items tested or calibrated.
- This report is not valid unless it bears the name of a NVLAP-approved signatory.
- Any reproduction of this document must include the entire document in order for the report to be valid.

CERTIFICATIONS



FINAL NOTES

This report represents the opinion of the reporting asbestos inspector at the time of the asbestos assessment survey. If you have any further questions, or if additional information is needed please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Mercer", written over a light grey rectangular background.

Peter Mercer, B.I.

Colorado State EPA Asbestos Inspector #25264
ECOS Environmental & Disaster Restoration, Inc.
Office (970) 945-4407
Cell (970)318-1214



**INVITATION FOR BIDS
IFB-GC-FG-04-19**

1217 Howard Ave Asbestos Abatement

In accordance with Article 5.2 of the Garfield County Procurement Code (“GCPC”), Garfield County is soliciting competitive sealed bids from qualified individuals or companies to complete asbestos abatement services for the Garfield County Fairgrounds Department. This project is located at 1217 Howard Avenue, Rifle, Colorado, 81650.

**SECTION 1.
INTRODUCTION AND INSTRUCTIONS TO BIDDERS**

- A. DOCUMENTS.** READ THIS INVITATION FOR BIDS (“IFB”), AND ALL ATTACHMENTS TO THIS IFB TOGETHER IN ORDER TO UNDERSTAND YOUR RIGHTS, DUTIES AND OBLIGATIONS UNDER THIS IFB.
- B. TERM OF CONTRACT.** It is intended that this IFB will result in the award of a contract. The proposed initial term of that contract is August 12, 2019 through December 31, 2019. Unless otherwise limited by an applicable statutory provision (e.g., §30-11-111, C.R.S., as amended), any Purchase Order or Contract awarded as a result of this IFB may be renewed at the option of the parties for two additional terms of one (1) year each.
- C. QUALIFICATION OF BIDDERS.** Each bidder must have been primarily engaged in a business that delivers goods or provides services similar to those requested in this IFB for at least 24 months prior to the date this IFB is issued. Each bid must establish that the bidder is “responsible” and the bid is “responsive” to the terms and conditions of this IFB. As defined in the GCPC, a “responsible bidder” as a person who has the technical and financial capability to fully perform the contract requirements. As defined in the GCPC, a “non-responsive bid” as a bid that does not conform to the mandatory or essential requirements of the IFB.
- D. PRINTED FORM OF BIDS.** All bids must state the amount bid both in words and in figures, and be signed in ink by the individual who will also sign the Contract. If a “Bid Schedule” is part of the Bid package, then it must be completed in ink and signed by the individual who will sign the Contract. If a “Delivery Schedule” or “Work Schedule” is included as part of the Bid package, then it must also be completed in ink and be signed by the individual who will sign the Contract and state the delivery date for the goods or commencement date for the services. The Delivery Schedule or Work Schedule must conform to the commencement and completion dates for the Contract. Bids must be enclosed in a sealed envelope marked “**1217 Howard Ave Asbestos Abatement, IFB-GC-FG-04-19**”.
- E. DELIVERY OF BIDS.** Garfield County will accept either physical or electronic bid submissions.



1. For physical bid submissions, it is the responsibility of each bidder to ensure that its Bid is received at the designated location at or before the closing time for the receipt of bids in response to this IFB. Any bids received after the scheduled closing time will not be accepted or considered for a contract award and will be returned unopened to the bidder. Bids shall be delivered to the **Garfield County Procurement Department, 810 Pitkin Avenue, Glenwood Springs, Colorado 81601**. Garfield County, Colorado is a mountainous county. Therefore, if verifiable inclement weather or road conditions renders delivery unsafe or impractical, then a Bid may be submitted by electronic mail. However, an original copy of that Bid must still be submitted to, and received by, the Procurement Department within forty-eight (48) hours of the original closing time for this IFB, weekends and legal holidays excepted. Faxed Bids will not be accepted.

2. For electronic bid submissions, all bids must be submitted via the Rocky Mountain E-Purchasing System (RMEPS) at www.bidnetdirect.com/colorado. It is the responsibility of the vendor to ensure that electronic bids are submitted prior to bid closing time. The Procurement Department does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor MUST contact RMEPS to resolve issue prior to the response deadline at 800-835-4603. Electronic bids shall be uploaded as a single PDF file.

F. OPENING OF BIDS. In accordance with Article 5.2.8., GCPC, Bids will be publicly opened after the bid closing time of **3:00 P.M. on Thursday, August 1, 2019** in the presence of one or more witnesses in the **Garfield County Procurement Department, 810 Pitkin Avenue, Glenwood Springs, CO 81601**. The amount of each Bid, the name of each bidder, and other relevant information, as deemed appropriate by the Procurement Department, shall be recorded at the Bid opening. The record and each timely submitted Bid that was received and opened in response to this IFB are public records in accordance with §24-72-201, *et seq.* C.R.S., as amended, and shall be available for public inspection. If any bidder requires ADA accessibility contact the Procurement Department before the date and time of the opening.

G. ACCEPTANCE OF BIDS. Pursuant to Article 5.2.5., GCPC, all Bid information is subject to analysis, legal review, and other required approvals prior to the award of any contract. Therefore, all timely received Bids shall be unconditionally accepted without alteration or correction, except as may otherwise be authorized by applicable provisions of the GCPC. A bidder may not alter or change any price or other information in a Bid after it has been opened if the Chief Procurement Officer deems that alteration or change prejudicial to Garfield County or fair competition.

H. EVALUATION OF BIDS. In accordance with Article 5.2.9., GCPC, Bids shall be evaluated based on the requirements set forth in this IFB, which may include the consideration of such factors or criteria as: inspection, testing, references, quality, price, workmanship, delivery, functionality, and suitability for a particular purpose. Prior to the award of a contract, the Procurement Department may contact a bidder to: clarify any patent or latent ambiguities in a Bid; or, to clarify that a bidder clearly understands the requirements of this IFB and that a submitted Bid conforms to the requirements of this IFB.

Bids may, but are not required to, be judged on the basis of: (a) the Bidder's qualifications, (b) the total amount of the Bid (including any unit prices set forth in the Price Schedule), (c) warranties, (d) experience, (e) past performance, (f) delivery time, dates, charges, and location, (g) any long-range cost(s), and, (h) any other information that may be requested in this IFB. If a conflict exists between



unit prices and total prices on a Bid form, then unit prices shall govern. Garfield County may make such investigations, as it deems necessary, to determine the ability of any Bidder to timely and satisfactorily perform the work described in this IFB. A Bidder shall furnish to Garfield County all information and data that it may request. Garfield County reserves the right to reject any bid if the information submitted by, or the investigation of, a bidder fails to satisfy Garfield County that a bidder is properly qualified to deliver the requested goods or, timely and satisfactorily complete the work described in this IFB within the budget provided by that bidder. Garfield County may reject any or all bids it receives for any bona fide reason, including but not limited to: submitting a “conditional” or “qualified” Bid. Garfield County specifically reserves the right to reject any Bid that is not submitted by a responsible bidder and/or is not otherwise responsive to the terms and conditions of this IFB.

I. BINDING EFFECT OF SUBMITTED BIDS. Unless otherwise specified by applicable provisions of the GCPC or the Procurement Department, all timely submitted bids shall be binding upon the submitting bidder for a period of not less than sixty (60) calendar days following the bid opening date. The Procurement Department may request a bidder to extend this period of time if necessary to complete the solicitation and contract award process.

J. WAIVER OF MINOR INFORMALITIES OR IRREGULARITIES IN BIDS. Garfield County reserves the right to waive any minor informality or irregularity in a timely submitted Bid if it is in the best interests of Garfield County.

K. ERRORS IN BIDS. Any error in a Bid that is not withdrawn prior to the award of a contract shall not relieve the submitting bidder from any obligation to provide the goods or services to be acquired through this IFB at the prices stated in that Bid.

L. WITHDRAWAL OF BIDS. In accordance with Article 5.2.6., GCPC, a bidder may request in writing to withdraw a Bid it has submitted at any time prior to the date a contract award is made. If a bidder claims that it has made an error in its Bid, then clear and convincing written proof of that error must be submitted to the Chief Procurement Officer before that Bid may be withdrawn.

M. REJECTION OF BIDS OR CANCELLATION OF INVITATION FOR BIDS. Pursuant to Article 5.2.7., GCPC, Garfield County reserves the right to reject, in whole or in part, any timely submitted Bid that fails to comply with the material terms and conditions of this IFB; or, is otherwise not in the best interests of Garfield County or fair competition. Garfield County reserves the right to cancel this IFB, in whole or in part, at any time, if it is in the best interests of Garfield County.

N. RESIDENT BIDDER PREFERENCE. This acquisition is eligible under **Article 5.1 BID PREFERENCE – GARFIELD COUNTY RESIDENT BIDDER.** A five percent (5%) price advantage shall be applied to all local bidders. Firms interested in receiving a **Local Vendor Designation** may contact this office to receive an Affidavit that **must be returned to this office not later than 10 day prior to the due date for bids.**

O. DETERMINATION OF NON-RESPONSIBILITY. As required by Article 5.2.11., GCPC, if a bidder who otherwise would have been awarded a contract is found to be “not



responsible” by the Procurement Department, then the Chief Procurement Officer shall make a written determination of its findings and promptly send a copy of those findings to the non-responsible bidder. The written determination shall be part of the permanent contract file and is a public record available for inspection pursuant to §24-72-201, *et seq.*, C.R.S., as amended.

P. AWARD. Pursuant to Article 5.2.12., GCPC, and subject to any other applicable provisions of the GCPC, all purchase orders or contracts shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose Bid best meets the requirements, factors, and criteria of this IFB. If all Bids timely submitted in response to this IFB exceed the amount of funds available to Garfield County, as certified by the Sr. Finance Administrator, then the Procurement Department may negotiate an adjustment in the original scope of work and price with the lowest responsible and responsive bidder if time or economic considerations preclude re-solicitation.

Q. PROTESTS. In accordance with Article 7.6.4., GCPC, an aggrieved bidder may file a written protest of this solicitation or any resulting contract award with the Chief Procurement Officer within seven (7) calendar days of the date the aggrieved bidder knew, or should have known, of the facts giving rise to the claim.

R. RESERVATION OF RIGHTS: The Board of County Commissioners of Garfield County reserves the right to make its selection decision after consideration of any other relevant factors it deems appropriate to that decision. The Board of County Commissioners of Garfield County reserves all other rights, whether express, implied, or inherent, that it may have as a body politic of the state of Colorado.

SECTION 2. SCOPE OF WORK

A. PURPOSE. As stated in Article 4.1.3., GCPC, all specifications and statements of work (i.e., “Scope of Work”) shall be prepared and drafted in a manner that provides overall economy for the intended purpose while providing for maximum competition in satisfying the procurement needs of Garfield County. Specifications and statements of work should not be overly restrictive. Article 4.2.1., GCPC, states that a Scope of Work (“SoW”) describes the specific requirements applicable to a particular product or service that is to be procured by Garfield County. The stated purpose of a SoW is to provide prospective bidders with a clear, accurate and complete description of the goods to be supplied or the services to be performed.

B. BRAND NAME OR EQUAL. If this IFB uses a “brand name or equal” specification for the delivery or goods, then this IFB must comply with the requirements of Article 4.3.4., GCPC.

C. EXAMINATION OF DOCUMENTS. Each bidder should thoroughly examine, and be familiar with, the specifications and any SoW attached to this IFB. The failure or omission of a bidder to receive or examine any addendum, bid sheet, blue print, document, drawing, form,



instrument, plan, specification, statement of work, or any other document shall not relieve that bidder from any performance obligation contained in this IFB.

D. QUESTIONS REGARDING THIS IFB. Any questions about the terms and conditions of this IFB, or any addendum or attachment hereto, shall be submitted to the Procurement Department in writing no later than **5:00 P.M. on Tuesday, July 23, 2019**. Inquiries received after this deadline may not receive a response.

E. EXCEPTIONS TO IFB. *Each Bid submitted in response to this IFB shall list all deviation(s), exception(s), or variation(s) to or from: the terms and conditions of this IFB, the terms and conditions of any attachment(s) to this IFB, the terms and conditions of any addendum to this RFP, and, the terms and conditions of the proposed Contract.* The section of a bid containing any such deviation(s), exception(s), or variation(s) shall be clearly labeled “Exceptions to IFB”. The failure of a bidder to note a deviation, make an exception, or list a variation to the terms and conditions of this IFB, any attachment(s) or addenda to this IFB, or the terms and conditions of the proposed Contract shall be deemed an express waiver by that bidder of any such deviation, exception, or variation.

F. INTERPRETATIONS AND ADDENDA. If it becomes necessary to revise any part of this IFB, then a written “Addendum” shall be issued. Garfield County is not bound by any oral changes, clarifications, or representations made by Garfield County employees, unless those oral changes, clarifications, or representations are provided in a written Addendum to this IFB.

SECTION 3. STANDARD REQUIREMENTS OF THIS INVITATION FOR BIDS

A. AFFIDAVIT REGARDING ILLEGAL ALIENS. In accordance with §8-17.5-101 *et seq.* and §24-76.5-101 *et seq.*, C.R.S. as amended, each bidder must sign and return the attached “Certification and Affidavit Regarding (the non-employment of) Illegal Aliens”. This Affidavit **must** be signed by the same individual who signs the Bid. This Affidavit must be signed in front of a notary public. Garfield County shall deem any Bid that does not include a properly executed Certification and Affidavit Regarding Illegal Aliens as non-responsive.

B. AFFIDAVIT REGARDING NON-COLLUSION. Each bidder must sign and return the attached “Non-Collusion Affidavit”. This Affidavit **must** be signed by the same individual who signs the Bid. This Affidavit must be signed in front of a notary public. Garfield County reserves the right to reject any Bid if evidence of collusion exists between bidders. Pursuant to Article 7.10., GCPC, the Chief Procurement Officer is required to transmit a written notice of the facts giving rise to its suspicion of collusion or other anti-competitive practices to the Office of the District Attorney for the Ninth Judicial District and the Office of the Garfield County Attorney. Garfield County may decline to accept future bids from any bidder determined to have engaged in collusive activities for a period of time not to exceed five (5) years. By submitting a bid in response to this IFB, each bidder certifies that it is not a party to any collusive action or any action that may be in violation of the federal



Sherman Antitrust Act. Garfield County shall deem any Bid that does not include a properly executed Non-Collusion Affidavit as non-responsive.

C. COMPLIANCE WITH APPLICABLE FEDERAL, STATE, COUNTY, AND MUNICIPAL LAWS. All bidders must comply with all federal, state, county, and municipal laws applicable to this IFB, including but not limited to, licensing, labor, and health laws. The laws of the state of Colorado shall govern the effect, enforcement, interpretation, and validity of this IFB, its award, and any contract that results from this IFB. The exclusive venue for any action related to this IFB is the Garfield County seat of the Ninth Judicial District of the state of Colorado.

D. INSPECTION AND ACCEPTANCE. Garfield County reserves the right to inspect all goods and services provided pursuant to this IFB prior to accepting those goods or services. Garfield County reserves the right to withhold any payment for any goods delivered or services performed that do not conform to this IFB. Garfield County may require the delivery of substitute goods or the performance of substitute services if it concludes, in good faith, that the original goods or services are defective. Re-delivery or re-performance shall be at no cost to Garfield County. Garfield County may withhold all, or any part, of any payment because of defective tender or performance. Repeated violations of this provision may result in the unilateral termination of the purchase order or contract by Garfield County for default.

E. NON-DELEGATION AND NON-ASSIGNMENT. The successful bidder shall not delegate any duties or obligations of this IFB and any resulting purchase order or contract without the prior, express, written consent of Garfield County. Except for accounts receivable, the successful bidder shall not assign any rights of this IFB or any resulting purchase order or contract without the prior, express, written consent of Garfield County.

F. SAFETY WARRANTY: All bidders expressly warrant that all services that may be performed pursuant to this IFB shall conform to all applicable rules or regulations of the United States Department of Labor as codified in the Occupational Safety and Health Act of 1970 (OSHA). Failure, without good cause, to comply with any applicable OSHA regulation by a contractor may constitute grounds for termination for cause of that contractor.

G. ILLEGAL ALIENS – PUBLIC CONTRACT FOR SERVICES.

1. Each bidder shall execute the certification attached hereto as **Attachment D**, in conformance with the provisions of §8-17.5-102(1) and §24-76.5-101, C.R.S., as amended.

2. Each bidder shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services; or enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with an illegal alien who will perform work under this public contract for services.

3. Each bidder shall confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.

4. Each bidder shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.



5. If a bidder obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall:

(1) Notify the subcontractor and the BOCC within three days that the bidder has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (1), above, the subcontractor does not stop employing or contracting with the illegal alien; except that the bidder shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. Each bidder shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to its authority.

7. Notwithstanding any other provision of this public contract for services, if a bidder violates any provision of this paragraph, the BOCC may terminate this public contract for services and that bidder shall be liable for all actual and consequential damages resulting from that termination.

8. Except where exempted by federal law and except as provided in §24-76.5-103(3), C.R.S., as amended, any bidder receiving Garfield County funds under this public contract for services must confirm that any individual natural person eighteen (18) years of age or older is lawfully present in the United States pursuant to §24-76.5-103(4), C.R.S., as amended, if such individual applies for public benefits provided under this public contract for services. If a bidder has verified that the County has accomplished such confirmation prior to the effective date of this public contract for services, the bidder is relieved of responsibility under this paragraph.

H. INSURANCE. The following provisions shall apply to each bidder who submits a Proposal in response to this IFB. In order to commence work and receive compensation pursuant to an awarded purchase order or contract, the terms of this paragraph must be satisfied prior to the commencement of work. Each bidder shall procure and maintain, until all of its obligations under any awarded purchase order or contract have been fully discharged, including all applicable warranty periods, all insurance required under this paragraph. The insurance requirements set forth herein are minimum requirements for any awarded purchase order or contract and in no way limit the indemnity covenants contained in any awarded purchase order or contract. The BOCC in no way warrants that the minimum limits contained herein are sufficient to protect a bidder from liabilities that might arise out of the performance of the work under any awarded purchase order or contract by that bidder, its agents, directors, employees, officers, representatives, or subcontractor(s) and the bidder is free to purchase additional insurance as it may deem necessary.

Minimum Types and Limits of Insurance: Each bidder shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.



Commercial General Liability- Occurrence Form

The policy shall be endorsed to include the following “Additional Insured” language: “Public Entity, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers shall be named as ‘Additional Insureds’ with respect to liability arising out of the activities performed by, or on behalf of [name of bidder].”

Minimum Limits:

General Aggregate	\$2,000,000
Products/ Completed Operations Aggregate	\$2,000,000
Each Occurrence Limit	\$1,000,000
Personal/Advertising Injury	\$1,000,000

Automobile Liability (This insurance may be waived if the awarded purchase order or contract does not involve the use of any motor vehicle to perform any of the work under that awarded purchase order or contract)

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of any awarded purchase order or contract.

Minimum Limits:

Bodily Injury/Property Damage (Each Accident)	\$1,000,000
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Worker’s Compensation and Employers’ Liability

Minimum Limits:

Coverage A (Workers’ Compensation)	Statutory
Coverage B (Employers Liability)	\$100,000
	\$100,000
	\$500,000

Professional Liability (Errors and Omissions Liability)

(This section applies only if the awarded purchase order or contract is for a licensed professional service.)

The policy shall cover professional misconduct or lack of ordinary skill for professional services required by any awarded purchase order or contract.

In the event that the professional liability insurance required by any awarded purchase order or contract is written on a claims-made basis, each bidder warrants that: any retroactive date under that policy shall precede the effective date of any awarded purchase order or contract;



and, either continuous coverage shall be maintained or an extended discovery period shall be exercised for a period of two (2) years beginning at the time work under any purchase order or contract is completed.

Minimum Limits:

Each Loss	\$1,000,000
Aggregate	\$2,000,000

Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

On insurance policies where the Public Entity is named as an “Additional Insured”, the Public Entity shall be an “Additional Insured” to the full limits of liability purchased by that offeror even if those limits of liability are in excess of those required by any awarded purchase order or contract.

Each bidder’s insurance coverage shall be primary insurance and non-contributory with respect to all other available sources of insurance.

For the provisions of **Commercial General Liability** and **Automobile Liability** set forth above, the insurance policy must include contractual liability coverage.

All insurance required by this paragraph shall be issued by companies authorized to do business in the state of Colorado and written on forms satisfactory to, filed with, and approved by the Colorado Division of Insurance within the Colorado Department of Regulatory Agencies.

Notice of Cancellation: Each insurance policy required by the insurance provisions of this paragraph shall provide the required coverage and shall not be suspended, voided, or canceled except after thirty (30) days prior written notice has been given to the BOCC. If cancellation is due to the nonpayment of premiums, then ten (10) days prior written notice may be given. Such notice shall be sent directly to the Office of Contract Administration, at the following address: **Garfield County Procurement Department, 810 Pitkin Avenue, Glenwood Springs, Colorado 81601.**

Verification of Coverage: Each bidder shall furnish the BOCC with certification of insurance (ACORD form or equivalent approved by the BOCC as required by this paragraph).

The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the BOCC before work commences. Each insurance policy required by this paragraph must be in effect at or prior to the commencement of work under any awarded purchase order or contract and remain in effect for the duration of that purchase order or contract and for two (2) years after the completion date of that purchase order or contract, or any extension or renewal thereof. Failure to maintain the



insurance policies as required by this paragraph, or to provide evidence of renewal, is a material breach of this paragraph.

Any certificate(s) and any required endorsement(s) shall be sent directly to the Procurement Department at the following address: **Garfield County Procurement Department, 810 Pitkin Avenue, Glenwood Springs, Colorado 81601**. The BOCC reserves the right to require complete, certified copies of all insurance policies required by any awarded purchase order or contract any time.

Approval: Any modification or variation from the insurance requirements in this paragraph shall be made by the Procurement Department, after consultation with the Risk Manager or County Attorney's Office. Such action shall not require a formal written bilateral amendment, but may be made by administrative action.

I. TAXES: Garfield County is a political subdivision of the state of Colorado. Accordingly Garfield County is exempt from federal excise taxes and state retail taxes. Therefore, each Proposal price must be net, exclusive of any calculations for such taxes.

J. TERMINATION DUE TO LACK OF FUNDS. Garfield County may terminate any contract that results from this RFP, in whole or in part, if Garfield County determines in good faith sufficient funds will not be available to complete the work. Termination due to lack of funds shall be effected by the delivery of a written notice of termination at least fifteen (15) calendar days before the effective date of termination. The written notice shall specify the extent to which delivery or performance is terminated and the date upon which such termination shall be effective.

SECTION 4.

SPECIAL TERMS AND CONDITIONS OF THIS INVITATION FOR BIDS

A. SUBMISSION OF WRITTEN QUESTIONS. Written questions regarding the IFB or its attachments may be submitted to the **Garfield County Procurement Department, 810 Pitkin Avenue, Glenwood Springs, CO 81601** through **5:00 P.M.** on **Tuesday, July 23, 2019**. Questions submitted by e-mail should be sent to: Scott Henriksen at shenriksen@garfield-county.com. The facsimile number for the Procurement Department is 970-384-5008. Questions received after this date and time may not receive a response.

Please do not contact any other County Department staff member with questions or for information regarding this solicitation.

B. PAYMENT AND PERFORMANCE BONDS. If this IFB is for the construction of a public work with a value of Fifty Thousand Dollars (\$50,000.00) or more, then a payment bond at 100% of the bidders total cost is required as well as a performance bond at 100% of the bidders total cost.



C. RECOMMENDED SOLICITATION PRE-BID CONFERENCE AND SITE VIST.

A **non-mandatory** solicitation pre-bid conference and site visit shall be held on **Thursday, July 18th, 2019 at 10:00 AM** at the **Garfield County Fairgrounds South Hall** located at **1001 Railroad Avenue, Rifle, CO 81650**. The purpose of this conference and site visit is to give perspective offerors a forum to meet with Garfield County to ask questions to better prepare their respective Bids.

Offerors are cautioned that in no event shall failure to familiarize themselves with the requirements of this solicitation or to resolve ambiguous or inconsistent terms or conditions of this solicitation or proposed contract constitute grounds for a claim of any kind after contract award.

**SECTION 5.
ATTACHMENTS**

A. ATTACHMENTS. The following documents are attached to this IFB:

ATTACHMENT A	SCOPE OF WORK
ATTACHMENT B	BID SCHEDULE
ATTACHMENT C	ASBESTOS INSPECTION REPORT
ATTACHMENT D	IMMIGRATION AFFIDAVIT
ATTACHMENT E	NON COLLUSION AFFIDAVIT
ATTACHMENT F	STATEMENT OF QUALIFICATIONS
ATTACHMENT G	SAMPLE STANDARD FORM OF AGREEMENT
ATTACHMENT H	SAMPLE AMENDMENT TO AIA 201-1997
ATTACHMENT I	SAMPLE AIA 201-1997

These documents are incorporated into, and made a part of, this IFB and any resulting Purchase Order or Contract.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

ADDITIONAL INSURED – BLANKET

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

In consideration of the premium charged and notwithstanding anything contained in this policy to the contrary, it is hereby agreed and understood that this endorsement shall apply only to the Coverage Part(s) corresponding with the box or boxes marked below.

- COVERAGES PARTS A AND B – GENERAL LIABILITY**
- COVERAGE D – CONTRACTORS POLLUTION LIABILITY**

SECTION III – WHO IS AN INSURED is amended to include as an insured, with respect to Coverage **A, B** and **D**, any person(s) or organization(s) when you and such person(s) or organization(s) have agreed in a written contract or written agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such written contract or written agreement must be in effect prior to the performance of **your work** which is the subject of such written contract or written agreement.

Such additional insured status applies only:

1. Under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY** for claims or **suits** resulting from:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your **ongoing operations** for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.
2. Under **COVERAGE D CONTRACTORS POLLUTION LIABILITY** for claims or **suits** arising out of **pollution conditions** that are the result of:
 - a. **Your work** performed for such person(s) or organization(s) in the performance of your **ongoing operations** for the additional insured; or
 - b. **Your work** performed for such person(s) or organizations(s) and included in the **products-completed operations hazard**.

With respect to damages caused by **your work**, as described above, the coverage provided hereunder shall be **primary and not contributing** with any other insurance available to those person(s) or organization(s) with which you have so agreed in a written contract or written agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

WAIVER OF SUBROGATION

It is agreed that the Company, in the event of any payment under this policy, waives its right of recovery against any Principal, but only at the specific written request of the Named Insured either before or after loss, wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured.

This waiver shall apply only with respect to losses occurring due to operations undertaken as per the specific contract existing between the Named Insured and such Principal and shall not be construed to be a waiver with respect to other operations of such Principal in which the Named Insured has no contractual interest.

No waiver of subrogation shall directly or indirectly apply to any employee, employees or agents of either the Named Insured or of the Principal, and the Company reserves its right or lien to be reimbursed from any recovery funds obtained by any injured employee.

This waiver does not apply in any jurisdiction or situation where such waiver is held to be illegal or against public policy or in any situation wherein the Principal against whom subrogation is to be waived is found to be solely negligent.

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

**Business Auto - Additional Insured
When Required by Contract or Agreement**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II – Liability Coverage A. – Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
 - 1. The coverage and/or limits of this policy; or
 - 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: ARC Abatement, Inc. Endorsement Effective Date:

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured.