

FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY

PROJECT MANUAL

for

Bid Package 2024-1 – Regency Ballroom Door Replacement

Technical Specifications Prepared By:

Franklin County Convention Facilities Authority

August 9, 2024

NOTICE TO BIDDERS
FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY
Regency Ballroom Door Replacement

Sealed bids will be received by the Franklin County Convention Facilities Authority, hereinafter referred to as the “Owner” of the Greater Columbus Convention Center (“GCCC”), 400 N. High St., Columbus, Ohio 43215 until **August 26, 2024, at 3:00 PM EST** and will be publicly opened and read aloud immediately thereafter, for the furnishing of materials and performing the labor for the execution and construction of:

Regency Ballroom Door Replacement

Owner’s Estimate: \$135,000.00

in accordance with specifications prepared by the Owner. All information for bidders, including project manual, form of proposal, plans, technical specifications, form bond and other contract documents may be examined at the following offices:

Franklin County Convention Facilities Authority
The Greater Columbus Convention Center
400 N. High Street, 4th Floor
Columbus, Ohio 43215

Requests for copies of bid documents as well as questions regarding plans and specifications should be addressed to Jordan Edmonds, In-House Counsel, Franklin County Convention Facilities Authority, email: jedmonds@fccfa.org.

No bidder may withdraw their bid within 60 days after the actual date of the bid opening, except as provided for in the project manual.

Each proposal must be accompanied by a Bid Guaranty and Contract Bond in the exact form included in the project manual and meeting the requirements of Section 153.54 of the Ohio Revised Code.

State of Ohio prevailing wage rates and Equal Employment Opportunity requirements are applicable to this bid invitation for all work performed pursuant to this contract.

The Franklin County Convention Facilities Authority reserves the right to waive any informalities or in its sole discretion, to reject any or all bids.

Bids shall be sealed and delivered on or before August 26, 2024, at 3:00 PM EST to:

Franklin County Convention Facilities Authority
400 North High Street, 4th Floor
Columbus, Ohio 43215
Re: Regency Ballroom Door Replacement

INSTRUCTIONS TO BIDDERS

GENERAL REQUIREMENTS & INFORMATION

- a) Bidders shall inspect all plans and specifications and visit the site of the work to verify existing conditions and to become familiar with the conditions under which the project work will be performed.
- b) The Form of Proposal, Bid Guaranty, Responsibility Analysis Form, schedule, and all other required submittals, each fully executed, are to be submitted in sealed form and addressed to the Franklin County Convention Facilities Authority as provided for in the Notice to Bidders. **Interested bidders must provide one original and two hard copies of all required submittals.**
- c) Owner & Construction Manager:
 - 1) The Owner is:

Franklin County Convention Facilities Authority (FCCFA)
400 North High Street, 4th Floor
Columbus, Ohio 43215-2096
Phone: 614-827-2800
 - 2) The Construction Manager is:

Scott Reed
Capital Projects Director
Franklin County Convention Facilities Authority (FCCFA)
400 North High Street, 4th Floor
Columbus, Ohio 43215-2096
Phone: 614-827-2800
- d) The Project consists of providing all labor, materials, equipment, and services necessary for the timely and proper completion of construction for the Regency Ballroom Door Replacement Project as described within the Project Manual and Technical Specifications.

Bidders are responsible for visiting the site to determine existing conditions. No plea of ignorance of conditions that exist, or of conditions or difficulties that may be encountered in the execution of the work, as a result of the failure to make such examination and investigation, will be accepted as an excuse for any failure or omission on the part of the bidders to fulfill in every respect all the requirements of the contract, nor will the same be accepted as a basis for any claim whatsoever for extra compensation or for an extension of time.

ARTICLE 1. PROPOSALS

- a) For lump sum bids, separate bids will be received for any or all divisions of work shown on the Form of Proposal. If not bidding a given contract on the Form of Proposal mark it "N/A".
- b) In the case of unit price bids, the contractor shall submit bids on all items listed, unless other instructions are noted in the Form of Proposal.

Unless otherwise expressly provided in the Project Manual and related bid documents, such unit prices shall be fully loaded rates that include, but are not limited to, all overhead, profit, labor, materials, equipment, services, insurance and bonding costs necessary for the timely and proper installation of the item for which the unit prices are requested. The unit prices quoted in the proposal shall be the basis for any change orders entered into under the contract, unless the Owner determines that the use of such unit prices will cause substantial inequity to either the Contractor or the Owner.

- c) **Bids shall include the following documents:**
 - 1) The Form of Proposal (bid)
 - 2) The Bid Guaranty
 - 3) EEO Certification Clause
 - 4) Non-Discrimination Policy Compliance
 - 5) Contractor's Review Certificate
 - 6) Manufacturer's Declaration and Subcontractor Declaration
 - 7) Declaration of Insurance
 - 8) Project Schedule
 - 9) Responsibility Analysis Form
- d) The wording of the Form of Proposal shall be used without change, alteration, or addition (except as provided for in the Project Manual). Any other change in the wording may cause a bid to be rejected; however, the Owner reserves the right to waive any informalities not affecting the substance of the bid.
- e) The forms used in submitting the bid shall be those furnished by the Owner in this Project Manual.
- f) The bid shall contain the bid guaranty meeting the requirements of Section 153.54 of the Ohio Revised Code.
- g) Bidders shall take the following precautions in preparing bids:
 - 1) Sign the bid. Failure to do so shall result in rejection of the bid. Bids shall be signed with the name typed below the signature. A bidder that is a corporation shall sign its bid with the legal name of the corporation followed

by the name of the state of incorporation and the legal signature, including title, of an officer authorized to bind the corporation to a contract.

2) Alternates:

The Owner may request bids on alternates. If the Owner requests bids on alternates, the Bidder should include the cost of the alternates requested on its Form of Proposal.

Where the Form of Proposal provides for quoting either an addition or deduction for an "Alternate," indicate whether the sum named is an addition or deduction by ruling out the words not applicable. Any alteration or erasure must be initiated by the Bidder.

All requested alternates, if any, shall be bid by all bidders. If no change in the base bid is required enter "no change". Do not mark with any notation other than the cost change or "no change" (e.g., "N/A" or "No Bid", shall be taken as meaning "No Change" and a cost of \$0.00 shall be used in determining the lowest and best bidder and preparation of the contract). If a bidder does not accept a value of \$0.00 for any incorrectly marked alternates accepted by the Owner, the bid shall be considered non-responsive and be grounds for the rejection of the bid. At the time of awarding the contract, the Owner will select or reject alternates as it determines is in its best interest.

If, during the progress of the work, the Owner desires to reinstate any alternate not included in the contract, the Owner reserves the right to reinstate the alternate at the price bid by the Bidder provided that such action is taken in sufficient time so as not to delay the progress of the work or cause the Bidder additional expense.

- 3) Complete and sign the Equal Employment Opportunity Certification attached to the Form of Proposal.
 - 4) Bidders shall acknowledge and note receipt of addenda on the Form of Proposal.
 - 5) Bids shall not be submitted by facsimile transmission.
 - 6) Bids shall be enclosed in a sealed opaque envelope with the Bidder's name and the title of the Project printed in the upper left-hand corner and addressed as follows: Offices of the Franklin County Convention Facilities Authority, 400 N. High St., Fourth Floor, Columbus, Ohio 43215.
- h) All bids are valid for a period of sixty (60) days after the date of opening bids. A bidder for a contract with the Owner may withdraw their bid from consideration if the price

bid was substantially lower than the other bids, provided the bid was submitted in good faith and the reason for the bid price being substantially lower was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional and substantial quantity of work, labor, or material made directly in the compilation of the bid. Request to withdraw such bid must be made in writing and filed with the Owner within two (2) business days after the opening of bids.

ARTICLE 2. METHOD OF AWARD

- a) The Owner will receive bids for the contract(s) as set forth on the Form of Proposal and as defined in the Project Manual.

Subject to the right of the Owner to reject any and all bids and as provided below, the Owner will award a single contract for each of the contracts/bid packages listed in the Project Manual or one or more combined contracts for combination(s) of the bid packages. Bidders must furnish all information requested on or accompanying the Form of Proposal. Failure to do so may result in disqualification of the bid.

- b) Determination of Lowest and Best Bid (see Instructions to Bidder's Responsibility Analysis Form):

Subject to the right of the Owner to reject any or all bids, the Owner will award the contract for the work to the Bidder submitting the lowest and best bid, taking into consideration accepted alternates. In determining which bid is the lowest and best bid, the Owner may take into consideration not only the amount of the bid but such of the following criteria as it, in its sole discretion, deems appropriate and may give such weight thereto as it deems appropriate:

- 1) The Bidder's financial ability to complete the contract successfully and on time without resort to its Surety;
- 2) The Bidder's prior experience with similar work on comparable or more complex projects;
- 3) The Bidder's prior history of the successful and timely completion of similar projects;
- 4) The Bidder's equipment and facilities;
- 5) The adequacy, in numbers and experience, of the Bidder's work force to complete the contract successfully and on time;
- 6) The Bidder's prior experience on other projects of the Owner, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the contract documents and on time, and its ability to work with the Owner.

- 7) The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to, the prevailing wage law and Occupational Safety and Health Act;
 - 8) All of the foregoing with respect to each of the subcontractors which the Bidder intends to use on the Project; and
 - 9) Depending upon the type of work, other essential factors, as the Owner may determine.
 - 10) Absent special circumstances, no bidder shall be deemed responsible unless that bidder has been in existence at least thirty-six months.
- c) Acceptance of the contract within the 60-day period following the opening of bids automatically assumes that if materials, labor or subcontract cost increases, then those costs shall be absorbed by the Bidder. Award of contracts beyond the 60-day period shall be reviewed for increased costs after award of the contract only if the cause for delay is no fault of the Bidder.
- d) If, in the opinion of the Owner, the acceptance of the lowest bid is not in the best interest of the Owner, the Owner may accept at its discretion, another bid so opened, or reject all bids and advertise for other bids. Such advertisement will be for such time, in such form and in such newspapers as may be directed by the Owner.
- e) No contract shall be awarded if the low bidder is more than 20% below the median of all other bids received for projects where the estimate is \$100,000 or more, and no contract shall be awarded if the low bidder is more than 25% below the median of all other bids received for projects where the estimate is less than \$100,000, unless the following occurs and/or are reviewed:
- 1) An interview with the low bidder, the purpose of which is to determine what, if anything, has been overlooked in the bid in question, and to analyze the process envisioned by the contractor to complete the contract in question.
 - 2) The financial status of the low bidder and its Surety based upon certified financial statements submitted by each.
 - 3) Receipt of written confirmation by the Surety that it has reviewed the bid in question.
 - 4) The record of the low bidder in performing other public works projects in the past.

In accordance with Ohio Revised Code 153.12, no contract will be awarded if the price of the contract exceeds the published estimate by more than twenty percent.

If after review and consideration, the acceptance of the lowest and best bid is not in the best interest of the Owner, the Owner may accept another bid so opened or reject all bids and advertise for other bids.

- f) If individual and combined contract bids are included on the Form of Proposal and a bidder opts to submit multiple bids, a bidder shall not be permitted to be determined to be the low bidder for any individual contract bid if that bidder withdraws a lower combination contract bid for any reason (including omission of any work item or math/clerical errors).
- g) The Owner reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.
- h) After determination of the lowest and best bid, the selected contractor shall receive a Recommendation of Award, a copy of the full unexecuted contract and an unexecuted copy of the Notice of Authority to Proceed (NTP) with construction. The successful bidder shall then provide the required items for formal execution of the contract and NTP by the Owner all in accordance with Article 8. If the project schedule requires that the contractor commence work (or make commitments and preparations to commence the work) prior to receipt of the fully executed contract and NTP, the contractor, in order to meet the requirements of the project schedule, shall be solely responsible to notify the Owner in writing ten (10) business days before the date that such NTP is required. The Owner may direct the contractor to proceed with the work with an executed NTP before the formal execution of the contract. If the contractor has met all of the requirements for executing a contract and the Owner chooses not to execute the contract, the contractor shall be reimbursed for all reasonable costs incurred as a result of starting work under the NTP and prior to receipt of a fully executed contract.
- j) No contract shall be entered into until:
 - 1) The Industrial Commission has certified that the corporation, partnership or person so awarded the Contract has complied with Sections 4123.01 to 4123.99 (Workers' Compensation), inclusive of the Revised Code;
 - 2) If the bidder so awarded the contract is a foreign corporation, the Secretary of State has certified that such corporation is authorized to do business in this state; and, if the bidder so awarded the contract is a non-Ohio person or partnership, then until the bidder has filed with the Secretary of State a Power of Attorney designating the Secretary of State as its agent for the purpose of accepting service of summons in any action brought under Section 153.05 of the Revised Code or under Sections 4123.02 to 4123.99 inclusive, of the Ohio Revised Code.

- 3) The successful bidder shall notify the Owner, within three (3) calendar days after notification of recommendation of award, the provisions the Bidder has made or reasonably can be expected to make in order to meet the provisions of the Owner's Disadvantaged Business Participation Plan. Notification shall include a statement of the Bidder's present intention concerning which portions of the contract will be awarded to disadvantaged business subcontractors and materialmen and the identity of the intended subcontractor or materialman, if any. Within such five (5) calendar day period, the successful bidder may request in writing a longer period of time to meet the provisions of the plan. Such request shall set forth the reasons additional time is required. The Owner shall notify the successful bidder in writing of its approval or disapproval of the request. If additional time is approved by the Owner or if formal execution of the contract is delayed due to any failure of the Bidder to meet the requirements of the Owner's Disadvantaged Business Participation Plan, the Bidder shall remain responsible for all the requirements and timelines of the Project.
- 4) The required certificates of insurance coverage (as set forth in the contract) and bond are submitted to the Owner.
- 5) A copy of the contract is forwarded to the successful bidder by the Owner, signed by the successful bidder and returned to the Owner.
- 6) All requirements of Article 8 herein have been satisfied.

The contract cannot be fully executed until this information is provided. If the Bidder fails to provide the documents within the required time, the Bidder is solely responsible to meet all project schedule requirements regardless of the date of the formal execution of the contract.

ARTICLE 3. BID GUARANTY

- a) All Bid Guaranties and Contract Bonds must be satisfactory to the Owner.
- b) The BID GUARANTY AND CONTRACT BOND meeting the requirements of Section 153.54(B) of the Ohio Revised Code, as furnished by the Owner, shall be used without change or wording.
- c) If the amount is left blank, the penal sum of the Bid Guaranty and Contract Bond will be the full amount of the Bidder's base bid plus add alternates; alternatively, if completed, the amount must be not less than the full amount of the base bid plus add alternates, stated in dollars and cents. A percentage is not acceptable.
- d) The Bid Guaranty and Contract Bond must be signed by an Authorized Agent of an acceptable Surety Bonding Company and by the Bidder. The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio. It is essential that the bond be issued by a surety company which

can adequately demonstrate a record of competent underwriting, efficient management, adequate reserves, and soundness of investments.

The requirements of Section 3905.41 of the Ohio Revised Code are mandatory and require the Bid Guaranty and Contract Bond to be countersigned by an Ohio resident agent. It is the duty of the Bidder to determine the applicability of Section 3905.41. Non-compliance with Section 3905.41 will cause the Bidder's bid to be rejected.

- e) Bid Guaranties and Contract Bonds must be supported by credentials showing the Power of Attorney of the Agent.
- f) In lieu of the Bid Guaranty referred to in Article 2(b) above, the Bidder may submit the Bid Guaranty provided in Division (C) of Section 153.54 of the Revised Code, in the form of a Certified Check, Cashier's Check, or Letter of Credit pursuant to Chapter 1305 of the Revised Code. A Bid Bond is not acceptable for use as a Bid Guaranty.
- g) The amount of the Certified Check, Cashier's Check or Letter of Credit shall be equal to ten percent (10%) of the base bid plus add alternates.
- h) The Bid Guaranty shall be payable to the Franklin County Convention Facilities Authority.
- i) Bid Guaranties shall be returned to all unsuccessful bidders immediately after the contract is executed.
- j) The Certified Check, Cashier's Check or Letter of Credit shall be returned to the successful bidder upon filing of the Bond required in Division (C), Section 153.54 of the Ohio Revised Code. The Performance Bond shall not be deemed "filed" until the Contract is fully executed.

ARTICLE 4. STANDARDS – SUBSTITUTIONS

- a) Those articles, devices, materials, forms of construction, fixtures, etc., named in the Technical Specifications to denote the kind and quality required shall be known as "Standards" and all bids shall be based on the same.
- b) Where two or more "Standards" are named together, the successful bidder may furnish any one of the "Standards" named, but contractors shall make their selections known to the Owner within thirty (30) days following award of the contract. Failure to comply with this requirement will automatically hold up payment requests from the contractor in view of possible improper materials being used on the project. The first "Standard" listed shall be considered as the basis of design. If a contractor opts to use a named "Standard" other than the basis of design and this results in any necessary modifications to any other element of the contract documents, the same contractor shall be responsible for all associated additional costs.

- c) Bidders desiring consideration for the use of material, equipment, etc., not named in the specifications may submit proposals for the substitution of same for “Standards” as specified, using the “Substitution Sheet” attached to the proposal form and listing, for each proposed change: (1) the “Standard” specified, (2) the substitution, and (3) the change in bid price, (or “no change”). Proposed substitutions must be included on the “Substitution Sheet” to be considered. Complete specifications and descriptions of any proposed substitutions being considered for acceptance shall be furnished to the Owner promptly upon request. Acceptance of substitutes shall be at the sole discretion of the Owner.
- d) Any substitution accepted must be incorporated in the formal contract.
- e) Substitution shall not affect the determining of lowest and best bid.
- f) No substitution will be considered prior to receipt of bids unless written request for approval has been received by the Owner at least **ten (10) days prior to the date for receipt of bids**. A statement setting forth changes in other materials, equipment, or other portions of the work, including changes in the work of other contractors that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Owner’s decision of approval or disapproval of a proposed substitution shall be final.

If the brand or product is acceptable, the Owner will approve it prior to bidding in an addendum issued by the Owner to all bidders on record.

- g) In proposing a substitution, the Bidder represents and warrants that each proposed substitution will not result in any changes to the project, including changes to the work of other contractors, or any decrease in the performance of any equipment or systems to be installed in the project and agrees to pay any additional costs incurred by the Owner as a result of a substitution which is accepted.
- h) **Following the award of the contract, there shall be no substitutions**, except pursuant to a change order. The Owner in its sole discretion may decline to consider a substitution for a change order.
- i) If the specified materials and/or manufacturers are no longer available, it is the Bidder’s responsibility to notify the Owner during the bidding period. Substitutions made during the construction period resulting from these conditions (i.e., failure of the Bidder to notify Owner) will be made solely at the Owner’s discretion.

ARTICLE 5. EXAMINATION OF DOCUMENTS

- a) Each bidder shall examine all Bid Documents, including, but not limited to, Project Manual, Project Schedule, Notice to Bidders, Form of Proposal, addenda, plans, specifications, etc., for all other divisions of the work as well as its own, noting particularly all requirements which will affect its work in any way. These bid

documents shall become the Contract Documents, as defined in the contract that governs the relationship between the successful bidder and the Owner when the contract is executed. Failure of a bidder to become fully acquainted with the amount and nature of work required to complete its division of the work in conformity with all requirements for the project as a whole will not be considered subsequently as a basis for extra compensation.

- b) Should any requirements in the plans and/or specifications for the project, as a whole, appear to a bidder to be in disagreement with those for the part of the work on which a bidder proposes to bid or in the case of a discrepancy in the plans and specifications, a request for clarification, in writing should be addressed to the Owner at least five (5) calendar days prior to the date set for opening bids. The Owner will reply to all such inquires through an addendum. Verbal interpretations will not be honored and are not legally binding. The Owner will forward a copy of same to all individuals holding plans and specifications. If, in examining the contract documents, the Bidder discovers an apparent violation of the Ohio Basic Building Code, or other applicable statute or regulation, the Bidder shall report such apparent violation to the Owner promptly. However, this provision shall not be construed as imposing responsibility on the Bidder to ensure conformity of the plans and specifications to the Ohio Basic Building Code and other applicable regulations.
- c) No allowance will be made subsequently for any omission, error, or negligence of the Bidder.
- d) Unless specifically assigned to one (1) contract for all aspects of the project, each bidder is responsible to include all requirements for all sections contained in the Project Manual, and project schedule in the base bid amount. (Contract is not limited to only those specifications sections listed in the contract summary of work.)

ARTICLE 6. OPENING OF BIDS

Bids shall be opened and read publicly at the time and place named in the Notice to Bidders. The time for opening bids shall be extended at the discretion of the Owner with no further advertising when an addendum to the plans or specifications is issued within seventy-two (72) hours of the scheduled bid opening, excluding Saturdays, Sundays and Legal Holidays.

ARTICLE 7. ADDENDA

- a) Any explanation, interpretation, correction, or modification of the Project Manual or Bid Documents will be issued in the form of an addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All addenda shall become a part of the Contract Documents.
- b) Bidders shall submit questions to the Owner no later than five (5) days prior to the advertised bid date, to allow sufficient time for the Owner to respond. All addenda will

be issued except as hereafter provided and mailed or otherwise furnished to persons who have obtained Bid Documents for the project, at least seventy-two (72) hours prior to the published time for the opening of bids; excluding Saturdays, Sundays, and legal holidays. If any addendum is issued within such seventy-two (72) hour period, then the time for opening of bids shall be extended one (1) week with no further advertising of bids required.

- c) Copies of each addendum will be sent only to the bidders to whom Bid Documents have been issued. Receipt of addenda shall be indicated by bidders in the space provided on the Form of Proposal.
- d) Each bidder shall carefully read and review the Bid Documents and immediately bring to the attention of the Owner any error, omission, inconsistency, or ambiguity therein.
- e) If a bidder fails to indicate receipt of all addenda through the last addendum issued by the Owner on its Form of Proposal, the bid of such bidder will be deemed to be responsive only if:
 - 1) The bid received clearly indicates that the Bidder received the addendum, such as where the addendum added another item to be bid upon and the Bidder submitted a bid on that item; or
 - 2) The addendum involves only a matter of form or is one which has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

ARTICLE 8. ADDITIONAL SUBMITTAL REQUIREMENTS

- a) Upon receipt of the Notification of Recommendation of Award (NOA), the successful bidder will submit the following to the Owner:
 - 1) One copy of an Executed Contract;
 - 2) Contract Bond;
 - a) Including Certificate of Compliance issued by the Department of Insurance, showing the Bonding Company is Licensed to do business in the State of Ohio.
 - b) Including a Financial Statement of the Bonding Company.
 - 3) Certificate of Insurance;
 - 4) Completed W-9 Form;
 - 5) Workers' Compensation Certificate (Industrial Commission certification of O.R.C. requirements).

If the successful bidder fails to provide the documents within the required time, the Bidder is solely responsible to meet all project schedule requirements regardless of the date of the formal execution of the contract. Failure of the Bidder to provide these

documents within fifteen (15) days of the Notification of Recommendation of Award (NOA) may result in rejection of the bid.

- b) The successful bidder shall notify the Owner, within three (3) calendar days of receipt of the Notification of Award (NOA) of the provisions the Bidder has made or reasonably can be expected to make in order to meet the provisions of the Owner's Disadvantaged Business Participation Plan.
- c) Within fifteen (15) calendar days of receipt of the Notification of Recommendation of Award (NOA) or such longer time as may be permitted in writing by the Owner, the apparent low bidder will submit the following to Owner:
 - 1) The list of all proposed subcontractors, suppliers, manufacturers, and vendors.

After approval by the Owner of the list submitted by the successful bidder, the list shall not be changed unless written approval of the change is authorized by the Owner.
 - 2) Schedule of Values – the breakdown of labor and material for the project, including the sum thereof.
 - 3) A current resume of the person or persons proposed to represent the Bidder as project manager or superintendent.
 - 4) A shop drawing and submittal schedule (includes every submittal requirement in the specifications).
- d) Within fifteen (15) calendar days of receipt of the Notification of Recommendation of Award (NOA), the Bidder is required to submit a schedule to the Owner which shall, at a minimum, show detailed work operations and durations. The intent of this requirement is to allow the Owner an opportunity to more fully understand how the Bidder intends to complete the detail of the project. This detailed working schedule shall identify manpower requirements and be thoroughly coordinated with the Owner and all other trades. The Owner anticipates that work on the project will begin on December 1, 2024, and be completed by December 30, 2024. The selected Bidder will be required to coordinate final installation and construction schedules with the event schedule of the Greater Columbus Convention Center and the Hyatt Regency Hotel so as to minimize construction impact on event operations.

ARTICLE 9. TAXES

Materials purchased for use or consumption in connection with the proposed work will be exempt from the State of Ohio Sales Tax as provided for in Section 5739.02 of the Revised Code of Ohio and also from the State of Ohio Use Tax, Section 5741.01.

ARTICLE 10. LIQUIDATED DAMAGES

Liquidated damages apply to the terms of the contract.

ARTICLE 11. PROJECT SCHEDULE

Each bidder is required to submit a project schedule with their bid which shall at a minimum, show work operations and duration. The Bidder shall prosecute its work, at the direction of the Owner, furnishing at all times sufficient skilled workmen, materials, and equipment to perform its work to meet the line-item progress required by the project schedule, so as not to delay the completion of the whole or any part of the work. The Owner anticipates that work on the project will begin December 2, 2024, and be completed by December 31, 2024.

ARTICLE 12. OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

- a) The Owner reserves the right to waive any and all irregularities provided that the defects and irregularities do not affect the amount of the bid in any material respect or otherwise give the Bidder a competitive advantage.
- b) By submitting a bid, the Bidder agrees that (i) the Owner's determination of whether a defect or irregularity affects the amount of the bid in any material respect or otherwise gives the Bidder a competitive advantage will be final and conclusive, and (ii) the Bidder will pay the Owner's attorneys' and consultants' fees related to any challenge to the bid procedure or process, brought directly or indirectly by the Bidder and/or any of its affiliates, which is unsuccessful.

ARTICLE 13. CONTINUITY OF CONVENTION CENTER OPERATIONS

The successful bidder shall plan and perform all work without creating any interruption or disruption to normal Greater Columbus Convention Center or Hyatt Regency Hotel operations and functions. All necessary interruptions and disruptions must be minimized, planned, scheduled and approved by the Owner. In preparation of the bid, bidders may not assume the use of any activity or operation that will result in the disruption of convention center or hotel activities without the prior approval of the Owner.

ARTICLE 14. PREVAILING OR MINIMUM WAGE RATES

- a) Each laborer, workman or mechanic employed by the Bidder for the work herein specified or by the subcontractor or by other persons performing work shall be paid not less than the prevailing wage rates as determined by the Ohio Department of Commerce Division of Industrial Relations in accordance with Chapter 4115 of the Ohio Revised Code.

- b) In the event the wage rate for any labor classification is changed between the time the rates are published herein and the time the work required by this contract is performed, or in the event any class of labor employed is not included in the published schedule of prevailing wages, then the rate prevailing at the time the work is actually performed, as ascertained and determined by the Ohio Department of Commerce Division of Industrial Relations or the US Department of Labor, shall govern the work under this contract. No increase in the contract sum will be allowed for any later increase in the prevailing rates or wages as they may apply to this work.

ARTICLE 15. PAYROLL SUBMITTAL

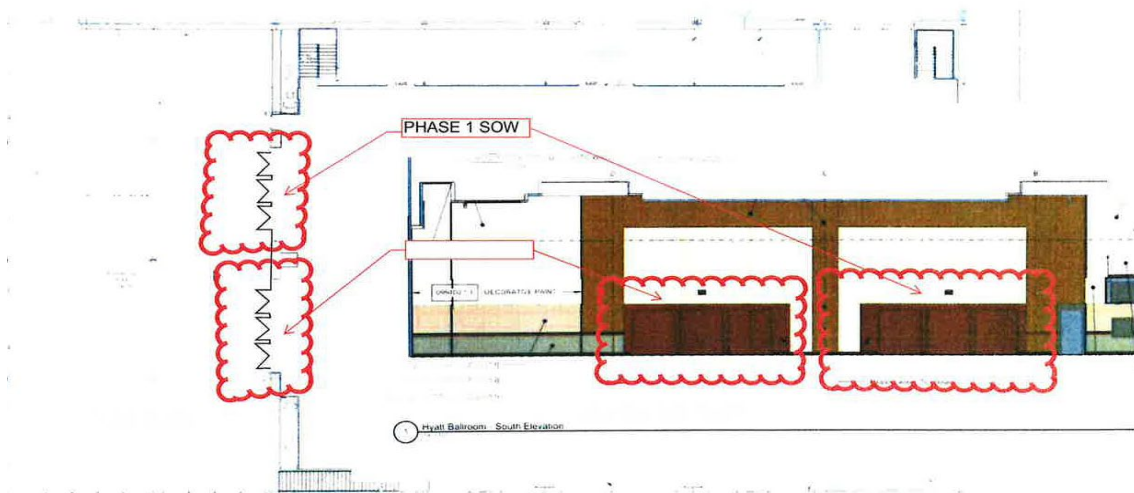
- a) All contractors and subcontractors shall keep full and accurate payroll records covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages, as set forth in the Contract Documents. Such records shall be preserved for a period of three years from the date of completion of the contract.
- b) Every contractor and subcontractor shall deliver to the Owner a certified copy of their payroll, with each month's payment application for the previous month's weekly payrolls which shall show for each employee paid any wages, his name, current address, social security number, numbers of hours worked each day during the pay period and the total for each week, his hourly rate of pay, his job classification, fringe payments, and deductions from his wages. In addition, the contractor, at the beginning of performance under the contract, shall give to the Owner a schedule of the dates during the life of this contract with the Owner on which he is required to pay wages to employees and a complete list of all subcontractors. Upon completion of the contract and prior to final payment, each contractor and subcontractor shall file with the Owner an affidavit stating that he has fully complied with Chapter 4115 of the Ohio Revised Code. The Owner will withhold payment of any monthly/partial and/or final payment until all requirements have been met in accordance with the terms of the contract.

ARTICLE 16. INSURANCE

Insurance requirements are defined in the contract.

TECHNICAL SPECIFICATIONS

- Replace existing door system (wood doors, wood door frames, and hardware) with new door system (wood doors, hollow metal door frames, and hardware).
- The new door system shall be 2-hour fire rated. Wall system will be required to be modified to maintain fire rated system at existing wood door frame and new hollow metal door frame transition from existing system to new system.
- The door system shall include 6 sets of double doors with opening of door sets equaling 6'-0" wide by 8'-0" high. Door thickness shall equal 1 ¾". All wood door veneers are to be standard oak and stain is to match existing adjacent wood wall panels. All new hollow metal door frames shall be painted to match existing finishes.
- Hardware sets for each door leaf shall include concealed vertical rods which connect at head of door frame with push to exit system; continuous hinges at hinge side; closures at head of door frame with hold open closure feature with concealed overhead stop; 36" long straight door pull which are to be through bolted; and thumb turn lockset for each set of doors. All hardware finishes are to be brushed stainless steel except for continuous hinges which are to be brushed aluminum or equivalent. Approved hardware manufacturers include Von Duprin, Sargent, or approved equal.
- No existing fire alarm or fire suppression modifications will be required.
- Project will require 2 construction phases. Phase 1 shall include 3 of the 6 double doors from demolition through completion. Phase 2 shall include the remaining 3 sets of double doors. Phase 2 shall commence immediately upon completion of Phase 1.
- The tentative project schedule for both phases including construction, installation, completion, and turnover is December 2, 2024, through December 31, 2024.



DIVERSITY, EQUITY AND INCLUSION (NON-DISCRIMINATION) POLICY

Through the adoption of this Diversity, Equity and Inclusion Policy (“DEI Policy”) the Franklin County Convention Facilities Authority (“FCCFA”) affirms its commitment to equal opportunity and non-discrimination in all aspects of its operations including, but not limited to, contracting and procurement, employee recruitment and selection, compensation and benefits, professional development and training, promotions, transfers, layoffs, and terminations. Pursuant to this DEI Policy the FCCFA will not participate in either active or passive unlawful discrimination of any type and will strive to maintain an open, diverse, and inclusive workplace for all employees, officers, contractors, and subcontractors.

It is the position of the FCCFA that discrimination of any kind based upon age, sex, race, color, religion, disability, national origin, genetic information, ethnicity, ancestry, sexual orientation, gender identity or expression, family or marital status, military or veteran status, or any other basis prohibited by the laws of the United States, the State of Ohio, or the City of Columbus (“Protected Status”) is prohibited. No person shall be unlawfully denied the benefit of, or otherwise be discriminated against in connection with their employment, the award or performance of any contract, or the modification of any contract or award.

The fundamental tenets of this DEI Policy are as follows:

- All Contractors shall have an equal opportunity to compete with respect to contracting and procurement activities of the FCCFA, regardless of age, sex, race, color, religion, disability, national origin, genetic information, ethnicity, ancestry, sexual orientation, gender identity or expression, family or marital status, military or veteran status, or any other Protected Status;
- No Contractor or FCCFA employee shall have engaged or shall engage in any kind of unlawful discrimination involving age, sex, race, color, religion, disability, national origin, ethnicity, ancestry, genetic information, sexual orientation, gender identity or expression, family or marital status, or any other Protected Status, whether or not such unlawful discrimination is related to the FCCFA or any contract with the FCCFA;
- The FCCFA and any Contractor seeking to do business with the FCCFA shall, whenever possible, craft bid specifications which enable MBE/WBE participation that is consistent with demographics for the City of Columbus;
- The FCCFA through its staff, facility management companies and other contractors will (i) monitor and provide periodic reports to the FCCFA Board of Directors regarding compliance by the FCCFA and its Contractors with this DEI Policy; (ii) collect and record information on the inclusion of minorities and women in their contracting, procurement, and workforce activities; and (iii) analyze data to evaluate the inclusion of minorities and women in the FCCFA’s contracting, procurement, and workforce activities. Specific reporting requirements shall include:

- Semi-annual diversity profile updates from all key service partners and facility management companies;
 - Documentation of contractor compliance with this DEI Policy in any recommendation of award presented to the FCCFA Board of Directors;
 - Monthly board reports describing MWBE participation rates for all ongoing construction projects.
- The FCCFA shall review this DEI Policy periodically to ensure that it effectively promotes and achieves diversity, equity, inclusion, non-discrimination and equal opportunity in connection with the FCCFA's operations, and all contracting and procurement activities; and
 - All Contractors and employees shall comply with this DEI Policy. A Contractor's success or failure to comply with this DEI Policy will be a factor in any award of a contract to such Contractor. An employee's success or failure to comply with this DEI Policy will be a factor considered in connection with any disciplinary measures or continued employment with FCCFA.

The FCCFA through its staff, facility management companies and other contractors shall be responsible for implementing, monitoring and evaluating this DEI Policy.

If the FCCFA determines that the objectives of this DEI Policy are not being achieved, the FCCFA Board of Directors may, in their discretion, direct the Executive Director to conduct further investigations into the reasons for not achieving such objectives.

This DEI Policy applies to all contracting and procurement activities of the FCCFA, including contracting for construction, professional and non-professional services and procurement of goods and supplies.

This DEI Policy shall be referenced in each bid and Request for Proposal or Qualifications document issued by the FCCFA. A Contractor's failure to comply with this DEI Policy may result in (a) debarment from participation in future FCCFA contracting opportunities, (b) liability for breach of contract and (c) the enforcement of any other remedies available under the related contract or applicable law.

FORM OF PROPOSAL

Submitted By: _____

on: _____, 2024

To: Franklin County Convention Facilities Authority
400 North High Street, 4th Floor
Columbus, Ohio 43215-2096

having read the Project Manual, Specifications and examined the Drawings entitled:

Bid Package 2024-1 Regency Ballroom Door Replacement

as prepared by the Franklin County Convention Facilities Authority for the construction of said project and having also received, read and included their provisions in the bid all addenda thereto as follows:

Addendum No: _____ Dated: _____ Addendum No: _____ Dated: _____

Addendum No: _____ Dated: _____ Addendum No: _____ Dated: _____

and having also inspected the site of and the conditions affecting and governing the construction of said project, the undersigned proposes to furnish all materials and perform all labor as specified, described, shown, and required in the Project Manual, Specifications and Drawings for the Work, for the indicated sum:

(NOTE: Fill in all spaces of items being bid and quote the sum in both words and figures.)

ESTIMATE FOR PROJECT
(\$135,000)

Total material, labor and services for the project – **Bid Package 2024-1 Regency Ballroom Door Replacement** - for the lump sum amount of:

Dollars (\$ _____)

FORM OF PROPOSAL (continued)

EXECUTION OF PROPOSAL

NOTE A: TIME OF COMPLETION

- a) It is understood and agreed that the work embodied in this contract shall be completed no later than the completion date stated within the contract, unless an extension of time is granted by the Owner.

- b) Upon failure to have all work completed within the period of time above mentioned, the Contractor shall forfeit and pay, or cause to be paid, to the Owner for and as liquidated damages to be deducted from any payment due or to become due to the said contractor, the sum set forth in the following table for the size of contract, for each and every day thereafter that the said work remains in an unfinished condition.

DOLLAR AMOUNT OF CONTRACT DOLLARS PER DAY

\$0 to \$100,000.00	\$250.00
\$100,000.01 to \$500,000.00	\$500.00
\$500,000.01 to \$1,000,000.00	\$1,000.00
\$1,000,000.01 to \$10,000,000.00	\$2,500.00
\$10,000,000.01 and up	\$5,000.00

NOTE B: Failure to sign this proposal may result in rejection of the Bid.

THIS PROPOSAL SUBMITTED BY: _____

Name of Contractor

BY: _____
Signature of Contractor or Authorized Representative

DATE: _____

Contact Person for contract processing: _____

Mailing Address if different from above: _____

FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY

DEI (Non-Discrimination) Policy Review

_____ hereby has reviewed the FCCFA’s DEI (non-discrimination) policy.
(Name of Contractor)

The contractor agrees to comply with all policy requirements and, directly or indirectly, (1) has not engaged, is not engaged, and will not engage in any kind of unlawful discrimination involving race, color, sex, sexual orientation, gender identity or expression, marital or family status, disability, age, religion, veteran status or national origin, whether or not such discrimination is related to a contract or procurement activity with or for the FCCFA and (2) will not, for any purpose related to its engagement by the FCCFA, employ or contract with persons or businesses which the Contractor knows or has reason to know have engaged, are engaged, or will engage in any kind of unlawful discrimination involving race, color, sex, sexual orientation, gender identity or expression, marital or family status, disability, age, religion, veteran status or national origin, whether or not such unlawful discrimination is related to a contract or procurement activity with or for the FCCFA. The contractor further agrees to incorporate these requirements in all subcontracts on this project regardless of tier.

Date: _____

Signature of Contractor or Authorized Representative

- () Submitted own Affirmative Action Plan.
- () Contractor has been certified as a minority and/or female owned business.
(Submit copy of certification as received from the federal government and/or any Ohio government unit or public authority).

Note: This certification must be filled and signed. Failure to comply may invalidate your bid resulting in rejection.

**DECLARATION OF INSURANCE TO THE
FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY**

THIS IS TO CERTIFY THAT THE FOLLOWING DESCRIBED POLICIES OF INSURANCE HAVE BEEN ISSUED AND ARE IN FULL FORCE AND EFFECT AT THIS TIME:

1. Name Insured (Contractor):
2. Address:
3. Title and Location: Franklin County Convention Facilities Authority -
(Contract Job Site) Greater Columbus Convention Center
4. Project: Regency Ballroom Door Replacement
5. Policy Number(s), Carriers and Expiration Dates:

LIMITS OF LIABILITY
IN \$1,000 AMOUNTS

TYPE OF INSURANCE	Each Occurrence	Aggregate
GENERAL LIABILITY		
Comprehensive Form Premises-Operations	Bodily Injury \$	\$
Explosion and Collapse Hazard Underground Hazard	Property Damage \$	\$
Products/Completed Operations Hazard	Combined \$	\$
Contractual Hazard	Single Limit \$	\$
Broad Form Property Damage		
Independent Contractors Personal Injury	Personal Injury \$	\$
AUTOMOBILE LIABILITY		
Comprehensive Form	Bodily Injury Each Person \$	
Owned	Bodily Injury Each Accident \$	

Hired

Non-Owned Property Damage \$

EXCESS LIABILITY Combined \$
Single Limit

Umbrella Form Combined \$ \$
Single Limit

Following Form Self-Insured \$

List any manuscript or unusual exclusions for forms and attach copies.

Check those of the following operations which are excluded:

_____ Asbestos removal or abatement _____ PCP Removal _____ Demolition

It is agreed that sixty (60) days written notice of cancellation or material change in the described policy(s) will be given to the holder of this certificate, known as the Franklin County Convention Facilities Authority, 400 North High Street, Columbus, OH 43215.

Insurance Agency:

Address:

Telephone:

Contractor's Signature:

Agent's Signature:

Date: _____

Date: _____

ADDITIONAL INSURED WITH RESPECT TO THIS JOB ONLY; AS THEIR INTEREST MAY APPEAR:

1. Franklin County Convention Facilities Authority, its other contractors and own forces, if any, and the subcontractors, sub-subcontractors, consultants, agents, and employees of any of them, in their individual capacities as such;
2. The Franklin County Convention Facilities Authority Board, its members, consultants, agents, and employees of any of them, in their individual capacities as such;
3. The Architect/Engineer its consultants, agents, and employees of any of them, in their individual capacities as such;
4. The Construction Manager, its consultants, agents, and employees of any of them, in their individual capacities as such.
5. ASM Global Columbus LLC, its consultants, agents, and employees of any of them, in their individual capacities as such.

**FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY
MANUFACTURER'S DECLARATION**

Part A

Contractor's Name and Address:

Project Title and Location: Regency Ballroom Door Replacement

Part B (Complete for all suppliers but do not include subcontractors.)

Name: Type/Brand Name of Supplies:
Address: Phone:
Minority/Female Business: **Yes**
 No

Name: Type/Brand Name of Supplies:
Address: Phone:
Minority/Female Business: **Yes**
 No

Name: Type/Brand Name of Supplies:
Address: Phone:
Minority/Female Business: **Yes**
 No

Name: Type/Brand Name of Supplies:
Address: Phone:
Minority/Female Business: **Yes**
 No

(attach additional pages as needed)

**FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY
CONTRACTOR'S REVIEW CERTIFICATE**

The undersigned acknowledges that:

- (1) the contractor's authorized agent has carefully read and understood all of the Bid Documents submitted for the Regency Ballroom Door Replacement, including, but not limited to, the Notice to Bidders, Instructions to Bidders, Form of Proposal, Substitution Sheet, Prevailing Wage Determination, Form of Bid Guaranty and Contract Bond, this Contractor's Review Certificate, Project Manuals, Specifications and Drawings; and
- (2) the Bid Documents are sufficient and adequate for the undersigned to perform the Work; and
- (3) the contractor's authorized agent has carefully reviewed the site and conditions under which the Work will be performed, or has been given ample opportunity to do so, and fully assumes the risk for any condition at the site that could have been discovered by a careful and diligent review of the site; and
- (4) the contractor's authorized agent has confirmed that the contractor's surety is authorized to do business in the State of Ohio.

Dated: _____

CONTRACTOR: _____

By: _____
SIGNATURE

TYPED OR PRINTED NAME

Its: _____

NOTE: The Bidder should review the Bid Documents and the site and conditions under which the Work will be performed so that the Bidder can give the acknowledgments contained in this Certificate.

BID GUARANTY AND CONTRACT BOND

KNOW ALL MEN BY THESE PRESENT, that we, the undersigned

(Name and Address)

as Principal and

(Name of Surety)

as Surety, are hereby held and firmly bound unto the Franklin County Convention Facilities Authority as Oblige in the penal sum of the dollar amount of the bid submitted by the Principal to the Oblige on this _____ day of _____, 2024 to undertake the project known as the Regency Ballroom Door Replacement. The penal sum referred to herein shall be the dollar amount of the Principal's bid to the Oblige, incorporating any additive or deductive alternate proposals made by the Principal on the date referred to above to the Oblige, which are accepted by the Oblige. In no case shall the penal sum exceed the amount of _____ dollars (\$_____).

(If the above line is left blank, the penal sum will be the full amount of the Principal's bid, including add alternates.) Alternatively, if completed, the amount stated must not be less than the full amount of the bid, including add alternates, in dollars and cents. A percentage is not acceptable. For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal has submitted a bid on the above referred to Project;

NOW, THEREFORE, if the Oblige accepts the bid of the Principal and the Principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the Principal pays to the Oblige the difference, not to exceed ten percent of the penalty hereof, between the amount specified in the bid and such larger amount for which the Oblige may in good faith contract with the next lowest bidder to perform the Work covered by the bid; or in the event the Oblige does not award the Contract to the next lowest bidder and resubmits the Project for bidding, the Principal will pay the Oblige the difference, not to exceed ten percent of the penalty hereof, between the amount specified in the bid, or the costs, in connection with the resubmission, or printing new contract documents, required advertising and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the Oblige accepts the bid of the Principal and the Principal, within ten days after the awarding of the Contract, enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said Contract is made a part of this Bond the same as though set forth herein; and

IF THE SAID Principal shall well and faithfully perform each and every condition of such Contract; and indemnify the Oblige against all damage suffered by failure to perform such Contract according to the provisions thereof and in accordance with the plans, details, specifications, and bills of material therefor; and shall pay all lawful claims of subcontractors, materialmen, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said Contract; we agreeing and

assenting that this undertaking shall be for the benefit of any materialman, subcontractor or laborer having a just claim, as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of said Contract or in or to the plans and specifications therefor shall in any way affect the obligations of said Surety on its Bond, and it does hereby waive notice of any such modifications, omissions or additions to the terms of the Contract or to the Work or to the specifications.

SIGNED AND SEALED This _____ day of _____, 2024.

PRINCIPAL:

BY:

TITLE:

SURETY

SURETY COMPANY ADDRESS:

Street

City State Zip

Telephone:

BY:

Attorney-in-Fact

If the requirements of Section 3905.41 of the Ohio Revised Code are applicable or if Surety Agent's Address is other than Ohio, and the Ohio Department of Insurance's Certificate of Compliance is not attached, please complete Ohio Resident Agent Information as follows:

SURETY AGENT'S ADDRESS:

Agency Name:

Agency Name:

Street

Street

City State Zip

City State Zip

Telephone

Telephone

NOTE Failure by any party to sign this Bid Guaranty and Contract Bond shall result in rejection of bid.

INSTRUCTIONS TO BIDDERS RESPONSIBILITY ANALYSIS FORM

FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY DETERMINATION OF LOWEST AND BEST BID

This form must be completed in its entirety and submitted with the Bid Form. Attach additional sheets if necessary to provide complete answers to the questions below. Do not include any misleading statements and make sure to include all facts necessary to make the statements made not misleading. The term “Project” means the project for which the attached bid is submitted. All references to “**Bidder**” should be answered with respect to the **actual legal entity** submitting the bid.

Subject to the right of the Owner to reject any or all bids, the Owner will award the Contract for the Work to the Bidder submitting the lowest and best bid, taking into consideration accepted alternates. In determining which bid is the lowest and best bid, the Owner may take into consideration not only the amount of the bid but such of the following criteria as the Owner, in its sole discretion, deems appropriate, and may give such weight thereto as it deems appropriate:

Bidder Name _____

Bid Package No.: 2024-1 Regency Ballroom Door Replacement

Trade/Service _____

Product (s) Supplied _____

1. Bidder shall provide all information listed below with its bid, unless otherwise noted. Failure to do so may, at the Owner’s discretion, result in rejection of the bid.
2. The Owner reserves the right to reject all bids.
3. Will the Bidder employ supervisory personnel on this Project that have three (3) or more years in the specific trade and/or maintain the appropriate state license?

_____ Yes _____ No

4. On a separate sheet, provide information to demonstrate the following:
 - Bidder’s previous performance to complete its work on projects of similar size and scope.
 - Bidder’s previous ability to complete these same projects on time.
 - Bidder’s previous ability to work with this Owner, Architect, Engineer and/or Construction Manager.
5. Bidder shall not have an EMR (Workers’ Compensation Interstate/Intrastate Experience Modification Rate) greater than 1.5. If Bidder’s EMR is above 1.0, Bidder shall provide a letter from Insurance Broker providing EMR for the most recent five (5) years, reasoning for EMR being above 1.0 and incident rates for that time period.

6. Has the Bidder been in existence at least 36 months?

_____ Yes _____ No

7. Has the Bidder, or any principal, owner, officer, stockholder, affiliate or any person involved in the bidding, contracting or leasing process been cited in the last five (5) years for violations of or failure to comply with any laws including without limitation:

a. Workers' compensation laws _____ Yes _____ No

b. Wage and hour laws _____ Yes _____ No
(including the Davis-Bacon Act and the Ohio
Prevailing Wage Act)

c. Unemployment laws _____ Yes _____ No

d. Tax laws _____ Yes _____ No

e. Fair Labor Standards Act _____ Yes _____ No

f. Immigration laws _____ Yes _____ No

g. Licensing requirements _____ Yes _____ No

h. OSHA _____ Yes _____ No

i. EPA _____ Yes _____ No

j. Any items below: _____ Yes _____ No

1. A judgment or conviction for any business-related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct.

2. A criminal investigation or indictment for any business-related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct.

3. An unsatisfied judgment, injunction or lien for any business-related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state, or local government agency.

4. An investigation for a civil or criminal violation for any business-related conduct by any federal, state or local agency.

5. A grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud,

extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct.

6. An administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease.
7. A sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license.
8. A consent order with the Ohio Environmental Protection Agency, or a federal, state or local government enforcement determination involving a violation of federal, state, or local environmental laws.

If yes, on a separate sheet, provide complete details including the date of each citation or violation; the nature of each violation; and the sanction for each violation. If the Bidder was fined, include the dollar amount.

For purposes of 7.a. above, a violation of the Workers' compensation laws is a determination by the Ohio Bureau of Workers Compensation that the contractor is not in compliance with Ohio Workers' Compensation laws and regulations.

For purposes of 7.b. above, a violation of the Ohio Prevailing Wage Act is a determination by the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Division, or successor that the contractor is not in compliance with the provisions, duties, obligations and is subject to the remedies and penalties of Chapter 4115 of the Ohio Revised Code.

8. Does Bidder have any outstanding liens? If yes, on a separate sheet identify each circumstance and Bidder's response.

_____ Yes _____ No

9. Has Bidder been party to litigation or arbitration proceedings in connection with any work performed, services rendered, or products supplied in the last five years? If yes, on a separate sheet, provide complete details, including dates, parties, whether Bidder was a plaintiff/claimant or defendant/respondent, the nature of the dispute and the ultimate determination or other resolution (i.e. settlement).

_____ Yes _____ No

10. In the last five years, has Bidder had work rejected as defective (other than minor re-work accomplished without formal notice)? If yes, on a separate sheet identify each circumstance and Bidder's response.

_____ Yes _____ No

11. In the last five years, has Bidder's contract or employment been terminated prior to completion of a project for any reason other than convenience of the Owner? If yes, on a separate sheet identify each such circumstance and provide full details.

_____ Yes _____ No

12. Bidder shall secure any required bonds from a surety licensed to do business in the State of Ohio with an A.M. Best Company rating of at least A. Has Bidder met this requirement?

_____ Yes _____ No

13. Has Bidder's construction license ever been revoked in any state?

_____ Yes _____ No

14. In the last five years, has Bidder had its own forces supplemented by an Owner, contractor or construction manager or had a claim made against it for defective, delayed or non-compliant work? If yes, on a separate sheet identify each such circumstance and provide full details.

_____ Yes _____ No

15. Bidder for a skilled contract (i.e. plumbing, electrical, HVAC, or fire safety) shall certify that Bidder will not subcontract greater than 50% of its awarded contract.

16. Does Bidder provide a minimum healthcare medical plan for those employees working on the project? If yes, list the healthcare plan provider below.

_____ Yes _____ No

Healthcare Medical Plan Provider: _____

17. Does Bidder contribute to an employee pension or retirement plan for those employees working on the project? If yes, list the pension or retirement plan provider below.

_____ Yes _____ No

Pension Plan or Retirement Plan Provider: _____

The contractor may be asked to provide ERISA form 5500 for the retirement plan.

18. Has Bidder implemented an OSHA compliant Safety Program?

_____ Yes _____ No

19. Does Bidder maintain a substance abuse policy that meets or exceeds requirements of the Ohio BWC and that its personnel are subject to on this Project?

_____ Yes _____ No

20. Is the bidder a foreign corporation (i.e. not incorporated under the laws of Ohio) or an individual or partnership?

_____ Yes _____ No

21. If yes to Item 20 above, provide proof of a Certificate of Good Standing from the Secretary of State showing the right of the Bidder to do business in the State and/or proof of filing with the Secretary of State a Power of Attorney designating the Secretary of State as Bidder's agent.

22. Bidder shall certify that the Bidder's subcontractors / vendors shall meet all requirements contained herein.

23. The Owner reserves the right to request the following information within 48 hours of the bid date:

- a. On a separate sheet, list all projects similar to the one contemplated herein greater than \$100,000 completed by Bidder in the preceding five years and for each, provide Bidder's original contract amount, final contract amount and a reference name and phone number.
- b. For the three largest projects listed from Item 3 above list your average manpower and peak manpower along with the original duration of the project and final duration of the project.
- c. On a separate sheet, provide Bidder's current work load under contract. List each current project and its respective contract amount and scheduled duration.
- d. On a separate sheet, provide information on Bidder's equipment and facilities.
- e. Bidder shall provide sufficient financial information to demonstrate fiscal capability to perform the project. All financial information identified by the Bidder as a trade secret and contained herein shall be treated as a trade secret and exempt from Ohio's Public Records laws, but the Owner's sole duty shall be to notify Bidder of any requests for that information so that Bidder is afforded the opportunity, at Bidder's expense, to contest in court the disclosure of any such information. The Owner may, but shall not be obligated to, contest any request for the disclosure of such information.
- f. On a separate sheet, identify, in numbers and experience, the Bidder's work force. Differentiate between hourly and salaried staff. Describe Bidder's workforce, focusing on worker experience and continuity.
- g. Bidder for a skilled trade contract or fire safety contract shall certify and upon request, provide evidence that Bidder is a state licensed heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor or licensed by the State Fire Marshall and uses skilled, trained personnel.
- h. Identify the number of man hours and associated wages for each trade classification included in the Contractor's and Subtiers' Base Bid. Separately list the subtier's information. Provide additional sheet if more room is needed. DO NOT include payroll taxes, assessments or fringe benefits of any kind in the Wage amounts.

Trade	Man Hours	Wages (No fringes or OH&P)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The Undersigned certifies under oath that the information provided herein and on all supplemental pages of explanation is true, complete and correct.

Company

By _____

Title _____
(Signature must be notarized)

Sworn to and subscribed in my presence this _____ day of _____,

By _____, the _____ of
_____, a _____ on
behalf of the _____.

Notary Public

My Commission Expires: _____

Franklin County Convention Facilities Authority
Bid Evaluation Process:

In determining the lowest and best bid for construction contracts, the Franklin County Convention Facilities Authority will take the following steps and consider the following items in making this determination. The Authority reserves its discretion to evaluate the price and quality of bids to ensure that the lowest and best bid is selected. The Authority reserves its discretion to modify this process at any time and for any reason without notice.

1. Select which alternates will be accepted.
2. Identify the apparent low bidder based on the accepted alternates.
 - 2.1 Is the apparent low bid responsive? Are all required bid submissions included?
 - 2.2 Has the bidder qualified their bid in a way that would disqualify the bid?
3. Meet with the bidder to determine that all project scope is clearly understood and included. Discuss project schedule, safety and all project requirements. Identify key project staff. Identify subcontractors. Identify long lead time equipment. Discuss submission, review and approval process. Identify and discuss other items pertinent to the job.
4. Is the bidder well qualified?
 - 4.1 Background Check:
 - Check Dun and Bradstreet.
 - Run Lexus/Nexus check.
 - Check for prevailing wage and workers compensation compliance.
 - 4.2 Is the bidder qualified for a job of this scope? (Questions 4, 6, 15, 23.a, b,c,d,e)
 - 4.3 Has the bidder demonstrated that they will provide qualified, well trained staff? (Questions 3, 23.f, g)
 - 4.4 Does the bidder provide a minimum healthcare medical plan for those employees working on the project? (Question 16)
 - Does the bidder contribute to an employee pension or retirement plan for those employees working on the project? (Question 17)
 - 4.5 Does the bidder have a history of providing quality construction services? (Questions 6, 9, 10, 11, 13, 14)
 - 4.6 Does the bidder maintain a safe workplace? (Questions 5, 18, 19)
 - 4.7 Does the bidder follow all applicable laws? (Question 7)
 - 4.8 Is the bidder financially stable? (Questions 7.j.3, 8, 12, 23.e)
5. If it is determined that the apparent low bid is responsive, valid and the bidder is well qualified:

- 5.1 Assemble all necessary documentation and paperwork required in the bid documents.
- 5.2 Submit a resolution for board approval to enter into the contract.
- 5.3 Issue a notice to proceed.
- 5.4 Sign a contract with the successful bidder.

DRAFT AIA® Document A105™ - 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the « 1 » day of « 1 » in the year « 2024 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

«Franklin County Convention Facilities Authority-»« »
«400 North High Street »
«Columbus, Ohio 43215 »
«kpaul@fccfa.org»

and the Contractor:
(Name, legal status, address and other information)

«
»

for the following Project:
(Name, location and detailed description)

«Regency Ballroom Door Replacement »
« »
« »

The Architect:
(Name, legal status, address and other information)

«N/A»
»« »
« »
« »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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



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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared-provided by the Owner/Architect, dated « » , and enumerated as follows:

Drawings: Number	Title	Date

--	--	--

Formatted Table

Specifications:

Section	Title	Pages
« »		

.3 addenda prepared by the Architect provided by the Owner as follows:

Number	Date	Pages
« »		

.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.5 other documents, if any, identified as follows:

«The Request for Bids issued by the Owner on DATE»

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ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement. (Insert the date of commencement if other than the date of this Agreement.)

«»«The Contractor shall not commence any Work until after receipt of the Notice to Proceed.»

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work: (Check the appropriate box and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement.

[] By the following date: « December 31, 2024.»

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

«» (\$ «»)

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§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work: (Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
---------------------	-------

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 3.4 Allowances, if any, not included in the Contract Sum are as follows:

(Identify each allowance.)

Item	Price
«--»	

§ 3.5 Unit prices, if any, are as follows:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
« »		

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment ~~certified by the Architect~~, the Owner shall pay the Contractor, in accordance with Article 12, as follows:
(Insert below timing for payments and provisions for withholding retainage, if any.)

«Provided that an Application for Payment is received by the ~~Owner~~ ~~Architect~~ not later than the »«1st »day of a month, the Owner shall make payment of the approved amount to the Contractor not later than the «15th» day of the «following» month. If an Application for Payment is received by the Owner after the date fixed above, payment shall be made by the Owner not later than «forty-five (45)» days after the Owner receives the Application for Payment.

Retainage shall be withheld from each payment in the amount of 8% of the Application for Payment until the Work is 50% complete, after which no further retainage will be withheld.

§ 4.2 Payments due and unpaid (except disputed payments) under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.
(Insert rate of interest agreed upon, if any.)

«4.» % «per annum»

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than « » (\$ «1,000,000.») each occurrence, « » (\$ «2,000,000.») general aggregate, and « » (\$ «1,000,000.») aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than « » (\$ «1,000,000.») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than «~~1~~» (\$ «~~1,000,000~~») each accident, «~~1~~» (\$ «~~1,000,000~~») each employee, and «~~1~~» (\$ «~~1,000,000~~») policy limit.

~~§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.~~

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
« 1 »	

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor ~~is~~ may be entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against ~~(1) each other and any of their subcontractors, suppliers, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees,~~ for damages caused by fire or other causes of loss to the extent ~~payment is received for such damage or loss from those losses are covered by~~ property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

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 complementary, and what is required by one shall be as binding as if required by all. ~~If inconsistencies exist within or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, or ordinances, the Contractor shall, in accordance with the Architect's Owner's interpretation, either (i) provide the better quality or greater quantity of Work, or (ii) comply with the more stringent requirement.~~

§ 6.4 Ownership and Use of Architect's Owner's Drawings, Specifications and Other Documents

Documents ~~prepared by the Architect provided or prepared by the Owner~~ are instruments of the Architect's service for use solely with respect to this Project. The ~~Architect who previously prepared such documents shall~~ retains all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the ~~Architect~~ Owner.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.
(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

«Notices shall be sent to the email addresses provided for each party in this Agreement. »

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested in writing by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 ~~The Owner shall prepare and provide to the Contractor a Notice of Commencement pursuant to Ohio Revised Code Section 1311.252. Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.~~

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made. If the Owner's exercise of its rights pursuant to this Section 7.2 is determined by a court or arbitrator to have been unjustified, such exercise shall be deemed to have been a suspension of the Work pursuant to Section 16.4.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a 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, without prejudice to other remedies, correct such deficiencies. In such case, the ~~Architect-Owner~~ may withhold or nullify payment approval a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, as well as charges of engineers, attorneys, and other professionals, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

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

§ 7.4.1 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.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Before executing the Agreement, the Contractor and each Subcontractor and Sub-subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout, and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, (iv) availability and cost of materials, tools, and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the

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User Notes:

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Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the ~~Architect~~Owner.

§ 8.2 Contractor's Construction Schedule

§ 8.2.1 The Contractor, promptly after being awarded the ~~Contract, shall prepare and submit Contract and throughout the Work, shall prepare, keep current, and submit each time it is updated~~ for the Owner's ~~and Architect's~~ information a Contractor's construction schedule for the Work.

§ 8.2.2 The Contractor shall coordinate its Work with the work of other contractors and consultants working on the Project. ~~Contractor, Architect and other contractors shall keep schedules up to date and promptly notify each other and Owner in writing if such schedules are impacted. Contractor shall use its best efforts to accommodate the schedules of other contractors and consultants.~~

~~§ 8.2.3 In developing the construction schedule for the Work Contractor shall take into consideration the schedule of events and daily operations of the Greater Columbus Convention Center and Hyatt Regency Hotel. Contractor shall schedule work at the site so as to minimize the impact of the Work on the daily operations of the Greater Columbus Convention Center and Hyatt Regency Hotel.~~

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the ~~Work~~Work, consistent with the standard of care exercised by other professional contractors in the Contractor's trade in the region where the Project is located, and 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.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, ~~through the Architect,~~ the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner ~~or Architect has~~ve made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

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

§ 8.4.3 ~~Except in the case of minor changes in the Work authorized by the Owner or Architect, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.~~

§ 8.4.4 This Project is a public improvement and, therefore, is subject to "prevailing wage" requirements. The Contractor shall pay the required prevailing wages applicable to the Project and shall comply with all restrictions, requirements, and agreements with respect to the laborers and mechanics employed by it for the performance of the Work. The Contractor shall require all of its Subcontractors to (1) pay prevailing wages, (2) comply with all restrictions, requirements, and agreements with respect to their laborers and mechanics employed for the performance of their work, and (3) include in any sub-subcontract the same requirements set forth in this Section 8.4.4.

§ 8.4.5 DISCRIMINATION AND INTIMIDATION

§ 8.4.5.1 In the hiring of employees for the performance of the Work, including without limitation Work to be performed by a Subcontractor, ~~the~~ Contractor or Subcontractor, and ~~any~~ person acting on behalf of ~~the~~ Contractor or Subcontractor, shall not discriminate against or intimidate any person by reason of race, color, creed, religion, national origin, ancestry, sex, disability, sexual orientation, military status, or any other basis prohibited by law.

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[§ 8.4.5.2](#) Neither the Contractor nor any of its Subcontractors, nor any person acting on behalf of the Contractor or any of its Subcontractors, shall, in any manner, discriminate against or intimidate any employee hired for the performance of the Work on account of race, color, creed, religion, national origin, ancestry, sex, disability, sexual orientation, military status, or any other basis prohibited by law.

[§ 8.4.5.3](#) The Contractor and its Subcontractors shall, throughout the Project, comply with Ohio Revised Code Sections 153.59 and 153.591, and with the Owner's Non-Discrimination Policy. For any violation of this Section 8.4.5 or Ohio law, the Contractor shall suffer such penalties as provided for in Ohio Revised Code Section 153.60 and the Owner's Non-Discrimination Policy. In addition to any remedies the Owner has under Ohio law for a violation of this Section 8.4.5, the Owner may also exercise any of the remedies set forth in the Contract Documents.

[§ 8.4.5.4](#) The Contractor and its Subcontractors shall fully cooperate with any official or agency of the Owner, the city, state, or federal government seeking to eliminate unlawful employment discrimination, and with all other Owner, city, state, and federal efforts to assure equal employment practices under this Contract.

[§ 8.4.5.5](#) The Contractor shall comply with the State of Ohio's Equal Employment Opportunity in the Construction Industry rules set forth in Ohio Administrative Code Chapters 123:2-3 through 123:2-9. The Contractor also shall provide monthly reporting of its workforce by the tenth Day of each month for the preceding month to the Equal Opportunity Division of the Department of Administrative Services, using Input Form 29 (available at <http://das.ohio.gov/Divisions/EqualOpportunity/InputForm29.aspx>).

[§ 8.4.6 MINORITY, FEMALE, AND DISADVANTAGED BUSINESS PARTICIPATION](#)

[§ 8.4.6.1](#) The Owner ~~to~~ intends to have minority, female, and disadvantaged businesses used throughout the Project. To this end, the Contractor is encouraged to include participation in the Project by certified minority, female, and disadvantaged business enterprise Subcontractors that have received appropriate certification from the federal or Ohio government.

§ 8.5 Warranty

The Contractor warrants to the Owner ~~and Architect~~ that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

[§ 8.6.1](#) The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

[§ 8.6.2](#) Materials purchased for use or consumption in connection with the Work may be exempt from the State of Ohio Sales Tax as provided in Ohio Revised Code Section 5739.02, and from the State of Ohio Use Tax as provided in Ohio Revised Code Section 5741.01. Purchases by the Contractor of expendable items such as form lumber, tools, oils, greases, fuel, and equipment rentals are subject to the application of the Ohio Sales or Use Tax.

§ 8.7 Permits, Fees and Notices

[§ 8.7.1](#) The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

[§ 8.7.2](#) The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the ~~Architect and Owner~~ in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the ~~Architect-Owner~~ shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data,

samples, and similar submittals are not Contract Documents, but the Work shall be in accordance with approved submittals.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner. The Contractor shall use best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work and (ii) the building on which the Work is being performed. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, entrances, and parking areas other than those designated by the Owner.

§ 8.10 Cutting and Patching

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

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

§ 8.12.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, officers, trustee, and agents and employees of any of them Owner, 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, negligent, intentional, or other wrongful 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.

§ 8.12.2 If the Project is located in close proximity of other buildings and property, then the Contractor must use all care and diligence to avoid damage to any such buildings and property. As a result and consistent with that obligation, in addition to the indemnification required by Section 8.12.1, the Contractor shall indemnify and hold harmless the Owner and the Owner's agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work that impacts, injures or destroys any building or property beyond the Project's physical limits.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect-Owner will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect-Owner will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect-Owner will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Owner-Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Owner-Architect's observations and evaluations of the Contractor's Applications for Payment, the Owner-Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has and Owner has each have authority to reject Work that does not conform to the Contract Documents. If the Owner-Architect does not reject non-conforming Work that it has discovered, the Owner-Architect may demand in writing that the Contractor bring the non-conforming Work into compliance with the Contract Documents.

~~§ 9.6~~ The ~~Owner~~~~Architect~~ will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the ~~limited~~ purpose of checking for conformance with ~~information given and the design concept expressed in~~ the Contract Documents. ~~Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The OwnerArchitect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the OwnerArchitect, of any construction means, methods, techniques, sequences or procedures.~~

~~§ 9.7~~ On written request from ~~the~~~~either the Owner or~~ Contractor, the ~~OwnerArchitect~~ will promptly interpret and ~~decide~~ matters concerning performance under, and requirements of, the Contract Documents. ~~The OwnerArchitect's response to such requests shall be made in writing and delivered to both the Owner and the Contractor within any time limits agreed upon or otherwise with reasonable promptness.~~

~~§ 9.8~~ Such ~~Interpretations interpretations and decisions~~ of the ~~Architect-Owner will shall~~ be consistent with the requirements indicated ~~in intent of, and or~~ reasonably inferable from, the Contract Documents, and will be in writing or in the form of drawings. ~~When making such interpretations and 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 rendered in good faith.~~

~~§ 9.9~~ The ~~Architect's~~ duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

~~§ 10.1~~ The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum ~~and Contract Time or Contract Time, or both,~~ shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit. ~~The Contractor shall not be entitled to an increase in the Contract Sum or to an extension of the Contract Time, or both, on account of any change in the Work that is not the subject of a Change Order prior to the commencement of such Work.~~

~~§ 10.2~~ ~~Subject to the approval of the Owner, t~~~~The Architect-The Owner~~ may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

~~§ 10.3~~ If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time ~~shall be subject to equitable adjustment may be equitably adjusted.~~

ARTICLE 11 TIME

~~§ 11.1~~ Time limits stated in the Contract Documents are of the essence of the Contract.

~~§ 11.2~~ If the Contractor is delayed at any time in progress of the Work 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, the Contract Time shall be subject to equitable adjustment. ~~The Contractor, however, will not be entitled to an extension of the Contract Time to the extent that such delay occurs concurrently with a delay of delays attributable to the Contractor.~~

~~§ 11.3~~ Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

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

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the ~~Architect-Owner~~ an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner ~~or Architect~~ may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. 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 stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 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 other encumbrances adverse to the Owner's interests.

§ 12.2.3 As a condition precedent to the Contractor's entitlement to payment on account of an Application for Payment, the Contractor shall submit with each Application for Payment:

- .1 a partial conditional lien waiver from the Contractor for the total payment requested in the Application for Payment;
- .2 a partial conditional lien waiver from all Subcontractors and Sub-subcontractors on whose account the Contractor is seeking payment in the Application for Payment for the total amount of such payment requested;
- .3 a partial unconditional lien waiver from the Contractor for the sum of all previously paid progress payments (not applicable to the Contractor's first Application for Payment) and not applicable to retainage;
- .4 unless previously provided, a partial or final unconditional lien waiver from each Subcontractor and Sub-subcontractor on whose account the Contractor previously sought and received payment for the sum of all such previously paid payments;
- .5 a notarized statement from the Contractor certifying that: (1) the Application for Payment is correct; (2) the Contractor is entitled to payment of the amounts requested; and (3) all due and payable bills with respect to the Work have been paid in full or will be paid in full from the proceeds of the Application for Payment;
- .6 an application for payment on AIA Document G702/G703 to the Contractor from every Subcontractor on whose account the Contractor is seeking payment in the Application for Payment;
- .7 any other information required by the Contract Documents to be submitted with an Application for Payment; and
- .8 such other information substantiating the Contractor's right to payment as the Owner ~~or Architect or Owner's lender~~ may reasonably require.

§ 12.3 Certificates for Payment

The ~~Owner Architect~~ will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue ~~to the Owner~~ a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue ~~to the Owner~~ a Certificate for Payment for such amount as the ~~Architect-Owner~~ determines is properly due, and notify the Contractor ~~and Owner~~ in writing of the ~~Owner Architect~~'s reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor ~~and Owner~~ of the ~~Owner Architect~~'s reason for withholding certification in whole. If certification or notification is not made within such seven day period, 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 and the Contract Sum shall be equitably adjusted due to the delay.

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§ 12.4 Progress Payments

§ 12.4.1 After the ~~Owner~~~~Architect~~ has issued a Certificate for Payment, but subject to the Owner's decision to approve payment in whole or in part, or if the Owner approves payment in the absence of a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents and within the time provided in the Contract Documents, and shall so notify the Architect. The Owner may decline to approve payment in whole or in part to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is or may be responsible, including loss resulting from acts and omissions of the Contractor's employees or Subcontractors or their respective agents, because of, among other things:

- .1 defective Work not remedied;
- .2 liens or 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 a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 representations made by the Contractor that are not true.

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§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 ~~Neither the Owner nor the Architect~~ shall have no responsibility for payments to a subcontractor or supplier.

§ 12.4.4 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 requirements of the Contract Documents.

§ 12.4.5 Notwithstanding any other provision of the Contract Documents to the contrary, if any claim or lien for which the Contractor is responsible is filed or asserted or there is any reason to believe that such a claim or lien may be filed or asserted at any time during the performance of the Work or the duration of the Contract, the Owner may withhold from any payment otherwise due to the Contractor a sum sufficient, in the Owner's reasonable opinion or as required by law, to pay all obligations and expenses necessary to satisfy such claim or lien until the Contractor furnishes such evidence satisfactory to the Owner that the indebtedness and the claim or lien in respect thereof, if any, has been satisfied, discharged, and released of record if and as provided by law pending the resolution of any such dispute between the Contractor and the entity asserting the claim or lien. The Owner may withhold final payment from the Contractor until the Work and the site are free and clear of any and all claims, liens, or rights thereto arising out of Work performed or materials furnished in furtherance of the Work. In the event that the unpaid balance of the Contract Sum is insufficient to cover such losses, costs, damages, and fees, or if the lien claim arises from Contractor's failure to properly pass through any payment received from the Owner, the Contractor shall immediately pay the difference to the Owner. The Contractor shall have no responsibility under this Section for any lien or claim caused by Owner's failure to make payment to Contractor when due.

§ 12.5 Substantial Completion

§ 12.5.1 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 and when all government inspections have been successfully completed and all required permits and authorizations have been issued (unless inability to obtain any such permits is due to design errors by the Architect or other causes not the fault of the Contractor) so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the ~~Owner~~~~Architect~~ and the ~~Owner~~~~Architect~~ will make an inspection to determine whether the Work is substantially complete. When the ~~Owner~~~~Architect~~ determines that the Work is substantially complete, the ~~Architect~~~~Owner~~ shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and 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.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the ~~Architect and Owner~~ will inspect the Work. When the ~~Architect and Owner~~ finds the Work acceptable and the Contract fully performed, the ~~Owner~~~~Architect~~ will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the ~~Architect and Owner~~ releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or 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.

§ 12.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the date of final completion of the Work is the date determined by the Owner when all Work is complete, accessible, operable, and usable by the Owner and all parts and systems are 100% complete and cleaned for the Owner's full use and all drawings, certificates, bonds, guarantees, and documents required by the Contract Documents have been provided to the Owner by the Contractor.

§ 12.6.5 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the ~~Architect and Owner~~ (1) an affidavit in form and substance reasonably acceptable to the Owner 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 and that all Work is complete in accordance with the requirements of the Contract Documents, (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) a final lien waiver from the Contractor and each Subcontractor, (6) all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, record documents, as-built copies of the Contract Documents, and other documents required by the Contract Documents; and (7) all of the documents and information required under Article 12 to be included with Applications for Payment. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor shall 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 immediately 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.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the ~~Architect or Owner~~ as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents. The Contractor will work together with the Architect and the Owner to see that the corrective Work is completed.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the ~~Architect or~~ Owner requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner ~~and Architect~~, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination profit.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 ~~repeatedly~~ refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 ~~repeatedly~~ disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of otherwise fails to perform any of its duties or obligations under a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner ~~, after consultation with the Architect,~~ 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

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

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§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work ~~executed, executed.~~ However, if the Owner terminates the Contract pursuant to this Section 16.3, but the Contractor is in default, the Contractor will be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in Section 16.2.

§ 16.4 SUSPENSION BY THE OWNER FOR CONVENIENCE

~~and costs incurred.~~ § 16.4.1 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. The Contract Sum or Contract Time, or both, may be adjusted for increases in the cost and time caused by suspension, delay, or interruption, but no such adjustment will be made to the extent

~~by reason:~~ 1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible, in which case the Contractor will only be entitled to an extension of the Contract Time but not the Contract Sum; or
of such termination, along with reasonable overhead and profit on the Work not executed. 2 that an equitable adjustment is made or denied under another provision of the Contract.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

§ 17.1 CLAIMS

§ 17.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, 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. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 17.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice ~~to the Architect with a copy to the other party.~~ Claims by either party must be initiated within 10 days after occurrence of the event giving rise to such Claim or within 10 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. The Contractor's failure to initiate and substantiate a Claim shall constitute an irrevocable waiver of the Claim.

§ 17.1.2.1 Unless otherwise agreed in writing by the Owner, within 45 days after the initiation of a Claim, the Contractor shall submit in writing to the Owner ~~and Architect~~ all information that the Contractor believes substantiates the Claim and all information and statements required to substantiate a Claim as provided in this Section 17.1. The failure to comply with the requirements of this Section 17.1.2.1 shall constitute an irrevocable waiver of any related Claim.

§ 17.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 17.1.4 CLAIMS FOR ADDITIONAL COST

§ 17.1.4.1 Except in the event of a Claim relating to an emergency endangering life or property, the Contractor shall obtain the Owner's specific written authorization prior to proceeding with any change in the Work that may entitle the Contractor to an increase in the Contract Sum. The Contractor's failure to obtain such prior written authorization shall constitute an irrevocable waiver of any related Claim. If the Contractor wishes to make a Claim for an increase in the Contract Sum for any reason other than a change in the Work ordered by the Owner, written notice as provided in this Article shall be given before proceeding to execute the affected Work.

§ 17.1.4.2 The Contractor shall substantiate each Claim for an increase in the Contract Sum with (1) written documentation of the actual additional direct costs to the Contractor due to the event giving rise to the Claim; and (2) a written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the Claim.

§ 17.1.5 CLAIMS FOR ADDITIONAL TIME

§ 17.1.5.1 Except in the event of a Claim relating to an emergency endangering life or property, the Contractor shall obtain the Owner's specific written authorization prior to proceeding with any change in the Work that may entitle the Contractor to an increase in the Contract Time. The Contractor's failure to obtain such prior written authorization shall constitute an irrevocable waiver of any related Claim. If the Contractor wishes to make a Claim for an increase in the Contract Time for any reason other than a change in the Work ordered by the Owner, written notice as provided in this Article shall be given before proceeding to execute the affected Work.

§ 17.1.5.2 The Contractor shall substantiate each Claim for an extension of the Contract Time with (1) a written description of the effect of the delay on the progress of the Work; (2) a detailed schedule which identifies the critical portions of the Work impacted by the delaying event and the dates of such impact; (3) a detailed written proposal for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with Section 17.1.4.2; and (4) a written statement from the Contractor that the extension requested is the entire extension of the Contract Time associated with the Claim.

1 In the case of a continuing delay occurring on consecutive days, only one Claim is necessary. However, within ten days after the cessation of the cause of the continuing delay, the Contractor shall notify the Owner and Architect in writing that the cause of the delay has ceased. The failure to give timely notice of the cessation of the cause of the continuing delay will constitute an irrevocable waiver of any Claim based on the continuing delay.

§ 17.1.5.3 In addition to the requirements of Section 17.1.5.1, 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 a critical element of the scheduled construction. Notwithstanding any other provision of the Contract Documents to the contrary, the Contract Time will not be adjusted on account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on non-critical elements of the Work. The support for and evaluation of all adverse-weather Claims shall be based upon average weather conditions during the 10 years immediately preceding the dates at issue in the Claim as such weather conditions were recorded at the government-controlled weather-recording facility nearest to the site.

§ 17.1.5.4 Notwithstanding any other provision of the Contract Documents to the contrary, an extension of the Contract Time will be the Contractor's exclusive remedy in the event of any delay not the proximate result of the act or failure to act of the Owner or anyone for whom the Owner is directly responsible. The Contractor specifically waives any right it may otherwise have to an increase in the Contract Sum or to any type of damages because of such delay or disruption to all or any part of the Work, whether such delay was foreseen or unforeseen and whether caused by the active interference of any party for whom the Owner is not directly responsible.

~~1 Notwithstanding the provisions of Section 17.1.5.3 to the contrary, the Contractor will not be entitled to an extension of the Contract Time to the extent that such delay occurs concurrently with a delay attributable to the Contractor.~~

§ 17.1.5.5 Notwithstanding any other provision of the Contract Documents to the contrary, in no event shall the Contractor be entitled to an increase in the Contract Time on account of any delaying impact on a non-critical element of the Work.

§ 17.1.67 MEDIATION

§ 17.1.67.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 12.6., 17.1.2, 17.1.4, and 17.1.5 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 17.1.67.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

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The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 17.1.7, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 17.1.67.3 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.

§ 17.1.78 LITIGATION

§ 17.1.78.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for elsewhere in the Contract Documents, shall, after ~~decision by the Architect or~~ 75 days following ~~after~~ initiation of the Claim, be subject to litigation. The filing of a lawsuit under this Section does not relieve the parties of their obligation to mediate their disputes pursuant to Section 17.1.67.

§ 17.1.78.2 All litigation arising or allegedly arising out of or resulting from the Project shall be held and brought only in the state or federal court where the Project is located. The parties consent to the exclusive jurisdiction of and venue in that court.

« »

This Agreement entered into as of the day and year first written above.
(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

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« »

OWNER (Signature)

« »« »

(Printed name and title)

OWNER (Signature)

(Printed name and title)

« »

CONTRACTOR (Signature)

« »« »

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

LICENSE NO.:

JURISDICTION: