

## Contract Summary Sheet

**Contract (PO) Number:** 16858

**Specification Number:** 63386

**Name of Contractor:** INSTITUTE OF PUERTO RICAN

**City Department:** PLANNING & DEVELOPMENT

**Title of Contract:** Rehab: 3015 W. Division

**Term of Contract: Start Date:** 6/7/2007

**End Date:** 12/31/2025

**Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):**

\$1,000,000.00

**Brief Description of Work:** Rehab: 3015 W. Division

**Procurement Services Contract Area:** COMPTROLLER-OTHER

**Vendor Number:** 1071259

**Submission Date:** 1/30/08

aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of [Lender], a \_\_\_\_\_, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the authority given to him/her by Lender, as his/her free and voluntary act and as the free and voluntary act of the Lender, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

[Seal]

[(Sub)Exhibit "A" referred to in this Form of Subordination Agreement unavailable at time of printing.]

\_\_\_\_\_

DESIGNATION OF INSTITUTE OF PUERTO RICAN ARTS AND CULTURE AS PROJECT DEVELOPER AND AUTHORIZATION FOR EXECUTION OF REDEVELOPMENT AGREEMENT FOR REHABILITATION OF PROPERTY WITHIN DIVISION/HOMAN REDEVELOPMENT PROJECT AREA.

The Committee on Finance submitted the following report:

CHICAGO, January 11, 2007.

*To the President and Members of the City Council:*



Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a redevelopment agreement with the institute of Puerto Rican Arts and Culture, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Respectfully submitted,

(Signed) EDWARD M. BURKE,  
*Chairman.*

On motion of Alderman Burke, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Aldermen Flores, Harthcock, Tillman, Preckwinkle, Hairston, Lyle, Beavers, Harris, Beale, Pope, Balcer, Cárdenas, Burke, T. Thomas, Coleman, L. Thomas, Lane, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Matlak, Mell, Austin, Colón, Banks, Mitts, Laurino, O'Connor, Natarus, Daley, Tunney, Levar, Shiller, Schulter, Moore, Stone -- 45.

*Nays* -- None.

Alderman Natarus moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council (the "City Council") of the City of Chicago (the "City") on June 27, 2001, and published at pages 61711 through 61832 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Division/Homan Redevelopment Plan") for the Division/Homan Tax Increment Redevelopment Project Area (the "Division/Homan Redevelopment Project Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001, and published at pages 61833 through 61841 of the *Journal* of such date, the Division/Homan Redevelopment Project Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001, and published at pages 61842 through 61850 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain redevelopment project costs (as defined in the Act) ("Division/Homan Redevelopment Project Costs") incurred pursuant to the Division/Homan Redevelopment Plan; and

WHEREAS, The Institute of Puerto Rican Arts and Culture, an Illinois not-for-profit corporation (the "Developer"), leases certain property located within the Division/Homan Redevelopment Project Area at Chicago, Illinois 60622 (the "Property") and proposes to rehabilitate an approximately twenty-five thousand (25,000) square foot stables and receptory building, for its exhibition space, theater and performance space, classrooms for studio arts and workshops, a cafe, a museum store, and a central courtyard for public and private events (the "Project"); and

WHEREAS, The Developer proposes to undertake the Project in accordance with the Division/Homan Redevelopment Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not limited to the completion of the Project, to be financed in part by Incremental Taxes, if any; and

WHEREAS, Pursuant to Resolution 06-CDC-95, adopted by the Community Development Commission of the City of Chicago (the "Commission") on October 10, 2006, the Commission authorized the City's Department of Planning and Development ("D.P.D.") to negotiate a redevelopment agreement with the Developer for the Project; now, therefore,

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Developer is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 3. The Commissioner of D.P.D. (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Developer and the City in substantially the form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as be necessary, to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 4. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 5. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall be in full force and effect immediately upon its passage.

Exhibit "A" referred to in this ordinance reads as follows:

*Exhibit "A".*  
(To Ordinance)

*I.P.R.A.C. Redevelopment Agreement*

*By And Between*

*The City Of Chicago*

*And*

*Institute Of Puerto Rican Arts And Culture.*

This IPAC redevelopment agreement (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("D.P.D."), and the Institute of Puerto Rican Arts and Culture, an Illinois not-for-profit corporation (the "Developer").

*Recitals.*

A. Constitutional Authority. As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create

**IPRAC REDEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF CHICAGO

AND

INSTITUTE OF PUERTO RICAN ARTS AND CULTURE

This agreement was prepared by  
and after recording return to  
Juan Carlos Linares, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

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Exhibit A	*Redevelopment Area
Exhibit B	*Property
Exhibit C	*TIF-Funded Improvements
Exhibit D	Redevelopment Plan
Exhibit E	Construction Contract
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Exhibit H-1	*Project Budget
Exhibit H-2	*MBE/WBE Budget
Exhibit I	Approved Prior Expenditures
Exhibit J	Opinion of Developer's Counsel
Exhibit K	[Omitted]
Exhibit L	Requisition Form
Exhibit M	Agreement between IPRAC and the Chicago Park District

(An asterisk(\*) indicates which exhibits are to be recorded.)

This agreement was prepared by and after recording return to  
Juan Carlos Linares, Esq  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

## IPRAC REDEVELOPMENT AGREEMENT

This IPRAC Redevelopment Agreement (this "Agreement") is made as of this 7<sup>th</sup> day of June, 2007, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and the Institute of Puerto Rican Arts and Culture, an Illinois not-for-profit corporation (the "Developer").

### RECITALS

**A. Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

**B. Statutory Authority:** The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the “**City Council**”) adopted the following ordinances on June 27, 2001: (1) “An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Division/Homan Redevelopment Project Area”; (2) “An Ordinance of the City of Chicago, Illinois Designating the Division/Homan Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act”; and (3) “An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for Division/Homan Redevelopment Project Area” (the “**TIF Adoption Ordinance**”) (items(1)-(3) collectively referred to herein as the “**TIF Ordinances**”). The redevelopment project area referred to above (the “**Redevelopment Area**”) is legally described in **Exhibit A** hereto.

**D. The Project:** The Chicago Park District (the “**Park District**”) owns certain property located within the Redevelopment Area at 3015 West Division Street, Chicago, Illinois 60622 and legally described on **Exhibit B** hereto (the “**Property**”), and entered into a certain Agreement Between the Institute of Puerto Rican Arts and Culture and the Park District on October 23, 2002, as a ground lease for the Developer’s use, building, renovation, operation, and maintenance of the Property for a term of 15 years and attached hereto as **Exhibit M** (the “**Ground Lease**”). The Developer within the time frames set forth in **Section 3.01** hereof, shall commence and complete rehabilitation of an approximately 25,000 square foot stables and receptory building at Humboldt Park (the “**Facility**”) thereon. The renovation work of the Facility will be completed in two phases.

- Phase I includes the completion of the first floor, lower level and the Facility’s mechanicals, as well as exterior restoration of the Facility.
- Phase II will include the completion of a second floor gallery. The renovation will result in a large contemporary exhibition space, a theater and performance space, classrooms for studio arts and workshops in the creative arts, a café, a museum store, a central courtyard for public and private events, a photography classroom with lab and a curatorial department.

The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the “**Project**.” The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

**E. Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Division/Homan Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the “**Redevelopment Plan**”) attached hereto as **Exhibit D**.

**F. City Financing:** The City agrees to use, in the amounts set forth in **Section 4.03** hereof, Available Incremental Taxes (as defined below), to reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

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

## SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

**“Act”** shall have the meaning set forth in the Recitals hereof.

**“Actual residents of the City”** shall mean persons domiciled within the City.

**“Affiliate”** shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

**“Available Incremental Taxes”** shall mean an amount equal to \$1,000,000 disbursed and paid to the Developer in proportional payments upon completion of 25%, 50%, 75% of the Project, and the final payment at the issuance of the Certificate (as defined below). Such disbursements shall be subject to availability after pay-outs under the the Tax Increment Allocation Revenue Note (Division/Homan Redevelopment Project Area) Taxable Series 2006 for the Neighborhood Improvement Program dated July 28, 2006 by the City to Fannie Mae, a corporation organized and existing under the laws of the United States of America, and the La Estancia Redevelopment Agreement made by and between the City, through DPD and its Department of Housing, and La Estancia Limited Partnership, an Illinois limited partnership, whose sole general partner is BRC Affiliates, Inc, an Illinois not-for-profit corporation on November 28, 2005 and recorded in the Office of the Cook County Recorder on November 30, 2005 and adjusted to reflect the amount of the City Fee described in **Section 4.05(c)** hereof.

**“Available Project Funds”** shall have the meaning set forth in **Section 4.07(g)** hereof.

**“Business Relationship”** shall have the meaning set forth in **Section 18.22** hereof.

**“Certificate”** shall mean the Certificate of Completion of described in **Section 7.01** hereof.

**“Change Order”** shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.03**, **Section 3.04** and **Section 3.05**, respectively.

**“City”** shall have the meaning set forth in the Recitals hereof.

**“City Contract”** shall have the meaning set forth in **Section 8.01(l)** hereof.

**“City Council”** shall have the meaning set forth in the Recitals hereof.

**“City Funds”** shall mean the funds described in **Section 4.03(b)** hereof.

**“Closing Date”** shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

**“Construction Contract”** shall mean that certain contract, substantially in the form attached hereto as **Exhibit E**, to be entered into between the Developer and the General Contractor providing for construction of the Project.

**“Corporation Counsel”** shall mean the City's Office of Corporation Counsel.

**“DPD”** shall have the meaning set forth in the Recitals hereof.

**“Developer”** shall have the meaning set forth in the Recitals hereof.

**“Employer(s)”** shall have the meaning set forth in **Section 10** hereof.

**“Environmental Laws”** shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called **“Superfund”** or **“Superlien”** law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

**“Equity”** shall mean funds of the Developer irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns) or **Section 4.03(b)**.

**“Event of Default”** shall have the meaning set forth in **Section 15** hereof.

**“Facility”** shall have the meaning set forth in the Recitals hereof.

**“Financial Statements”** shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

**“General Contractor”** shall mean the general contractor(s) hired by the Developer pursuant to **Section 6.01**.

**“Hazardous Materials”** shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

**“Incremental Taxes”** shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Division/Homan TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

**“MBE(s)”** shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

**“MBE/WBE Budget”** shall mean the budget attached hereto as **Exhibit H-2**, as described in **Section 10.03**.

**“Municipal Code”** shall mean the Municipal Code of the City of Chicago.

**“Non-Governmental Charges”** shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property or the Project.

**“Permitted Liens”** shall mean those liens and encumbrances against the Property and/or the Project set forth on **Exhibit G** hereto.

**“Plans and Specifications”** shall mean final construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

**“Prior Expenditure(s)”** shall have the meaning set forth in **Section 4.05(a)** hereof.

“**Project**” shall have the meaning set forth in the Recitals hereof.

“**Project Budget**” shall mean the budget attached hereto as **Exhibit H-1**, showing the total cost of the Project by line item, furnished by the Developer to DPD, in accordance with **Section 3.03** hereof.

“**Property**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Area**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Plan**” shall have the meaning set forth in the Recitals hereof.

“**Redevelopment Project Costs**” shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

“**Requisition Form**” shall mean the document, in the form attached hereto as **Exhibit L**, to be delivered by the Developer to DPD pursuant to **Section 4.04** of this Agreement.

“**Scope Drawings**” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

“**Survey**” shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City).

“**Term of the Agreement**” shall mean the period of time commencing on the Closing Date and ending on the earlier of: (a) 15 years from the issuance of the Certificate of Completion or (b) the date on which the Redevelopment Area is no longer in effect (through and including December 31, 2025).

“**TIF Adoption Ordinance**” shall have the meaning set forth in the Recitals hereof.

“**Division/Homan TIF Fund**” shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

“**TIF-Funded Improvements**” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and

(iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. **Exhibit C** lists the TIF-Funded Improvements for the Project.

**"TIF Ordinances"** shall have the meaning set forth in the Recitals hereof.

**"Title Company"** shall mean Chicago Title Insurance Company, a Missouri corporation.

**"Title Policy"** shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property, if any, issued by the Title Company.

**"WARN Act"** shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

**"WBE(s)"** shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

### SECTION 3. THE PROJECT

**3.01 The Project.** With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction no later than the date hereof; and (ii) complete construction and conduct business operations therein no later than December 15, 2007.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

**3.03 Project Budget.** The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than FIVE MILLION SIX HUNDRED NINETY-SIX THOUSAND TWO HUNDRED FORTY-THREE DOLLARS (\$5,696,243). The Developer hereby certifies to the City that

(a) the City Funds, together with Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project where the City will pay or reimburse from Available Incremental Taxes only; and

(b) the Project Budget is true, correct and complete in all material respects. The Developer hereby certifies to the City that it has Equity in an amount sufficient to pay for all Project costs.

The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) an increase or reduction in the gross or net square footage of the Facility by more than 5%; (b) a change in the use of the Property to a use other than as described in **Recital D** to this Agreement; or (c) a delay in the completion of the Project by more than 120 days. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this section).

**3.05 DPD Approval.** Any approval granted by DPD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

**3.06 Other Approvals.** Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of **Section 5.03** (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

**3.07 Progress Reports and Survey Updates.** The Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to **Section 3.04**). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD reflecting improvements made to the Property.

**3.08 Inspecting Agent or Architect.** An independent agent or architect (other than the Developer's architect) approved by DPD shall be selected by the Developer to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project hereunder.

**3.09 Barricades.** Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

**3.10 Signs and Public Relations.** The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

**3.11 Utility Connections.** The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

**3.12 Permit Fees.** In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

## SECTION 4. FINANCING

**4.01 Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$5,696,243, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <b>Sections 4.03(b) and 4.06</b> )		
IPRAC Capital Campaign	\$1,496,243	26.0%
DCEO State of Illinois Grant	\$3,200,000	56.5%
Estimated City Funds (subject to <b>Section 4.03</b> )	<u>\$1,000,000</u>	<u>17.5%</u>
<b>ESTIMATED TOTAL</b>	<b>\$5,696,243</b>	

**4.02 Developer Funds.** Equity shall be used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

**4.03 City Funds.**

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. **Exhibit C** sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to **Sections 4.03(b) and 4.05(d)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. City Funds shall be paid to the Developer upon satisfaction of the Commissioner of DPD, in her sole discretion, of the completion of 25%, 50% 75% of the Project and the final payment upon the issuance of a Certificate of Completion.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$1,000,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of ONE MILLION DOLLARS (\$1,000,000) or seventeen and one half percent (17.5%) of the actual total Project costs; and provided further, that the \$1,000,000 to be derived from Available Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as:

(i) The amount of the Available Incremental Taxes deposited into the Division/Homan TIF Fund shall be sufficient to pay for such costs;

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements is contingent upon the fulfillment of the conditions set forth in part (i) above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to **Section 4.01** hereof shall increase proportionately.

**4.04 Requisition Form.** On the Closing Date and prior to each \_\_\_\_\_ 1st (or such other date as the parties may agree to) thereafter, beginning in 2006 and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the

documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar quarter (or as otherwise permitted by DPD).

#### **4.05 Treatment of Prior Expenditures and Subsequent Disbursements.**

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity hereunder (the “**Prior Expenditures**”). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DPD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity required to be contributed by the Developer pursuant to **Section 4.01** hereof.

**4.06 Cost Overruns.** If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to **Section 4.03** hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

**4.07 Preconditions of Disbursement.** Prior to each disbursement of City Fund hereunder, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance (“**In Balance**”) only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. No later than at [50% or 75%] completion of construction as evidenced by a certificate from the General Contractor, the Developer shall be required to establish that the Project is In Balance. “**Available Project Funds**” as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Equity and (iii) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the TIF Ordinances, and/or this Agreement.

**4.08 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer’s compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as provided in **Section 15.02** hereof.

## SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

**5.01 Project Budget.** The Developer has submitted to DPD, and DPD has approved, a Project Budget in accordance with the provisions of **Section 3.03** hereof.

**5.02 Scope Drawings and Plans and Specifications.** The Developer has submitted to DPD, and DPD has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of **Section 3.02** hereof.

**5.03 Other Governmental Approvals.** The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has secured written approval from the Park District to undertake the Project and improvements thereon, and has submitted evidence thereof to DPD.

**5.04 Financing.** The Developer will furnish monthly updates, to the satisfaction of DPD, on its fund-raising efforts and details on its capital contributions in connection with the Equity in the amounts set forth in **Section 4.01** hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity set forth in **Section 4.01**) to complete the Project. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

**5.05 Acquisition and Title.** On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on **Exhibit G** hereto and evidences the recording of this Agreement pursuant to the provisions of **Section 8.18** hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to DPD, on or prior to the Closing Date, documentation related to the Ground Lease of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name (and the following trade names of the Developer: Institute for Puerto Rican Arts and Culture) as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

**5.07 Surveys.** The Developer has furnished the City with three (3) copies of the Survey.

**5.08 Insurance.** The Developer, at its own expense, has insured the Property in accordance with Section 12 hereof, and has delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to DPD.

**5.09 Opinion of the Developer's Counsel.** On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions were obtained by the Developer from its general corporate counsel.

**5.10 Evidence of Prior Expenditures.** The Developer has provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

**5.11 Financial Statements.** The Developer has provided Financial Statements to DPD for its most recent fiscal year, and audited or unaudited interim financial statements.

**5.12 Documentation.** The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters per Section 8.06.

**5.13 Environmental.** The Developer has provided DPD with copies of that certain environmental audit report dated June 23, 2005 with respect to the Property and any phase II environmental audit with respect to the Property required by the City. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

**5.14 Corporate Documents; Economic Disclosure Statement.** The Developer has provided a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. The Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

**5.15 Litigation.** The Developer has provided to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving the

Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

**5.16 Landmark Designation.** At or before the Closing Date, the Developer shall have provided written consent from the park District to the designation by the City of the Humboldt Park Stables/Receptory Building as a City of Chicago Landmark under the City's Landmark Ordinance. The significant historical and architectural features shall be defined as: all exterior elevations, including rooflines, of the building.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in **Section 6.01(b)** below, the Developer has entered into an agreement with a General Contractor or any subcontractor for construction of the Project, and Developer has solicited, or has caused the General Contractor to solicit, bids from qualified contractors eligible to do business with, and having an office located in, the City of Chicago, and has submitted all bids received to DPD for its inspection and written approval. (i) For the TIF-Funded Improvements, the Developer has selected the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer has selected a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. (ii) For Project work other than the TIF-Funded Improvements, if the Developer has selected a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to **Section 4.03(b)** hereof. The Developer shall submit copies of the Construction Contract to DPD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. If the Plans and Specifications have not been approved by DPD and all requisite permits have not been obtained, the Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) continue work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, the Developer does not solicit bids pursuant to **Section 6.01(a)** hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed \_\_\_% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other

provisions of **Section 6.01(a)** shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

**6.02 Construction Contract.** Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with **Section 6.01** above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

**6.03 Performance and Payment Bonds.** Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as **Exhibit P** hereto. The City shall be named as obligee or co-obligee on any such bonds

**6.04 Employment Opportunity.** The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of **Section 10** hereof.

**6.05 Other Provisions.** In addition to the requirements of this **Section 6**, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.09** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement) **Section 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## **SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION**

**7.01 Certificate of Completion of Rehabilitation.** Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

**7.02 Effect of Issuance of Certificate; Continuing Obligations.** The Certificate relates only to the rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at **Sections 8.02 and 8.06** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

**7.03 Failure to Complete.** If the Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to **Section 4.01**, the Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer.

**7.04 Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, DPD shall provide the Developer, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

**SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.**

**8.01 General.** The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Developer is an Illinois not-for-profit corporation duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall maintain its Ground Lease with the Park District, or its successors, on the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, and non-governmental charges that the Developer is contesting in good faith pursuant to **Section 8.15** hereof)

(e) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of

operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto; and

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

**8.02 Covenant to Redevelop.** Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the

Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

**8.03 Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

**8.04 Use of City Funds.** City Funds disbursed to the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

**8.05 Reserved.**

**8.06 Job Creation and Retention; Covenant to Remain in the City.** Not less than eight (8) full-time equivalent, permanent jobs shall be created by the Developer within two (2) years of completion of the Project, for a total of eight (8) full-time equivalent, permanent jobs to be retained or created by the Developer at the Facilities through the Term of the Agreement. The Developer hereby covenants and agrees to maintain its operations within the City of Chicago, through October 23, 2017. The covenants set forth in this Section shall run with the land and be binding upon any transferee.

**8.07 Employment Opportunity.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

**8.08 Employment Profile.** The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD's request.

**8.09 Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "**Department**"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics

for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.09**.

**8.10 Arms-Length Transactions**. Unless DPD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

**8.11 Conflict of Interest**. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area.

**8.12 Disclosure of Interest**. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

**8.13 Financial Statements**. The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended 2005 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

**8.14 Insurance**. The Developer, at its own expense, shall comply with all provisions of **Section 12** hereof.

**8.15 Non-Governmental Charges**. (a) **Payment of Non-Governmental Charges**. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DPD,

within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

**8.16 Developer's Liabilities**. The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify DPD of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

**8.17 Compliance with Laws**. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

**8.18 Recording and Filing**. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

## 8.19 Real Estate Provisions.

### (a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(1) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(2) the Developer shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

**8.21 Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this **Section 8** and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in **Section 7** hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

## **SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY**

**9.01 General Covenants.** The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

**9.02 Survival of Covenants.** All warranties, representations, and covenants of the City contained in this **Section 9** or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## **SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS**

**10.01 Employment Opportunity.** The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "**Human Rights Ordinance**"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this **Section 10.01** shall be a basis for the City to pursue remedies under the provisions of **Section 15.02** hereof.

**10.02 City Resident Construction Worker Employment Requirement.** The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

“**Actual residents of the City**” shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. **Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.**

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this **Section 10.02** to be included in all construction contracts and subcontracts related to the Project.

**10.03. MBE/WBE Commitment.** The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the

“**MBE/WBE Program**”), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in **Exhibit H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a “**contractor**” and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a “**contract**” or a “**construction contract**” as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review the Developer's compliance with its

commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the Closing Date, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## **SECTION 11. ENVIRONMENTAL MATTERS**

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory bases.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy has limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and has limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements.

### SECTION 13. INDEMNIFICATION

**13.01 General Indemnity.** Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment

Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or

(iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this **Section 13.01** shall survive the termination of this Agreement.

#### **SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT**

**14.01 Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

**14.02 Inspection Rights.** Upon three (3) business days' notice, any authorized representative of the City has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

#### **SECTION 15. DEFAULT AND REMEDIES**

**15.01 Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of **Section 15.03**, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, or under the Ground Lease as attached hereto as Exhibit M, which respective default is not cured within any applicable cure period;

(i) the dissolution of the Developer or the death of any natural person who owns a material interest in the Developer; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor).;or]

For purposes of **Sections 15.01(i)** and **15.01(j)** hereof, a person with a material interest in the Developer shall be one owning in excess of ten (10%) of the Developer's membership interests.

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein, and reimbursement of all City Funds.

**15.03 Curative Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that there shall be no cure period under this **Section 15.03** with respect to the Developer's failure to comply with the job creation/operation requirements of **Section 8.06** hereof.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on **Exhibit G** hereto and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and

record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD.

#### SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

If to the City: City of Chicago  
Department of Planning and Development  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner

With Copies To: City of Chicago  
Department of Law  
Finance and Economic Development Division  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

If to the Developer: Institute for Puerto Rican Arts and Culture  
3015 West Division Street  
Chicago, Illinois 60622

With Copies To: Carlos A. Vazquez  
2434 West Division Street, 2<sup>nd</sup> Floor  
Chicago, Illinois 60622

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

## SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement **Exhibit D** hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in **Sections 10.02 and 10.03** hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

**18.02 Entire Agreement.** This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

**18.03 Limitation of Liability.** No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

**18.04 Further Assurances.** The Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

**18.05 Waiver.** Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

**18.06 Remedies Cumulative.** The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

**18.07 Disclaimer.** Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

**18.08 Headings.** The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

**18.09 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

**18.10 Severability.** If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the

remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**18.11 Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

**18.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

**18.13 Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

**18.14 Approval.** Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

**18.15 Assignment.** The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.19 Real Estate Provisions and 8.21** (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

**18.16 Binding Effect.** This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

**18.17 Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for

an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

**18.18 Exhibits.** All of the exhibits attached hereto are incorporated herein by reference.

**18.19 Business Economic Support Act.** Pursuant to the Business Economic Support Act (30 ILCS 760/1 *et seq.*), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

**18.20 Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party may hereto agree to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

**18.21 Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

**18.22 Business Relationships.** The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "**Business Relationship**" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to

participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

**INSTITUTE FOR PUERTO RICAN ARTS AND CULTURE**, an Illinois not-for-profit corporation.

By: \_\_\_\_\_

Its: \_\_\_\_\_

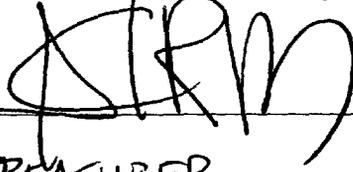
**CITY OF CHICAGO**

By: *1<sup>st</sup> Deputy* Kathleen Nelson *PK*  
Commissioner,  
Department of Planning and Development

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

**INSTITUTE FOR PUERTO RICAN ARTS AND CULTURE**, an Illinois not-for-profit corporation.

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'SRM', written over a horizontal line.

Its: \_\_\_\_\_

TREASURER

**CITY OF CHICAGO**

By: \_\_\_\_\_

Commissioner,  
Department of Planning and Development





## EXHIBIT A

### REDEVELOPMENT AREA

#### *Legal Description Of Area.*

All that part of the east half of the southeast quarter of Section 35 and the west half of the southwest quarter of Section 36 in Township 40 North, Range 13 East of the Third Principal Meridian, and that part of Sections 1 and 2 in Township 39 North, Range 13 East of the Third Principal Meridian bounded and described as follows:

beginning at the point of intersection of the east line of North Hamlin Avenue with the north line of West Potomac Avenue; thence east along said north line of West Potomac Avenue to the west line of North Central Park Avenue; thence north along said west line of North Central Park Avenue to the westerly extension of the south line of Lots 1 through 18, inclusive, in Block 2 of J. S. Hair's Subdivision of the south half of the north half of the southwest quarter of the northeast quarter of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian, said south line of Lots 1 through 18, inclusive, in Block 2 of J. S. Hair's Subdivision being also the north line of the alley north of West Potomac Avenue; thence east along said westerly extension and the north line of the alley north of West Potomac Avenue to the east line of North St. Louis Avenue; thence south along said east line of North St. Louis Avenue to the north line of West Potomac Avenue; thence east along said north line of West Potomac Avenue to the east line of North Homan Avenue; thence south along said east line of North Homan Avenue to the south line of Lot 25 in S. E. Gross' Sixth Humbolt Park Addition to Chicago, a subdivision of Lots 25 to 48 in Block 6 and Lots 1 to 48 in Block 7 in Weage, Eberhardt & Bartlett's Subdivision in the south half of the northeast quarter of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian, said south line of Lot 25 in S. E. Gross' Sixth Humbolt Park Addition to Chicago being also the north line of the alley north of West Division Street; thence east along said north line of the alley north of West Division Street to the southwesterly line of Lot 88 in S. E. Gross' Fifth Humbolt Park Addition to Chicago, a subdivision of Blocks 5 and 8 and Lots 1 to 24 in

of-way to the east line of North Spaulding Avenue; thence south along said east line of North Spaulding Avenue to the south line of West Chicago Avenue; thence west along said south line of West Chicago Avenue to the southerly extension of the east line of Lot 43 in Christiana, a subdivision of the east half of Lot 5 in Superior Court Partition of the east half of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian, said east line of Lot 43 in Christiana being also the west line of North Christiana Avenue; thence north along said southerly extension and the west line of North Christiana Avenue to the south line of Lot 57 71 in said Christiana, a subdivision of the east half of Lot 5 in Superior Court Partition of the east half of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian; thence west along said south line of Lot 57 71 in Christiana and along the westerly extension thereof to the east line of Lot 19 in Block 43 of Wilson and Gould's Subdivision of the west half of Lot 5 in Superior Court Partition of the east half of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian, said east line of Lot 19 being also the west line of the alley west of North Christiana Avenue; thence north along said east line of Lot 19 in Block 3 of Wilson and Gould's Subdivision to the north line of said Lot 19, said north line of Lot 19 being also the south line of the alley south of West Walton Street; thence west along said south line of the alley south of West Walton Street and along the westerly extension thereof to the east line of Lots 10 and 11 in said Block 3 of Wilson and Gould's Subdivision, said east line of Lots 10 and 11 being also the west line of the alley east of North Homan Avenue; thence north along said west line of the alley east of North Homan Avenue to the south line of West Augusta Boulevard; thence west along said south line of West Augusta Boulevard to the west line of North Trumbull Avenue; thence north along said west line of North Trumbull Avenue to the westerly extension of the south line of Lot 19 in the subdivision of Block 1 in Dickey's Fourth Addition to Chicago, a subdivision of part of the northwest quarter of the southeast quarter of Section 2, Township 39 North, Range 13 East of the Third Principal Meridian, said south line of Lot 19 being also the north line of the alley north of West Augusta Boulevard; thence east along said westerly extension and the south line of Lot 19 in the subdivision of Block 1 in Dickey's Fourth Addition to Chicago to the east line of said Lot 19, said east line of Lot 19 being also the west line of the alley east of North Trumbull Avenue; thence north along said west line of the alley east of North Trumbull Avenue to the northeasterly line of Lot 22 in the subdivision of Block 1 in Dickey's Fourth Addition to Chicago, said northeasterly line of Lot 22 being also the southwesterly line of the alley east of North Trumbull Avenue; thence northwesterly along said southwesterly line of the alley east of North Trumbull Avenue to the north line of Lot 23 in said subdivision of Block 1 in Dickey's Fourth Addition to Chicago, said north line of Lot 23 being also the south line of a public alley; thence west along said north line of Lot 23 in the subdivision of Block 1 in Dickey's Fourth Addition to Chicago and along the westerly extension thereof to the

*Street Boundaries Of The Area.*

The Area is made up of three hundred fifty-eight (358) acres and five hundred ninety-two (592) parcels on thirty-three (33) blocks. It is irregularly shaped and is generally bounded by West Potomac and West North Avenues on the north; North Sacramento and North California Avenues on the east; West Walton Street and West Chicago Avenue on the south; and North Hamlin Avenue on the west.

**EXHIBIT B**

**LEGAL DESCRIPTION**

THAT PART LYING WITHIN THE NORTH 400 FEET OF THE NORTHEAST  
QUARTER OF THE NORTH HALF OF THE WEST HALF OF THE SOUTHWEST  
QUARTER OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE  
THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.

## EXHIBIT C

### TIF-FUNDED IMPROVEMENTS

<u>Line Item</u>	<u>Cost</u>
Waterproof basement foundation walls	\$115,000
Repair, waterproof and rebuild window wells	\$85,000
Repair and redirect all down spouts to storm drain	\$80,000
"Hot box" for new domestic water service	\$75,000
Roof, gutter and eaves repair	\$10,000
Required window repair to historic standards	\$100,000
Exterior paving at trash storage area	\$40,000
New ADA compliant entrances	\$100,000
Exterior storm drain tile system	\$55,000
New decorative paving surface in courtyard	\$375,000
All required underground drain repair in courtyard	\$50,000
Exterior signage	\$30,000
Electrical Service trench from remote transformer	\$10,000
Emergency backup generator to run sprinkler	\$50,000
Repair, seal and insulate building envelope	\$125,000
<b>TOTAL*</b>	<b>\$1,300,000</b>

**\*Notwithstanding the total of TIF-Funded Improvements, the assistance to be provided by the City is limited to that which is described in Section 4.03 hereof.**

**EXHIBIT E**

**CONSTRUCTION CONTRACT**

[See attached]



**AIA**

**Owner-Contractor**

**AIA Document A114-2001**

*Copy Files*

*Contract  
Humboldt  
Construction, C*

**Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price**

**THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.**

*AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.*

**AGREEMENT** made as of the **1ST** day of **April** in the year **2006**  
*(In words, indicate day, month and year)*

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

Instituto Puertorriqueno de  
Arte y Cultura (IPRAC)  
PO Box 47589  
Chicago, IL 60647

and the Contractor  
*(Name, address and other information):*

Humboldt Construction Company  
2550 W. North Avenue  
Chicago, IL 60647

**The Project is** *(Name and address):*  
IPRA / Humboldt Park  
3015 W. Division  
Chicago, IL 60622

**The Architect is** *(Name, address and other information):*  
Macondo Corp.  
21 W. Illinois  
Chicago, IL 60610

The Owner and Contractor agree as follows.

## **TABLE OF ARTICLES**

1. **The Contract Documents**
2. **The Work of This Contract**
3. **Relationship of the Parties**
4. **Date of Commencement and Substantial Completion**
5. **Contract Sum**
6. **Control Estimate and Contract Time**
7. **Costs to be Reimbursed**
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9. **Discounts, Rebates and Refunds**
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11. **Accounting Records**
12. **Payments**
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14. **Miscellaneous Provisions**
15. **Enumeration of Contract Documents**
16. **Insurance and Bonds**

## **ARTICLE 1 THE CONTRACT DOCUMENTS**

1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. These listed form the Contract and are all as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 15. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

## **ARTICLE 2 THE WORK OF THIS CONTRACT**

2.1 The Contractor shall execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

## **ARTICLE 3 RELATIONSHIP OF THE PARTIES**

3.1 The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

## **ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

4.1 The date of commencement of the Work shall be the date of this Agreement, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement, or if applicable, state that the date will be fixed in a notice to proceed.)*

4.2 The Contract Time shall be measured from the date of commencement.

4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ( 365 ) days from the date of commencement or as follows:

*(Insert the number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

, subject to adjustments of this Contract Time as provided in Subparagraph 6.2.4.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

## **ARTICLE 5 CONTRACT SUM**

5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the actual Cost of the Work as defined in Article 7 plus the Contractor's Fee.

5.2 The Contractor's Fee is: 1% of actual cost of the work.

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee, and describe the method of adjustment of the Contractor's Fee for changes in the Work.)*

5.3 If the extent of changes is such that application of the adjustment provisions herein will cause substantial inequity to the Owner or Contractor, in the aggregate, the Contractor's Fee shall be equitably adjusted on the basis of the Fee established for the original Work.

#### ARTICLE 6 CONTROL ESTIMATE AND CONTRACT TIME

6.1 The Contractor shall prepare and submit to the Owner, in writing, a Control Estimate. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee. The Control Estimate shall be used to monitor actual costs.

6.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 15, including all Addenda thereto and the Conditions of the Contract;
- .2 a list of the clarifications and assumptions made by the Contractor in the preparation of the Control Estimate, including assumptions under Paragraph 6.4, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;
- .4 a project schedule indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment requiring long-lead time, and the Owner's occupancy requirements showing portions of the Project having occupancy priority; and
- .5 contingencies for further development of design and construction as required by Paragraph 6.4.

6.3 The Contractor shall meet with the Owner and Architect to review the Control Estimate. In the event that the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Contractor, who shall make appropriate adjustments to the Control Estimate. When the Control Estimate is acceptable to the Owner, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

6.4 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Contractor shall provide in the Control Estimate for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

6.5 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised at mutually agreed-upon intervals.

#### ARTICLE 7 COSTS TO BE REIMBURSED

##### 7.1 Cost of the Work

The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

##### 7.2 Labor Costs

7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's approval, at off-site workshops.

**7.2.2** Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site with the Owner's approval.

*(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify the personnel to be included, whether for all or only part of the time and the rates at which time will be charged to the Work.)*

Project Manager 100% of salary and benefits.

**7.2.3** Wages and salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

**7.2.4** Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Subparagraphs 7.2.1 through 7.2.3.

### **7.3 Subcontract Costs**

**7.3.1** Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

### **7.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**7.4.1** Costs including transportation and storage at the site of materials and equipment incorporated, or to be incorporated, in the completed construction.

**7.4.2** Costs of materials described in the preceding Subparagraph 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### **7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**7.5.1** Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Contractor. Cost for items previously used by the Contractor shall mean fair market value.

**7.5.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

**7.5.3** Costs of removal of legally disposed debris from the site.

**7.5.4** Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

**7.5.5** That portion of the reasonable travel and subsistence expenses of the Contractor's personnel incurred while traveling in discharge of duties connected with the Work.

**7.5.6** Costs of materials and equipment stored off-site at a mutually acceptable location, if approved in advance by the Owner.

### **7.6 Miscellaneous Costs**

**7.6.1** That portion of insurance and bond premiums that can be directly attributed to this Contract.

**7.6.2** Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

**7.6.3** Fees and assessments for the building permit and for other permits, licenses and inspections the Contractor is required by the Contract Documents to pay.

**7.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Subparagraph 13.5.3 of AIA Document A201-1997 or other provisions of the Contract Documents, and which do not fall within the scope of Subparagraph 7.7.3.

**7.6.5** Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. Such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee, however. If such royalties, fees and costs are excluded by the last sentence of Subparagraph 3.17.1 of AIA Document A201-1997 or other provisions of the Contract Documents, they shall not be included in the Cost of the Work.

**7.6.6** Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility to the Owner as set forth in the Contract Documents.

**7.6.7** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor in the performance of the Work and with the Owner's prior written approval, which shall not be unreasonably withheld.

**7.6.8** Expenses incurred in accordance with the Contractor's standard personnel policy for relocation and temporary living allowances of personnel required for the Work, if approved by the Owner.

**7.7 Other Costs and Emergencies**

**7.7.1** Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

**7.7.2** Costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Paragraph 10.6 of AIA Document A201-1997.

**7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors or suppliers.

**ARTICLE 8 COSTS NOT TO BE REIMBURSED**

**8.1** The Cost of the Work shall not include:

- .1** Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Subparagraphs 7.2.2 and 7.2.3, or as may be provided in Article 14.
- .2** Expenses of the Contractor's principal office and offices other than the site office.
- .3** Overhead and general expenses, except as may be expressly included in Article 7.
- .4** The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.
- .5** Rental costs of machinery and equipment, except as specifically provided in Subparagraph 7.5.2.
- .6** Except as provided in Subparagraph 7.7.3 of this Agreement, costs due to the negligence or failure to fulfill a specific responsibility of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable.
- .7** Any cost not specifically and expressly described in Article 7.

## ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment therefore from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

9.2 Amounts that accrue to the Owner in accordance with the provisions of Paragraph 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Contractor and Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom there is reasonable objection on the Contractor's part.

10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement and shall not be awarded on the basis of Cost Plus a Fee without the prior consent of the Owner.

## ARTICLE 11 ACCOUNTING RECORDS

11.1 The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract, and the accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's accountants shall be afforded access to, and shall be permitted to audit and copy, the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Contract, and the Contractor shall preserve these for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 12 PAYMENTS

### 12.1 Progress Payments

12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

12.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment to the Contractor not later than the 30th day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 30 days after the Architect receives the Application for Payment.

12.1.4 With each Application for Payment, the Contractor shall submit partial release of liens, payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment; plus (4) retainage provided in Clause 12.1.6.2, if any, applicable to prior progress payments.

**12.1.5** Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.

**12.1.6** Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 take the Cost of the Work as described in Article 7;
- .2 add the Contractor's Fee, less retainage of Ten percent ( 10 %).  
The Contractor's Fee shall be computed upon the Cost of the Work described in the preceding Clause 12.1.6.1 at the rate stated in Paragraph 5.2; or if the Contractor's Fee is stated as a fixed sum in that paragraph, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in the preceding clause bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 subtract the aggregate of previous payments made by the Owner;
- .4 subtract the shortfall, if any, indicated by the Contractor in the documentation required by Subparagraph 12.1.4 or resulting from errors subsequently discovered by the Owner's accountants in such documentation; and
- .5 subtract amounts, if any, for which the Architect has withheld or withdrawn a Certificate for Payment as provided in the Contract Documents.

**12.1.7** Additional retainage, if any, shall be as follows:

N/A

**12.1.8** Except with the Owner's prior approval, payments to Subcontractors shall be subject to retainage of not less than Ten percent ( 10 %). The Owner and Contractor shall agree on a mutually acceptable procedure for review and approval of payments and retention for Subcontractors.

**12.1.9** In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Subparagraph 12.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the sole interest of the Owner.

## **12.2 Final Payment**

**12.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work, as provided in Subparagraph 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

**12.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

**12.2.3** The Owner's accountants will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's accountants report to be substantiated by the Contractor's final accounting, and provided the other conditions of Subparagraph 12.2.1 have been met, the Architect will, within seven days after receipt of written report of the Owner's accountants, either issue to the Owner a final Certificate for Payment with a copy to the Contractor or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Subparagraph 9.5.1 of AIA Document A201-1997. The time periods stated in this Subparagraph 12.2.3 supersede those stated in Subparagraph 9.4.1 of AIA Document A201-1997.

**12.2.4** If the Owner's accountants report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to demand arbitration of the disputed amount without a further decision of the Architect. Such demand for arbitration shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to demand arbitration within this 30-day period shall result in the substantiated amount reported by the Owner's accountants becoming binding on the Contractor. Pending a final resolution by arbitration, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

**12.2.5** If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment.

#### **ARTICLE 13 TERMINATION OR SUSPENSION**

**13.1** The Contract may be terminated by the Contractor, or by the Owner, as provided in Article 14 of AIA Document A201-1997. However, the amount to be paid to the Contractor under Subparagraph 14.1.3 of AIA Document A201-1997 shall not exceed the amount the Contractor would be entitled to receive under Paragraph 13.2 below.

**13.2** The Contract may be terminated by the Owner for cause or for convenience as provided in Article 14 of AIA Document A201-1997; however, the Owner shall then only pay the Contractor an amount calculated as follows:

- 1** Take the Cost of the Work incurred by the Contractor to the date of termination;
- 2** Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Paragraph 5.2 or, if the Contractor's Fee is stated as a fixed sum in that Paragraph, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- 3** Subtract the aggregate of previous payments made by the Owner.

**13.3** The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Subparagraph 13.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

**13.4** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997; in such case, the Contract Sum and Contract Time shall be increased as provided in Subparagraph 14.3.2 of AIA Document A201-1997, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Paragraphs 5.2 and 5.3 of this Agreement.

**ARTICLE 14 MISCELLANEOUS PROVISIONS**

**14.1** Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**14.2** Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any)*

The Prime Rate charged by Chase Bank or its successors plus one percent plus one percent (1%).

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

**14.3** The Owner's representative is:  
*(Name, address and other information)*

IPRA  
Ray Vazquez  
PO Box 47589  
Chicago, IL 60647

**14.4** The Contractor's representative is:  
*(Name, address and other information)*

Humboldt Construction Company  
Efrain Vargas  
Director of Housing and Economic Development  
2550 W. North Avenue  
Chicago, IL. 60647

**14.5** Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

**14.6** Dispute Resolution

**14.6.1** Claims, disputes or other matters in question between the parties to this Agreement shall be resolved by mediation or by arbitration. Prior to arbitration, the parties shall endeavor to reach settlement by mediation. *(Refer to Paragraphs 4.4 through 4.6 of AIA Document A201-1997, General Conditions of the Contract for Construction, for specific requirements related to mediation and arbitration provisions.)*

**14.7** Other provisions:

N/A

**ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS**

**15.1 The Contract Documents include:**

- .1 The Agreement is this executed 2001 edition of the *Standard Form of Agreement Between Owner and Contractor*, AIA Document A114.
- .2 The General Conditions are the 1997 edition of the *General Conditions of the Contract for Construction*, AIA Document A201.
- .3 The Supplementary and other Conditions of the Contract are as follows:

**15.1.4 The Specifications and Addenda, if any, are as follows:**  
(Either list here or refer to an exhibit attached to this Agreement)

**15.1.5 The Drawings are as follows, and are dated**  
(Either list here or refer to an exhibit attached to this Agreement)

unless a different date is shown below:

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 15.

**15.1.6 Other Documents, if any, forming part of the Contract Documents are as follows:**  
(List here any additional documents, such as a list of allowances or unit prices that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements, such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid, are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)



# General Conditions of the Contract for Construction

AIA Document A201 - 1997  
1997 Edition - Electronic Format

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

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

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## **TICLE 1 GENERAL PROVISIONS**

### **1.1 BASIC DEFINITIONS**

#### **1.1.1 THE CONTRACT DOCUMENTS**

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

#### **1.1.2 THE CONTRACT**

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

#### **1.1.3 THE WORK**

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

#### **1.1.4 THE PROJECT**

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

#### **1.1.5 THE DRAWINGS**

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

#### **1.1.6 THE SPECIFICATIONS**

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

#### **1.1.7 THE PROJECT MANUAL**

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

## **1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS**

**1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

### **.3 CAPITALIZATION**

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

### **1.4 INTERPRETATION**

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

### **1.5 EXECUTION OF CONTRACT DOCUMENTS**

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

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

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

**1.6.1** The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights.

All copies of Instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights.

## **ARTICLE 2 OWNER**

### **2.1 GENERAL**

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

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

## **2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

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

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

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

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

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

## **2.3 OWNER'S RIGHT TO STOP THE WORK**

**2.3.1** If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise his right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

## **2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

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

## **ARTICLE 3 CONTRACTOR**

### **3.1 GENERAL**

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

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

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

### **3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

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

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

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

### **3 SUPERVISION AND CONSTRUCTION PROCEDURES**

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

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

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

### **3.4 LABOR AND MATERIALS**

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

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

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

### **3.5 WARRANTY**

**3.5.1** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### **3.6 TAXES**

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

### **3.7 PERMITS, FEES AND NOTICES**

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

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

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

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

### **3.8 ALLOWANCES**

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

**3.8.2** Unless otherwise provided in the Contract Documents:

- 1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- 2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the

allowances;

- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.1 and (2) changes in Contractor's costs under Clause 3.8.2.2.

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

### **3.9 SUPERINTENDENT**

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

### **3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

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

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

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

### **3.11 DOCUMENTS AND SAMPLES AT THE SITE**

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

### **3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

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

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

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

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

**3.12.5** The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop

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

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

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

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

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

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

### **3.13 USE OF SITE**

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

### **3.14 CUTTING AND PATCHING**

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

**3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the

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

### **3.15 CLEANING UP**

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

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

### **3.16 ACCESS TO WORK**

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

### **3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

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

### **3.18 INDEMNIFICATION**

**3.18.1** To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Paragraph 11.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

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

## **ARTICLE 4 ADMINISTRATION OF THE CONTRACT**

### **4.1 ARCHITECT**

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

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

unreasonably withheld.

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

## 4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

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

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

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

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

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

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

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

unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

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

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

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

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

#### 4.3 CLAIMS AND DISPUTES

4.3.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

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

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

4.3.4 **Claims for Concealed or Unknown Conditions.** If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the

conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

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

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

**4.3.7 Claims for Additional Time**

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

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

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

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

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

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

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

**4.4 RESOLUTION OF CLAIMS AND DISPUTES**

**4.4.1 Decision of Architect.** Claims, including those alleging an error or omission by the Architect but excluding those

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arising under Paragraphs 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

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

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

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

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

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

#### **4.5 MEDIATION**

**4.5.1** Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

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

of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

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

#### **4.6 ARBITRATION**

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

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

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

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

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

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

### **ARTICLE 5 SUBCONTRACTORS**

#### **5.1 DEFINITIONS**

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

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

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

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

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

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

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

## **5.3 SUBCONTRACTUAL RELATIONS**

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

## **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

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

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

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

## **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

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

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

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

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

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

## 6.2 MUTUAL RESPONSIBILITY

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

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

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

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

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

## 6.3 OWNER'S RIGHT TO CLEAN UP

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

## TICLE 7 CHANGES IN THE WORK

### 7.1 GENERAL

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by

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Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this article 7 and elsewhere in the Contract Documents.

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

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

## **7.2 CHANGE ORDERS**

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

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

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

## **7.3 CONSTRUCTION CHANGE DIRECTIVES**

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

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

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

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

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

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

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

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

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

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

#### 7.4 MINOR CHANGES IN THE WORK

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

### ARTICLE 8 TIME

#### 8.1 DEFINITIONS

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

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

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

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

## **8.2 PROGRESS AND COMPLETION**

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

**8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

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

## **8.3 DELAYS AND EXTENSIONS OF TIME**

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

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

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

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **9.1 CONTRACT SUM**

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

### **9.2 SCHEDULE OF VALUES**

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

### **9.3 APPLICATIONS FOR PAYMENT**

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

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

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

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

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

#### 9.4 CERTIFICATES FOR PAYMENT

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

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

#### 9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 3.3.2, because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable

to the Owner is provided by the Contractor:

- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

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

## 9.6 PROGRESS PAYMENTS

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

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

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

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

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

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

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

## 9.7 FAILURE OF PAYMENT

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

of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

### **SUBSTANTIAL COMPLETION**

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

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

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

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

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

### **9.9 PARTIAL OCCUPANCY OR USE**

**9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Clause 11.4.1.5 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

### **9.10 FINAL COMPLETION AND FINAL PAYMENT**

**9.10.1** Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final

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

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

**9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

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

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

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

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **10.1 SAFETY PRECAUTIONS AND PROGRAMS**

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

### **10.2 SAFETY OF PERSONS AND PROPERTY**

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

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

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

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

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

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

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

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

### **10.3 HAZARDOUS MATERIALS**

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

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

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

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

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

#### **10.6 EMERGENCIES**

**10.6.1** In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

### **ARTICLE 11 INSURANCE AND BONDS**

#### **11.1 CONTRACTOR'S LIABILITY INSURANCE**

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

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

**11.1.2** The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or

claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

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

## 11.2 OWNER'S LIABILITY INSURANCE

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

## 11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

11.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Clauses 11.1.1.2 through 11.1.1.5.

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

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

## 11.4 PROPERTY INSURANCE

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

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

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

notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

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

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

**11.4.1.5** Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

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

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

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

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

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

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

**11.4.8** A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the

Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.4.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

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

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

## **11.5 PERFORMANCE BOND AND PAYMENT BOND**

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

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

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **12.1 UNCOVERING OF WORK**

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

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

### **12.2 CORRECTION OF WORK**

#### **12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

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

#### **12.2.2 AFTER SUBSTANTIAL COMPLETION**

**12.2.2.1** In addition to the Contractor's obligations under Paragraph 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is

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found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Paragraph 2.4.

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

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

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

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

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

### **12.3 ACCEPTANCE OF NONCONFORMING WORK**

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

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **13.1 GOVERNING LAW**

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

### **13.2 SUCCESSORS AND ASSIGNS**

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

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

### **13.3 WRITTEN NOTICE**

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

### **13.4 RIGHTS AND REMEDIES**

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

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

### **13.5 TESTS AND INSPECTIONS**

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

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

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

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

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

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

### **13.6 INTEREST**

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

### **13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD**

**13.7.1** As between the Owner and Contractor:

- .1 Before Substantial Completion.** As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;
- .2 Between Substantial Completion and Final Certificate for Payment.** As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the Final Certificate for

Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and

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

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **14.1 TERMINATION BY THE CONTRACTOR**

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

- .1 issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
- .2 an act of government, such as a declaration of national emergency which requires all Work to be stopped;
- .3 because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.

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

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

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

### **14.2 TERMINATION BY THE OWNER FOR CAUSE**

**14.2.1** The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

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

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

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

#### **14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE**

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

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

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

#### **14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

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

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

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate

all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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

## EXHIBIT G

### PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any:

**EXHIBIT H-1**  
**PROJECT BUDGET**

<u>Uses</u>	<u>Amount</u>
Hard Costs	\$5,315,154
Soft Costs	
Project Management(0.3%)	\$13,662
General Contractor(1.0%)	\$52,627
Architect's Fee (7% of hard costs)	\$305,000
Insurance	\$9,800
<u>Total Soft Costs</u>	<u>\$381,089</u>
<b>TOTAL</b>	<b>\$5,696,243</b>

**EXHIBIT H-2**  
**MBE/WBE BUDGET**

[See attached]

MBE/WBE Contractor Budget Statement

Instituto Puertorriqueño de Arte y Cultura  
3015 WEST DIVISION STREET, CHICAGO, ILLINOIS

Name	Kind of Work	Actual Total	MBE	WBE
HUNHOLDT CONSTRUCTION CO. 225 W. Adams St. Chicago, IL 60601	Site Prep, Work Remedia	\$ 70,451	Yes	Yes
	Demolition	\$ 45,000	Yes	
	Concrete	\$ 213,179		
	Masonry	\$ 184,500		
	Metals	\$ 96,735	Yes	Yes
	Welding	\$ 51,188	Yes	Yes
	Pipefitting	\$ 431,407	Yes	
	Plumbing	\$ 307,118	Yes	
	Roofing and Gutters	\$ 94,970	Yes	
	Insulation	\$ 45,000	Yes	
	Painting	\$ 74,000	Yes	
	Electrical	\$ 99,210	Yes	
	Ironwork	\$ 178,598	Yes	
	Special Construction	\$ 5,143	Yes	
	Specialties & Trim	\$ 197,908	Yes	
	Carpentry	\$ 101,470	Yes	
	Painting	\$ 455,891	Yes	Yes
HUNHOLDT CONSTRUCTION CO. 3433 N. Milwaukee Ave Chicago, IL 60641	Appliances	\$ 5,200	Yes	
	General Tile Work	\$ 131,000	Yes	
	Blinds	\$ 35,850	Yes	
	Plumbing	\$ 128,120	Yes	
	HVAC	\$ 65,500	Yes	
	Tire Scaffolding	\$ 185,500	Yes	
	Electrical	\$ 916,226	Yes	
	Elevators	\$ 117,811	Yes	
	Landscaping	\$ 9,800	Yes	
	Luminaire	\$ 78,626	Yes	
	General Repairs	\$ 32,627	Yes	
	Overhead (1%)	\$ 5,213,134	Yes	
	<b>MBE TOTAL</b>	\$ 3,403,618		
	<b>WBE TOTAL</b>	\$ 16,8316		
	<b>Contingency Balance</b>	\$ 2008,800		
	<b>ORIG CONTRACT ESTIMATE</b>	\$ 4,019,138		
	<b>TOTAL CONTRACT &amp; EXTRAS</b>	\$ 296,026		
	<b>CREDITS TO CONTRACT</b>	\$ 2,313,134		
	<b>ADJUSTED TOTAL CONTRACT</b>	\$ 5,213,134		

111  
#17

MBE/WBE Contractor Budget Statement

Instituto Puertorriqueno de Arte y Cultura  
3015 WEST DIVISION STREET, CHICAGO, ILLINOIS

Name	Kind of Work	Adjusted Total	MBE	WBE
HUMBOLDT CONSTRUCTION CO 2350 W North Ave Chicago IL 60647	Site Prep Work/Excavation	\$ 70,451	yes	
HUMBOLDT CONSTRUCTION CO	Demolition	\$ 45,000	yes	
Dehart Concrete 300 Algonquin Ave Chicago IL 60690	Concrete	\$ 213,379		
Chicago Masonry 841 N Asher Ave Evanston IL 60228	Masonry	\$ 154,500		
Standard Formwork Corp 1824 N Lincoln Chicago IL 60618	Metals	\$ 96,735	yes	
HUMBOLDT CONSTRUCTION CO	Fencing	\$ 25,388	yes	
HUMBOLDT CONSTRUCTION CO	Rough Carpentry	\$ 453,407	yes	
HUMBOLDT CONSTRUCTION CO	Finish Carpentry	\$ 307,118	yes	
HUMBOLDT CONSTRUCTION CO	Roofing and Gutters	\$ -	yes	
HUMBOLDT CONSTRUCTION CO	Doors/Handware	\$ 94,870	yes	
HUMBOLDT CONSTRUCTION CO	Parking Lot	\$ -		
HUMBOLDT CONSTRUCTION CO	Windows	\$ 45,000	yes	
HUMBOLDT CONSTRUCTION CO	Insulation	\$ 75,000		
HUMBOLDT CONSTRUCTION CO	Drywall	\$ 99,230	yes	
East Decorating 8010 South Dixie Ave Chicago IL	Plaster	\$ 30,000		yes
Oscaro Construction 629 Englewood Drive West Chicago IL 60610	Painting	\$ 148,598		
HUMBOLDT CONSTRUCTION CO	Special Construction	\$ 75,145	yes	
HUMBOLDT CONSTRUCTION CO	Specialties & lum	\$ 197,908	yes	
To be let	Cabinets	\$ 101,470	yes	
3444 Capital Inc 3455 N Milwaukee Ave Chicago IL 60641	Flooring	\$ 465,895	yes	
HUMBOLDT CONSTRUCTION CO	Appliances	\$ 5,200	yes	
HUMBOLDT CONSTRUCTION CO	Ceramic Tile Work	\$ 125,000	yes	
HUMBOLDT CONSTRUCTION CO	Blinds	\$ 35,850	yes	
Peer's Plumbing 4600 W 49th St Chicago IL 60632	Plumbing	\$ 328,120		
PH Mechanical 8450 W 191st St, Suite 817 Meyers IL 60448	HVAC	\$ 765,500	yes	
ACRT Mechanical Services Co 448 S. Cham St Chicago IL 60605	Fire Sprinkler	\$ 165,500		
LHD Electric 9900 S Ave L Chicago IL 60617	Electrical	\$ 936,226	yes	
Evans Elevator 1060 Riverside Blvd Lombard IL 60148	Elevators	\$ 113,811		
HUMBOLDT CONSTRUCTION CO	Landscaping	\$ -		
Preparation, Cleaning and Construction Services N Addison Ave Evanston, IL 60128	Final Cleaning	\$ 10,000	yes	
HUMBOLDT CONSTRUCTION CO	Insurance	\$ 9,800	yes	
HUMBOLDT CONSTRUCTION CO	General Requirements	\$ 68,626	yes	
HUMBOLDT CONSTRUCTION CO	Overhead (1%)	\$ 52,627	yes	
<b>SUB TOTAL</b>		<b>\$ 5,315,154</b>		
Contingency balance		\$ 3206,805		
ORIG CONTRACT ESTIMATE		\$ 5,019,128		
EXTRAS TO CONTRACT		\$ 298,026		
TOTAL CONTRACT & EXTRAS		\$ 5,315,154		
CREDITS TO CONTRACT		\$ -		
ADJUSTED TOTAL CONTRACT		\$ 5,315,154		
				\$ 40,000
			53.73%	0.75%
			2,856,000	

I.P.R.A.C. 3015 W. Division Chicago, IL 60651  
 AS OF 03/31/2007

CONTRACTORS	TOTAL HOURS	CITY HOURS	NON-CITY HOURS	CITY HOURS %	NON-CITY HOURS %
Humboldt Construction Company	7771	6153.5	1617	79%	21%
Degrat Concrete	1427	185.5	1241.5	13%	87%
L N D Electric	504	504	0	100%	0%
Phil's Plumbing	886	771.5	114.5	87%	13%
HTH Mechanical	1375.5	581.5	794	42%	58%
Acme Sprinkler	280	280	0	100%	0%
Kone Elevator	527.5	184	343.5	35%	65%
<b>TOTALS:</b>	<b>12771</b>	<b>8660</b>	<b>4110.5</b>	<b>68%</b>	<b>32%</b>

**EXHIBIT I**

**APPROVED PRIOR EXPENDITURES**

[See attached]

**SWORN STATEMENT FOR CONTRACTOR AND SUBCONTRACTOR TO OWNER**

STATE OF ILLINOIS)  
COUNTY OF COOK

Page 1 of 1  
Request 11  
Escrow #

The affiant Efran Vargas being first duly sworn on oath deposes and says that he is Director of Housing and Economic Development of Humboldt Construction Company, 2550 W North Ave., Chicago IL, which contracted with Instituto Puertorriqueño de Arte y Cultura owner for General Contracting on the following described premises in Cook County to wit:

**Instituto Puertorriqueño de Arte y Cultura  
3015 WEST DIVISION STREET, CHICAGO, ILLINOIS**

That for the purposes of said contract the following persons have been contracted with and have furnished or are furnishing and preparing materials for and have done or doing labor on said improvement. That there is due to become due them respectively the amounts set opposite their names for materials or labor as stated. That this statement is a full, true and complete statement of all such persons and of the amounts paid.

Name	Kind of Work	Adjusted Total	Work %	Completed \$ Value	Total Retained	Net Pre-Paid	Net Amt. This Payment	Balance Due
HUMBOLDT CONSTRUCTION CO 2550 W North Ave. Chicago, IL 60647	Site Prep. Work/ Excavation	\$70,451	100%	\$ 70,452	\$ 6,405	\$ 64,047	\$ -	\$ 6,404
HUMBOLDT CONSTRUCTION CO 2550 W North Ave. Chicago, IL 60647	Demolition	\$45,000	99%	\$ 44,635	\$ 4,058	\$ 40,577	\$ -	\$ 4,423
DeGraf Concrete 300 Alderman Ave Chicago, IL 60690	Concrete	\$219,953	95%	\$ 208,306	\$ 18,937	\$ 189,369	\$ -	\$ 30,584
Chicago Masonry 841 N Addison Ave Elmhurst, IL 60126	Masonry	\$225,835	97%	\$ 219,984	\$ 19,999	\$ 182,735	\$ 17,250	\$ 25,850
Standard Fabric Corp. 1414 N. Lincoln, Chicago, IL 60619	Metals	\$116,735	77%	\$ 90,306	\$ 8,210	\$ 80,996	\$ 1,100	\$ 34,639
HUMBOLDT CONSTRUCTION CO	Fencing	\$25,388	0%	\$ -	\$ -	\$ -	\$ -	\$ 25,388
HUMBOLDT CONSTRUCTION CO	Rough Carpentry	\$480,502	95%	\$ 458,199	\$ 41,654	\$ 385,159	\$ 31,386	\$ 83,957
HUMBOLDT CONSTRUCTION CO	Finish Carpentry	\$291,033	35%	\$ 102,875	\$ 9,352	\$ 78,406	\$ 15,117	\$ 197,510
HUMBOLDT CONSTRUCTION CO	Roofing and Gutters	\$ 3,221	0%	\$ 3,221	\$ 293	\$ 2,928	\$ -	\$ 293
HUMBOLDT CONSTRUCTION CO	Doors/Hardware	\$138,123	7%	\$ 10,087	\$ 917	\$ 9,170	\$ -	\$ 128,953
HUMBOLDT CONSTRUCTION CO	Parking Lot	\$ -	0%	\$ -	\$ -	\$ -	\$ -	\$ -
HUMBOLDT CONSTRUCTION CO	Windows	\$80,324	53%	\$ 42,938	\$ 3,903	\$ 39,035	\$ -	\$ 41,289
HUMBOLDT CONSTRUCTION CO	Insulation	\$68,426	17%	\$ 11,334	\$ 1,030	\$ 10,304	\$ -	\$ 58,122
HUMBOLDT CONSTRUCTION CO	Drywall	\$149,230	99%	\$ 148,403	\$ 13,491	\$ 85,496	\$ 49,416	\$ 14,318
HUMBOLDT CONSTRUCTION CO	Painting & Plaster	\$175,746	75%	\$ 131,616	\$ 11,965	\$ 78,204	\$ 41,447	\$ 56,095
HUMBOLDT CONSTRUCTION CO	Special Construction	\$75,145	0%	\$ -	\$ -	\$ -	\$ -	\$ 75,145
HUMBOLDT CONSTRUCTION CO	Specialties & furn.	\$197,908	0%	\$ -	\$ -	\$ -	\$ -	\$ 197,908
HUMBOLDT CONSTRUCTION CO	Cabinets	\$101,470	5%	\$ 5,166	\$ 470	\$ 4,696	\$ -	\$ 96,774
S+M Carpet 3455 N Midwestern Ave Chicago, IL 60647	Flooring	\$366,657	18%	\$ 66,652	\$ 6,059	\$ 60,593	\$ -	\$ 306,064
HUMBOLDT CONSTRUCTION CO	Appliances	\$ 5,200	0%	\$ -	\$ -	\$ -	\$ -	\$ 5,200
HUMBOLDT CONSTRUCTION CO	Ceramic Tile Work	\$ 3,510	0%	\$ -	\$ -	\$ -	\$ -	\$ 3,510
HUMBOLDT CONSTRUCTION CO	Blinds	\$15,850	0%	\$ -	\$ -	\$ -	\$ -	\$ 15,850
Phil's Plumbing 4600 W 48th St. Chicago, IL 60632	Plumbing	\$309,026	98%	\$ 301,473	\$ 27,407	\$ 272,576	\$ 1,490	\$ 34,980
HTM Mechanical 8450 W 191st St, Suite #17 Mokena, IL 60448	HVAC	\$799,414	66%	\$ 525,853	\$ 47,805	\$ 322,507	\$ 155,541	\$ 321,366
ACNEE sprinkler Service Co. 643 S Clark St. Chicago, IL 60605	Fire Sprinkler	\$189,650	0%	\$ -	\$ -	\$ -	\$ -	\$ 189,650
Jim Wootman/Northwest Electrical Supply 600 E Rand Rd. Mt. Prospect, IL 60056	Electrical	\$137,330	100%	\$ 137,330	\$ -	\$ 137,330	\$ -	\$ (0)
L.N.D. Electric Company 1500 S. Ave. L. Chicago, IL 60617	Electrical	\$786,796	19%	\$ 151,531	\$ 13,776	\$ 107,097	\$ 30,659	\$ 649,041
Russ Elevator 1080 Parkview Blvd. Lombard, IL 60148	Elevators	\$121,011	100%	\$ 120,425	\$ 10,948	\$ 87,854	\$ 21,623	\$ 11,534
HUMBOLDT CONSTRUCTION CO	Landscaping	\$ -	0%	\$ -	\$ -	\$ -	\$ -	\$ -
HUMBOLDT CONSTRUCTION CO	Insurance	\$ 9,800	100%	\$ 9,800	\$ -	\$ 9,800	\$ -	\$ -
HUMBOLDT CONSTRUCTION CO	General Requirements	\$120,848	97%	\$ 117,397	\$ 10,672	\$ 99,446	\$ 7,278	\$ 14,124
HUMBOLDT CONSTRUCTION CO	Overhead (1%)	\$53,298	56%	\$ 29,933	\$ 2,721	\$ 23,489	\$ 3,723	\$ 26,086
<b>SUB TOTAL</b>		<b>\$5,382,879</b>	<b>56%</b>	<b>\$ 3,007,915</b>	<b>\$260,071</b>	<b>\$2,371,814</b>	<b>\$376,030</b>	<b>\$2,635,036</b>

Contingency balance	\$138,249		
ORIG. CONTRACT ESTIMATE	\$ 5,019,128	WORK COMPLETED TO DATE	\$ 3,007,915
EXTRAS TO CONTRACT	\$ 363,751	LESS RETAINED:	\$ 260,071
TOTAL CONTRACT & EXTRAS	\$ 5,382,879	NET AMOUNT EARNED	\$ 2,747,843
CREDITS TO CONTRACT	\$ -	NET PREVIOUSLY PAID:	\$ 2,371,814
ADJUSTED TOTAL CONTRACT	\$ 5,382,879	NET AMT. OF THIS PAYMENT:	\$ 376,029
		BALANCE TO BECOME DUE:	\$ 2,635,036

It is understood that the total amount paid to date plus the amount requested in this application shall not exceed 90% of the cost of work completed to date. I agree to furnish Waivers of Lien for all materials under my contract when demanded.

Signed Efran Vargas  
Efran Vargas, Director of Housing & Economic Development  
Subscribed and sworn to before me this 20th day of March 2007.





**WALVEK OF LEIN IUDATE**

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS  
TO WHOM IT MAY CONCERN

City # \_\_\_\_\_  
Loan # \_\_\_\_\_  
City # \_\_\_\_\_

WHEREAS the undersigned has been employed by Instituto Puertorriqueño de Arte Y Cultura (IPRAC) to furnish General Rehabilitation Construction for the premises know as 3015 West Division, Chicago, Illinois of which Chicago Park District is the owner.

THE undersigned, for and in consideration of Three Hundred Seventy Six Thousand and Thirty Dollars and xx/00 Cents (\$376,030.00 ) and other good and valuable considerations, the receipt whereof is hereby acknowledged, do(es) hereby waive and release any and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens, with respect to and on said above-described premises, and the improvements thereon, and on the material, fixtures, apparatus or machinery furnished, and on the moneys, funds or other considerations due or to become due from the owner, on account of labor services, material, fixtures, apparatus or machinery, furnished to this date by the undersigned for the above-described premises, INCLUDING EXTRAS.

DATE March 20, 2007  
COMPANY NAME Humboldt Construction Company, 2850 West North Avenue, Chicago, Illinois 60647

SIGNATURE AND TITLE *Efrain Vargas* Director of Housing and Economic Development

NOTE all waivers must be for the full amount paid. If waiver is for a corporation, corporate name should be used, corporate seal affixed and title of officer signing waiver should be set forth, if waiver is for a partnership, the partnership name should be used, partner should sign and designate himself as partner

**CONTRACTOR'S AFFIDAVIT**

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS  
TO WHOM IT MAY CONCERN:

THE undersigned, being duly sworn, deposes and says that he is Efrain Vargas, Director of Housing and Economic Development of the Humboldt Construction Company, who is the contractor furnishing General Rehabilitation Construction work on the building located at 3015 W. Division, Chicago Illinois owned by Chicago Park District.

That the total amount of the contract including extras is \$5,382,879<sup>00</sup> on which he has received payment of \$2,371,814.<sup>00</sup> prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names of all parties who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications:

NAME(S)	WHAT FOR	CONTRACT PRICE	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
TOTAL LABOR AND MATERIAL TO COMPLETE					

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated

Signed this March 20, 2007. Signature: *Efrain Vargas*  
Subscribed and sworn to before me this 20th Day of March, 2007



Notary Public

20070319

8011

INVOICE  
03/07-12

DATE:  
MARCH 14, 2007

FROM: HUMBOLDT CONSTRUCTION CO.  
2550 WEST NORTH AVENUE  
CHICAGO, IL 60647  
TELEPHONE (773) 278-5669  
FAX: (773) 278-5673

TO: INSTITUTO PUERTORRIQUEÑO  
DE ARTE Y CULTURA (IPRAC)  
P.O. BOX 47589  
CHICAGO, ILLINOIS 60647

PAYROLLS

Payrolls paid from February 16, to March 15, 2007  
(Four payrolls)

I.P.R.A.C.

SALARIES CONSTRUCTION

EMPLOYEE NAME	HOURS	RATE	SUB-TOTALS	FRINGE BENEFITS (UNION)	FRINGE BENEFITS (OTHER)	TOTAL
QUADALUPE ARIAS DW	40.00	\$36.52	\$1,460.80	\$579.20	\$600.68	\$2,640.68 ✓
ISMAEL CAMACHO RC	140.50	\$46.23	\$6,495.32	\$2,034.44	\$2,231.07	\$10,760.83 ✓
OVERTIME RC	6.50	\$69.35	\$450.74	\$94.12	\$0.00	\$544.86 ✓
JOHN FREES RC	144.00	\$36.52	\$5,258.88	\$2,085.12	\$2,131.97	\$9,475.97 ✓
GONZALO GALARZA DW	40.00	\$36.52	\$1,460.80	\$579.20	\$588.99	\$2,628.99 ✓
HONORIO GALARZA DW	40.00	\$36.52	\$1,460.80	\$579.20	\$588.99	\$2,628.99 ✓
MARTIN HERNANDEZ DW	40.00	\$36.52	\$1,460.80	\$579.20	\$600.68	\$2,640.68 ✓
GERARDO LUNA DW	160.00	\$36.52	\$5,843.20	\$2,316.80	\$2,396.49	\$10,556.49 ✓
PABLO MEDINA DW	152.00	\$14.61	\$2,220.72	\$2,200.96	\$913.16	\$5,334.84 ✓
RALPH MEJIAS FC	152.00	\$38.52	\$5,855.04	\$2,200.96	\$1,889.92	\$9,945.92 ✓
OVERTIME	0.50	\$57.78	\$28.89	\$7.24	\$0.00	\$36.13 ✓
FELIX NEGRON RC	149.00	\$36.52	\$5,441.48	\$2,157.52	\$1,970.02	\$9,569.02 ✓
PEREZ, ALBERTO DW	64.00	\$36.52	\$2,337.28	\$926.72	\$961.09	\$4,225.09 ✓
REZA, ISRAEL DW	40.00	\$36.52	\$1,460.80	\$579.20	\$600.68	\$2,640.68 ✓
REZA, SAUL DW	40.00	\$36.52	\$1,460.80	\$579.20	\$600.68	\$2,640.68 ✓
RODRIGUEZ, LEO DW	40.00	\$36.52	\$1,460.80	\$579.20	\$600.68	\$2,640.68 ✓
SANTIAGO, ANTHONY RC	56.00	\$14.61	\$818.16	\$810.88	\$336.43	\$1,965.47 ✓
EDWIN VARGAS FC	152.00	\$14.61	\$2,220.72	\$2,200.96	\$713.30	\$5,134.98 ✓
<b>SUB-TOTALS</b>	<b>1,456.50</b>		<b>47,196.03</b>	<b>21,090.12</b>	<b>17,724.83</b>	<b>86,010.98</b>

TOTAL DUE:

\$86,010.98

**Institute of Puerto  
Rican Culture**

20070319 PO11



WBE Certified

Masons • Tuckpointers • EIFS Applicators

**INVOICE**

DATE	INVOICE NO.
3/16/2007	2181

<b>CONTRACTOR</b>
Humboldt Construction Company 2550 West North Avenue Chicago, IL 60647 Attn: Miguel A. Sanchez

<b>PROJECT ADDRESS</b>
Instituto Puertorriqueno de Arte y Cultura 3015 West Division Street Chicago, Illinois

JOB NUMBER	TERMS	DUE DATE	SUPER.	START DATE
	Net 30	4/15/2007	RA	3/16/2007

CATEGORY	DESCRIPTION	AMOUNT	PERCENT	PAYMENT
Extra	Change Order #13: Remove frame and window at stair #2. Patch at duct work two locations. Patch individual brick at rooms 118, 126, and 141. Tuckpoint brick. Apply three coats of sealer. Patch one additional duct opening.	17,250.00	1	17,250.00
<i>COPY</i>				
	<i>Masonry</i>	<i>SMA</i>		
Thank you for your business.			<b>Total</b>	<b>\$17,250.00</b>

841 North Addison Avenue, Elmhurst, IL 60126  
Office (630) 834-0910 • Fax (630) 834-0911

2007 03/19

po 11

**Sandoval Fences Corporation**

1814 N Latrobe Ave.  
Chicago, IL 60639  
PPH 773 237 7970 Fax 237-7972

**Invoice**

Number: 0543  
Date: March 09, 2007

**Bill To:**  
Steve Knox  
HUMBOLDT CONSTRUCTION  
2546 W. NORTH AVENUE.  
CHICAGO, IL 60647

**Ship To:**  
Steve Knox  
HUMBOLDT CONSTRUCTION  
2546 W. NORTH AVENUE.  
CHICAGO, IL 60647

PO Number	Terms	Sales Rep	Ship Via	Code	
IP.RA.C	Upon completion	Mike	O.T.	Fence	
Product ID	Description	Quantity	Price	Tax 1	Amount
Ironwork	Furnished materials and labor to fabricate and install a special platform for furnace, for the property known as I.P.R.A.C. Measurements and specifications as requested by customer.	1 00	1,100.00		1,100.00

*Metals*

*SM*

**Institute of Puerto Rican Culture**

<b>Sub-Total</b>	<b>\$1,100.00</b>
State Tax 9.00% on 0.00	0.00
<b>Total</b>	<b>\$1,100.00</b>

**Thank You.**  
Your Business is greatly appreciated.

All Invoices are due upon completion of the job.  
Past due Invoices are subject to a late fee charge.  
All jobs are guaranteed on labor as welding and assembling.  
Paint Guarantee will only apply for special paint ( powder coated) if/when used for the particular fence / job



2007 0309 0011

ATLAS BOBCAT INC.  
5050 N. RIVER ROAD  
SCHILLER PARK, IL 60176  
847/678-3450

Customer  
65284  
Document  
62486

I N V O I C E

Invoice  
N13524

Pg  
1

NET 30

2/17/07

Sold To  
HUMBOLDT CONSTRUCTION CO  
2550 W NORTH AVE  
CHICAGO IL 60647

Ship To  
STEVE  
HUMBOLDT CONSTRUCTION CO  
CHGO PARK DISTRICT  
3015 W. DIVISION  
CHICAGO IL 60647

**Institute of Puerto  
Rican Culture**

Order	Item	Description	Each	Amount
-------	------	-------------	------	--------

Taken By TONY HILGART

Rental Contract 62486  
Period: 2/05/07 Thru 2/15/07

1	1- SET FORKS AND FRAMES		170.00	170.00
1	PICKUP/DELIVERY		180.00	180.00
	CHICAGO TRANS TAX - RENTAL			21.00

*Rough carpentry S.M.M.*

**Institute of Puerto  
Rican Culture**

Please call for our special low Finance Rates!

Total 371.00

SEE TERMS AND CONDITIONS ON REVERSE



20070309 poll

ATLAS BOBCAT INC.  
5050 N. RIVER ROAD  
SCHILLER PARK, IL 60176  
847/678-3450

Customer  
65284  
Document  
60419

I N V O I C E

Invoice  
N13550

Pg  
1

NET 30

**Institute of Puerto  
Rican Culture**

3/01/07

Sold To  
HUMBOLDT CONSTRUCTION CO  
2550 W NORTH AVE  
CHICAGO IL 60647

Ship To  
STEVE  
HUMBOLDT CONSTRUCTION CO  
CHICAGO PARK DISTRICT  
3015 W. DIVISION  
CHICAGO IL 60647

QTY	MAKE	MODEL	SERIAL	EQUIPMENT	METER	S/S	CUSTOMER P.O.
							051 (B) STEVE
QTY	SHIP	DESCRIPTION			EACH	AMOUNT	
		Taken By TONY HILGART					
		Rental Contract 60419					
		Period: 1/28/07 Thru 2/27/07					
1	1	B1 B14559	S300	525815101	S	2,580.00	2,580.00
		ACS/ALARM/BKT POST					
	1	1- FUEL CHARGE				45.00	45.00
	1	PICKUP/DELIVERY				180.00	180.00
		CHICAGO TRANS TAX - RENTAL					168.30
						<i>Rough Carpentry</i>	<i>SMA</i>
						Please call for our special low Finance Rates!	
						Total	2,973.30

TERMS AND CONDITIONS ON REVERSE

# Bulldog Tools & Fasteners

1147 N ELLSWORTH AVE  
VILLA PARK, IL 60181  
US

PO 11

Invoice #: 37263

Invoice Date: 7-Feb-07

Original Order# 123441

Shipping W/HSE MAIN

Order taken by: BRUCE T

20070305

Tel 630 532 5322

Fax 630.532 5325

**Bill To:** Client account number HUM00001  
HUMBOLDT CONSTRUCTION CO  
2550 W NORTH AVE  
CHICAGO, IL 60647  
US  
Tel: 773.278.8838 Fax 773 278 5673

**Ship To:** 9999  
HUMBOLDT CONSTRUCTION CO  
2550 W NORTH AVE.  
CHICAGO, IL 60647  
US  
Tel. 773 278 8838 Fax: 773 278.5673

Ship by Date	Due Date	Customer Department	Customer PO Number	Customer Release#	Terms of Sale	Inside Salesrep	Outside Salesrep
2/9/2007	03/09/2007		3015 W. DIVISION	80	Net 30 Days		20
Ordered By	Currency	Exchange Rate	Carrier	Service Code	Frnt Method		
	US	1				A	

Seq#	L Item	Description	Qty Tax	Qty Ordered	Qty Invoiced	Qty BO	Qty UM	Unit Price	Amt UM	Extended Price
S	POW55020	POWERS 1/2" TRAK-IT PIN & FUEL	4	4	0	0	BX	95 00 BX		\$380.00
						4	SKU: BX			
S	POW55022	POWERS 3/4" TRAK-IT PIN & FUEL	4	4	0	0	BX	65 00 BX		\$260.00
						4	SKU: BX			
S	POW55010	POWERS TRAK-IT FUEL CELL	6	6	0	0	EA	15 30 EA		\$91.80
						6	SKU: EA			

Total Lines: 3

Total Weight: 0.00

*Rough Carpentry*

*SM*

**Institute of Puerto Rican Culture**

Thank you for your order	Subtotal	\$731.80
	Surcharge	\$5 00
	Sales Tax	
	<b>Total:</b>	<b>\$736.80</b>



2007 03 19 Poll 61743

### GILLMAN'S HARDWARE

HARDWARE, PAINTS, GLASS, ELECTRIC SUPPLIES  
PLUMBING SUPPLIES, HEATERS AND SUPPLIES AND HOUSEHOLD GOODS

PHONE 773-252-5886

2118-20 N. MILWAUKEE AVE.

OR 773-252-5887

FAX: 773-252-5737

CHICAGO, ILL. 60647

M Humbert Const

3015 West Division

10	10	CB Sweep Copm	2/25	219	50
				19	75
					23925
<i>Samuel Jimenez</i>					
<b>Institute of Puerto Rican Culture</b>					

Rough Carpenter Sam





**UNIVANU AREA BUILDING SPECIALTIES**

303 W. IRVING PARK RD. ROSF IL 60172-1197 630-894-5801 630-894-5805 FAX  
 ROSELLE BUILDING MATERIALS • 815-438-1013  
 PLAINFIELD SUPPLY • 815-438-1013  
 STATE LINE DRYWALL • 847-395-8100  
 HAMPSHIRE SUPPLY • 847-683-4510  
 SOUTH COUNTY GYPSUM • 219-661-0337  
 CEILINGS and BUILDING SPECIALTIES - MOKENA • 708-326-3850  
 CEILINGS and BUILDING SPECIALTIES - WHEELING • 847-215-6200

**INVOICE**

REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via CFU	Sold To Code 8044265	Customer Order Number 1380776	From Order No 061008	Order Date 2/08/07	Date Requested 2/08/07	Date Shipped 2/08/07	Document No 1139173346
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SOLD TO: HUMBOLDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647

SHIP TO: 3015 W DIVISION  
 (Same as SOLD TO unless indicated) TAX: 13953

20070319  
 PO 11

QTY	DESCRIPTION	UNIT	QUANTITY	PRICE PER UNIT	SALES AMOUNT
150	1.5X1.5" ANGLE 10' 206A	MLF	1,500	369.0000	553.50
100	6" FLAT STOCK 10' 206A	MLF	1,000	747.0000	747.00
1	100PC UTILITY BLADE DISP	EACH	1,000	13.0000	13.00
				TAX EXEMPT # 13953	
				SUB-TOTAL	1,313.50
				TAX 1.17	1.55
				TOTAL INVOICE	1,315.05
				PAY LAST AMOUNT SHOWN ABOVE	

*Rough Estimate*

*Two free job*

**Institute of Puerto Rican Culture**

PAY THIS

1,313.50

1,313.50

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET, ON THE DATE SHOWN. PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES F.O.B. WAREHOUSE ON PICK-UPS AND F.O.B. CURBSIDE BEFORE ANY UNLOADING. WHEN DELIVERED, THIS ORDER, IF ACCEPTED BY SELLER, IS SUBJECT TO TERMS AND CONDITIONS ON THE BACK HEREOF WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE REQUIREMENT PROVISIONS. PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.

ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_

CUSTOMER NO.:



# INVOICE

303 W. IRVING PARK RD. ROSF ILL 60172-1197 630-884-3801 630-884-5805 FAX  
 DEKALB SUPPLY • 815-754-0189  
 ZECKMAN SUPPLY • 312-739-8600  
 MAC SUPPLY • 708-338-2866  
 SOUTH COUNTY GYPSUM • 219-861-0337  
 CEILINGS and BUILDING SPECIALTIES - WOKENA • 708-328-3950  
 CEILINGS and BUILDING SPECIALTIES - WHEELING • 847-215-8200

REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via TAILGATE	Sold To Code 0044265	Customer Order Number ISMAEL	Our Order No 1380864	From Order No 061005	Order Date 2/09/07	Date Requested 2/12/07	Date Shipped 2/12/07	Document No 1150178588
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SOLD TO: HUMBOLDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647

SHIP TO: HUMBOLDT CONSTRUCTION CO  
 3015 W. DIVISION  
 CELL 773 491 4763  
 CHICAGO IL

2007 02 19  
 PO#

QTY	PRODUCT DESCRIPTION	UNIT	PRICE PER UNIT	SALES AMOUNT
50	358 TR 10' 20G 114L	MLF	484.2474	24212.37
100	358 STUD 12' 20GA	MLF	495.1774	49517.74
SUB-TOTAL			9.000	837.03
TAX 1.12				9.09
TOTAL INVOICE				915.35

Institute of Puerto Rican Culture

*Roupa Emprego*

TAX Free job  
 SMM

PAY THIS  
 837.03

PAY LAST AMOUNT SHOWN ABOVE

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET. ON THE DATE SHOWN PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES FOB WAREHOUSE ON PICK-UPS AND FOB CURBSIDE, BEFORE ANY UNLOADING, WHEN DELIVERED. THIS ORDER, IF ACCEPTED BY SELLER, IS ACCEPTED BY DATE. DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE REQUIREMENT PROVISIONS PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.



303-W. IRVING PARK RD. ROSF IL 60172-1197 630-894-5801 630-894-5805 FAX  
 DEKALB SUPPLY • 815-754-0169  
 ZECHMAN SUPPLY • 312-733-6600  
 MAC SUPPLY • 708-339-2666  
 SOUTH COUNTY GYPSUM • 219-661-0337  
 CEILINGS and BUILDING SPECIALTIES - MOKENA • 708-326-3980  
 CEILINGS and BUILDING SPECIALTIES - WHEELING • 847-216-8200

# INVOICE

**REMIT TO:**  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via **TAILGATE** Customer Order Number: **1380947** Our Order No: **20070319** From Order: **061003** Order Date: **2/12/07** Date Requested: **2/12/07** Date Shipped: **2/12/07** Document No: **1139178989**

SOLD TO: **HUMBOLDT CONSTRUCTION CO** SHIP TO: **3015 W DIVISION**  
**2550 N. NORTH AVE** **PO. 11** **CHICAGO, IL 60647**  
**CHICAGO, IL 60647**

QTY	DESCRIPTION	UNIT	PRICE	AMOUNT	SALES AMOUNT
100	212 TR 10' 206 114L	MLF	441.5875	1.000	441.5875
190	212 STUO 12' 206A	MLF	453.1172	2.280	1,033.11
<p><i>Group for property</i></p> <p><i>TAX Free job</i></p> <p><i>S/M</i></p>					
<p>SUB-TOTAL</p> <p>TAX</p> <p>TOTAL INVOICE</p>					1,474.70
<p>PAY LAST AMOUNT SHOWN ABOVE</p>					1,474.70

**Institute of Puerto Rican Culture**

*PAY THIS*

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET. ON THE DATE SHOWN PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES FOB WAREHOUSE ON PICKUPS AND FOB CURBSIDE BEFORE ANY UNLOADING WHEN DELIVERED. THIS ORDER, IF ACCEPTED BY SELLER, IS SUBJECT TO TERMS AND CONDITIONS ON THE BACK HEREOF, WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE REQUIREMENT PROVISIONS. PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.

ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_

CUSTOMER COPY

20070319 2011

**RUBENSTEIN LUMBER CO.**  
5357 W. GRAND AVENUE  
CHICAGO, IL 60639  
773-237-1700 • FAX 773-237-1086  
167 N. MORGAN STREET  
CHICAGO, IL 60607  
312-666-4800 • FAX 312-666-5512

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\* INVOICE \*  
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Invoice # 113636--000  
Inv Date: 03-05-07  
Page: 1

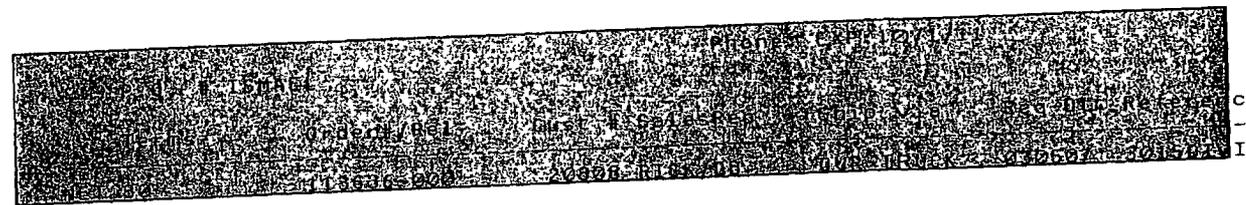
Sold To:

HUMBOLDT CONST.  
DIV. OF BICKEROIKE  
2550 W. NORTH AVE.  
CHICAGO IL 60647

Ship To:

**Institute of Puerto  
Rican Culture**

HUMBOLDT CONST.  
3015 W DIVISION ST  
INST.OF PUERTO RICAN ARTS  
PUERTO RICAN ARTS CF



Stock #	Ordered	Shipped	U/M	Unit Price	Unit Disc	Extensio
P06C025 4X8-1/2"SE PINE STURDI-FLOOR	60	60	EACH	16.10		966.0
P06C075 4X8-3/4"SE PINE STURDI-FLOOR	40	34	EACH	23.04		783.3
P06G050 4X8-3/4"FIRE TREATED PLYWOOD-DRICON	5	5	EACH	37.00		185.0
					Sub Total	1934.3
					FUEL SURCH	20.0
					TOTAL	1954.3

*Rough Carpentry*

**Institute of Puerto  
Rican Culture**

**RUBENSTEIN LUMBER CO.**  
 5357 W GRAND AVENUE  
 CHICAGO, IL 60639  
 773-237-1700 • FAX 773-237-1086  
 167 N. MORGAN STREET  
 CHICAGO, IL 60607  
 312-666-4800 • FAX 312-666-5512

20070219 2011

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 \* INVOICE \*  
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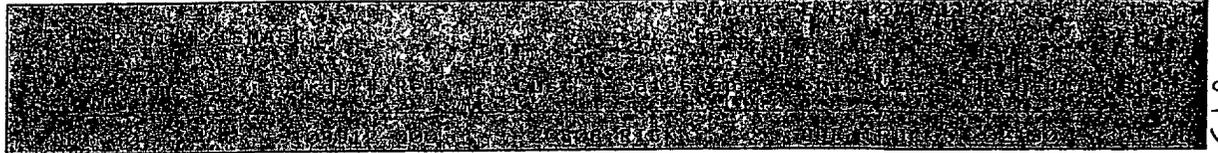
Invoice # 109912-000  
 Inv Date: 02-19-07  
 Page: 1

Sold To:

HUMBOLDT CONST.  
 DIV. OF BICKEROIKE  
 2550 W. NORTH AVE.  
 CHICAGO IL 60647

Ship To:

HUMBOLDT CONST.  
 3015 W DIVISION ST  
 INST.OF PUERTO RICAN ARTS  
 PUERTO RICAN ARTS CF



Stock #	Ordered	Shipped U/M	Unit Price	Unit Disc	Extensio
SUPPLIER'S CHARGE FOR DELIVERY, FOR REDWOOD					
*DEL FEE	1	1 EACH	25.00		25.0
Sub Total					25.0
TOTAL					25.0

*Rough Carpentery*

**Institute of Puerto  
 Rican Culture**

**RUBENSTEIN LUMBER CO.**  
 5357 W. GRAND AVENUE  
 CHICAGO, IL 60639  
 773-237-1700 • FAX 773-237-1086  
 167 N. MORGAN STREET  
 CHICAGO, IL 60607  
 312-666-4800 • FAX 312-666-5512

20070319

PO 11

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 \* INVOICE \*  
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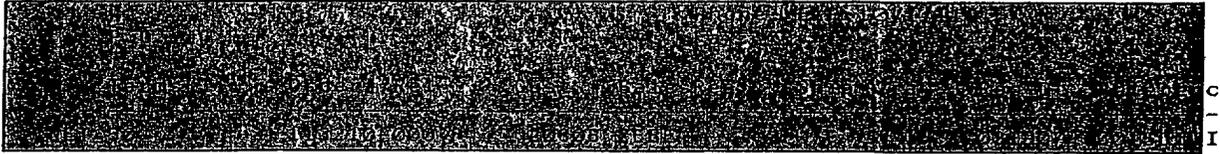
Invoice # 113210-000  
 Inv Date: 02-19-07  
 Page: 1

Sold To:

HUMBOLDT CONST.  
 DIV. OF BICKERDIKE  
 2550 W. NORTH AVE.  
 CHICAGO IL 60647

Ship To:

HUMBOLDT CONST.  
 3015 W DIVISION ST  
 INST.OF PUERTO RICAN ARTS  
 PUERTO RICAN ARTS CF



Stock #	Ordered	Shipped	U/M	Unit Price	Unit Disc	Extensio
SH04	25	25	EACH	.99		24.7
LUS 210 SGL 2X10 Z JOIST HANGER						
TH32.5	1	1	EACH	13.05		13.0
5# N10d (1-1/2") HOT DIP GALV. SIMPSON HANGER NAIL						
Sub Total						37.8
TOTAL						37.8

*Rough Carpentry*

**Institute of Puerto  
 Rican Culture**

**RUBENSTEIN LUMBER CO.**  
 5357 W GRAND AVENUE  
 CHICAGO, IL 60639  
 773-237-1700 • FAX 773-237-1086  
 167 N MORGAN STREET  
 CHICAGO, IL 60607  
 312-666-4800 • FAX 312-666-5512

2007 02 19 2011

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 \* INVOICE \*  
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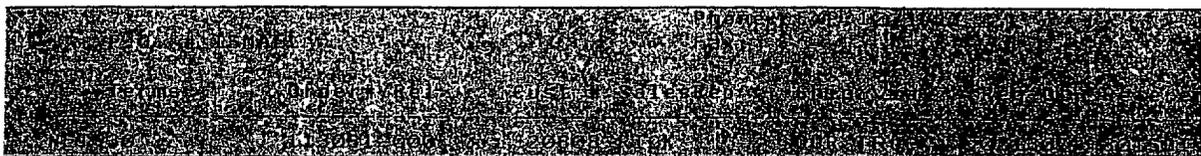
Invoice # 113051-000  
 Inv Date: 02-13-07  
 Page: 1

Sold To:

HUMBOLDT CONST.  
 DIV. OF BICKEROIKE  
 2550 W. NORTH AVE.  
 CHICAGO IL 60647

Ship To:

HUMBOLDT CONST.  
 3015 W DIVISION ST  
 INST.OF PUERTO RICAN ARTS  
 PUERTO RICAN ARTS CF



Stock #	Ordered	Shipped	U/M	Unit Price	Unit Disc	Extension
P06G050 4X8-3/4" FIRE TREATED PLYWOOD-DRICON	6	6	EACH	37.00		222.00
SH04 LUS 210 SGL 2X10 Z JOIST HANGER	20	20	EACH	.99		19.80
						Sub Total 241.80
						FUEL SURCH 20.00
						TOTAL 261.80

*Rough Copy*

**Institute of Puerto  
 Rican Culture**

**RUBENSTEIN LUMBER CO.**  
 5357 W GRAND AVENUE  
 CHICAGO, IL 60639  
 773-237-1700 • FAX 773-237-1086  
 167 N. MORGAN STREET  
 CHICAGO, IL 60607  
 312-666-4800 • FAX 312-666-5512

20070319

PMI

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 \* INVOICE \*  
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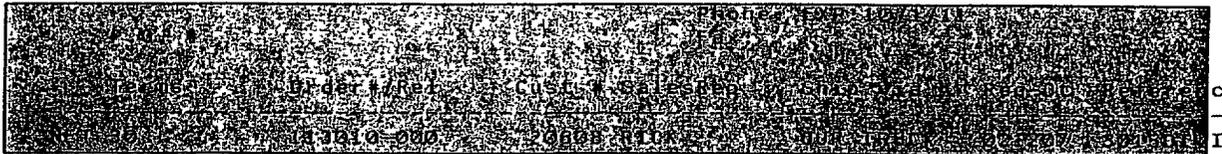
Invoice # 113010-000  
 Inv Date: 02-12-07  
 Page: 1

Sold To:

HUMBOLDT CONST.  
 DIV. OF BICKERDIKE  
 2550 W. NORTH AVE.  
 CHICAGO IL 60647

Ship To:

HUMBOLDT CONST.  
 3015 W DIVISION ST  
 INST.OF PUERTO RICAN ARTS  
 PUERTO RICAN ARTS CF



Stock #	Ordered	Shipped	U/M	Unit Price	Unit Disc	Extensio
P06G050 4X8-3/4" FIRE TREATED PLYWOOD-DRICON	10	10	EACH	37.00		370.0
Sub Total						370.0
FUEL SURCH						20.0
TOTAL						390.0

*Rough Carpentry*

**La Estancia  
 Apartments**

**Institute of Puerto  
 Rican Culture**

**SUNBELT  
RENTALS**



**INVOICE**  
SEND ALL PAYMENTS TO:  
**SUNBELT RENTALS**  
PO BOX 409211  
ATLANTA, GA 30384-9211

INVOICE NO.	8105860-005
ACCOUNT NO.	446084
INVOICE DATE	3/13/07

*2007 0219 ROU*

TO:

1oz - 3114 - 3212  
HUMBOLDT CONSTRUCTION CO.  
2550 W NORTH AVE  
CHICAGO IL 60647-5216



ADDRESS:

HUMBOLDT PARK IPRAC  
3015 W DIVISION  
CHICAGO, IL 60622

773-491-2018

ALTY PLUS NO

RECEIVED BY	CONTRACT NO
ISHMALE, G	8105860
PURCHASE ORDER NO	
IPRAC	
JOB NO	
1 - HUMBOLDT PARK IP	
BRANCH	
COUNTRYSIDE 6260 JOLIET RD COUNTRYSIDE, IL 60525 708-354-2800	

QTY	EQUIPMENT #	Min	Day	Week	4 Week	Amount
1	25-26 ELECT SCISSOR NARROW	175.00	175.00	350.00	750.00	750.00
	89412 Make: JLG Model: 2630ES Ser #: 0200155006					
	HR OUT: 31.600 HR IN: TOTAL: 31.600					

**SALES ITEMS:**

Qty	Item number	Unit	Price	Amount
1	CSTAX	EA	7.500	7.50
1	COUNTRYSIDE RENTAL TAX 1%	EA	5.620	5.62
	ENVIRONMENTAL			
	ENVIRONMENTAL			
	BILLED FOR FOUR WEEKS 2/26/07 THRU 3/25/07.			

*Finish Carpentry SMR*

**Equipment. Service. Guaranteed.**

EMIT TO:

NET DUE UPON RECEIPT

UNBELT RENTALS  
PO BOX 409211  
ATLANTA, GA 30384-9211

Invoices not paid within 30 days may be subject  
to a 1-1/2% per month charge.

SUBTOTAL	763.12
SALES TAX	45.45
INVOICE TOTAL	808.57

**SUNBELT  
RENTALS**



*20070309* *ROLL*

**INVOICE**  
SEND ALL PAYMENTS TO:  
**SUNBELT RENTALS**  
PO BOX 409211  
ATLANTA, GA 30384-9211

INVOICE NO.	8105860-004
ACCOUNT NO.	446084
INVOICE DATE	2/13/07
PAGE	1 of 1

OFFICE TO

1oz - 3131 - 3228  
HUMBOLDT CONSTRUCTION CO.  
2550 W NORTH AVE  
CHICAGO IL 60647-5216



3 ADDRESS

HUMBOLDT PARK IPRAC  
3015 W DIVISION  
CHICAGO, IL 60622

773-491-2018

ALTY PLUS NO

RECEIVED BY	CONTRACT NO
ISHMALE, G	8105860
PURCHASE ORDER NO	
IPRAC	
JOB NO	
1 - HUMBOLDT PARK IP	
BRANCH	
COUNTRYSIDE 6260 JOLIET RD COUNTRYSIDE, IL 60525 708-354-2800	

QTY	EQUIPMENT #	Min	Day	Week	4 Week	Amount
1	25-26' ELECT SCISSOR NARROW	175.00	175.00	350.00	750.00	750.00
	89412 Make: JLG Model: 2630ES Ser #: 0200155006 HR OUT: 31.600 HR IN: TOTAL: 31.600					

**SALES ITEMS:**

Qty	Item number	Unit	Price	Amount
1	CSTAX	EA	7.500	7.50
1	COUNTRYSIDE RENTAL TAX 1%	EA	5.620	5.62
	ENVIRONMENTAL ENVIRONMENTAL BILLED FOR FOUR WEEKS 1/29/07 THRU 2/25/07.			

*Drywall*

*BMM*

**Institute of Puerto  
Rican Culture**

**Equipment. Service. Guaranteed.**

EMIT TO:

NET DUE UPON RECEIPT

UNBELT RENTALS  
PO BOX 409211  
ATLANTA, GA 30384-9211

Invoices not paid within 30 days may be subject  
to a 1-1/2% per month charge.

**4 WEEK BILL**

SUBTOTAL	763.12
SALES TAX	45.45
INVOICE TOTAL	808.57

# Bulldog Tools & Fasteners

20070309

1147 N ELLSWORTH AVE  
VILLA PARK, IL 60181  
US

PO 11

Tel 630 532 5322

Fax 630 532 5325

Invoice #: 37262

Invoice Date: 7-Feb-07

Original Order#: 123442

Shipping W/ISE: MAM

Order taken by: BRUCE T

**Bill To:** Client account number HUM00001

HUMBOLDT CONSTRUCTION CO  
2550 W NORTH AVE

CHICAGO, IL 60647  
US

Tel: 773.278 8838

Fax: 773 278 5673

**Ship To:** 9999

HUMBOLDT CONSTRUCTION CO  
3015 W DIVISION

CHICAGO, IL 60647  
US

Tel: 773 278 8838

Fax 773 278 5673

Ship by Date	Due Date	Customer Department	Customer PO Number	Customer Release#	Terms of Sale	Inside Salesrep	Outside Salesrep
2/9/2007	03/09/2007		2550 W DIVISION	81	Net 30 Days		20
Ordered By	Currency	Exchange Rate	Carrier	Service Code	Frnt Method		
	US	1			A		

eq#	L Item	Description	Tax	Qty Ordered	Qty Invoiced	Qty BO	Qty UM	Unit Price	Amt UM	Extended Price
S	DEWDW272	DEWALT 6 3AMP 0-4000 SCREW GUN	✓	4	4	0	EA	99 00	EA	\$396 00
								4 SKU. EA		

Total Lines: 1

Total Weight: 12.40

**Institute of Puerto Rican Culture**

Drywall

SMM

Thank you for your order	Subtotal	\$396.00
	Sales Tax	\$26.73
	<b>Total:</b>	<b>\$422.73</b>

2/13/2007 9:06:04 AM

Revision#: 1

Page 1 of 1

Report Path W\insight Report Explorer\Company Report Objects\BD Customer Invoice



303 W. IRVING PARK RD. ROSSELLE, ILL. 60172-1197 630-894-5801 630-894-5805 FAX  
 ROSELLE BUILDING MATERIALS 630-894-5200 DEKALB SUPPLY • 815-754-0189  
 PLAINFIELD SUPPLY • 815-439-1013 ZECHMAN SUPPLY • 312-733-6600  
 STATE LINE DRIVALL • 847-395-8100 MAC SUPPLY • 708-339-2668  
 HAMPSHIRE SUPPLY • 847-883-4510 SOUTH COUNTY GYPSUM • 219-661-0337  
 CEILING and BUILDING SPECIALTIES - MOKENA • 708-326-9850  
 CEILING and BUILDING SPECIALTIES - WHEELING • 847-215-6200

**INVOICE**  
 REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via	Sold To Code	Customer Order Number	Our Order No	From Order No	90 From Order	Order Date	Date Requested	Date Shipped	Document No.
CPU	0044285		1382944		051005	3/09/07	3/09/07	3/09/07	1130180591

SOLD TO: HOMELODT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60627  
 SHIP TO: 3015 W DIVISION  
 (Same as SOLD TO unless indicated)  
 TAX: 13955

COMMITTEE CODE	QUANTITY ORDERED	QUANTITY SHIPPED	PRODUCT DESCRIPTION	QUANTITY	UNIT	PRICE PER UNIT	SALES AMOUNT
----------------	------------------	------------------	---------------------	----------	------	----------------	--------------

90 TT4325	2	2	MAGIC CORNER 250' ROLL TAX EXEMPT # 13955	.500	MLF	250.0000	125.00
-----------	---	---	--	------	-----	----------	--------

PAID BY: DAN FAEZ job  
 SN

Institute of Puerto Rican Culture

FAX THIS

SUB-TOTAL 125.00  
 TAX 1.12  
 TOTAL INVOICE 126.12

SHIP TO: 3015 W DIVISION  
 (Same as SOLD TO unless indicated)  
 TAX: 13955

ROSELLE BUILDING MATERIALS  
 303 W. IRVING PARK RD.  
 ROSSELLE, ILL. 60172

ROSELLE BUILDING MATERIALS  
 303 W. IRVING PARK RD.  
 ROSSELLE, ILL. 60172

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET, ON THE DATE SHOWN, PURCHASER ASSUMES RESPONSIBILITY FOR ANY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDER GOODS ARE NOT RETURNABLE. TITLE PASSES F.O.B. WAREHOUSE ON PICKUPS AND F.O.B. CURBSIDE BEFORE ANY UNLOADING. GOODS WHEN DELIVERED THIS ORDER, IF ACCEPTED BY SELLER, IS ACCEPTED BY DATE. SUBJECT TO TERMS AND CONDITIONS ON THE BACK HEREOF WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDY AND NOTICE OF BREACH. SELLER'S BEST OFFER SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.

DATE \_\_\_\_\_  
 CUSTOMER COPY



303 W. IRVING PARK RD. ROSELLE, ILL 60172-1197 630-894-5801 630-894-5805 FAX  
 ROSELLE BUILDING MATERIALS • 900-894-5200  
 DEKALB SUPPLY • 815-724-0189  
 PLAINFIELD SUPPLY • 815-439-1013 ZECKMAN SUPPLY • 312-733-6600  
 STATE LINE DRYWALL • 847-395-8100 MAC SUPPLY • 708-339-2866  
 HAMPSHIRE SUPPLY • 847-683-4510 SOUTH COUNTY GYPSUM • 219-561-0337  
 CEILING and BUILDING SPECIALTIES - MOKEVA • 708-328-3950  
 CEILING and BUILDING SPECIALTIES - WHEELING • 847-215-6200

**INVOICE**  
 REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via TRAILGATE Sold To Code 0044265 Customer Order Number ISHMAEL Our Order No 1382786 From Order No 061008 Order Date 3/07/07 Date Requested 3/08/07 Date Shipped 3/08/07 Document No 1120180469

SOLD TO: HURPLEDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647  
 20070319  
 SHIP TO: TAX 13953  
 (same as SOLD TO unless indicated)  
 3015 W. DIVISION  
 ISMAEL 773 491 4763  
 CHICAGO

PG	COMMODITY CODE	QUANTITY		PRODUCT DESCRIPTION	EXTENDED QUANTITY	UNIT	PRICE PER UNIT	SALES AMOUNT
		ORDERED	SHIPPED					
01	38F038	150	150	5/8" E/C P/W 4'X8' TAX EXEMPT # 13953	4.800	NSF	272.0000	1,305.60
33				SKW 板				
YOU MAY DEDUCT 26.1% IF PAID IN FULL BY 4/15/07 INVOICE IS PAST DUE AFTER 4/25/07								
					TAX FREE JOB		PAY THIS	
					SUB-TOTAL		1,305.60	
					TAX 1%		13.06	
					TOTAL INVOICE		1,318.66	
					PAY LAST AMOUNT SHOWN ABOVE		1,305.60	

Institute of Puerto Rican Culture

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET, ON THE DATE SHOWN. PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK, TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES F.O.B. WAREHOUSE ON PICK-UPS AND F.O.B. CURBSIDE, BEFORE ANY UNLOAD WHICH INCLUDES WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND CONDITIONS, ON THE BACK HEREOF. REMEMBER: NOTICE BEFORE DELIVERY SUBJECT TO SERVICE CHARGE OF 11% PER MONTH. ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_



303 W. IRVING PARK RD. ROSELLE, IL 60172-1197 630-894-5801 630-894-5805 FAX  
 ROSELLE BUILDING MATERIALS 630-894-5200  
 PLAINFIELD SUPPLY • 815-439-1013  
 STATE LINE DRYPWALL • 847-395-8100  
 HAMPSHIRE SUPPLY • 847-883-4510  
 CEILING and BUILDING SPECIALTIES - WHEELING • 847-215-8200  
 DEKLAB SUPPLY • 815-754-0189  
 ZECHMAN SUPPLY • 312-733-8600  
 MAC SUPPLY • 708-339-2666  
 SOUTH COUNTY GYPSUM • 219-661-0397  
 CEILING and BUILDING SPECIALTIES - MOKEA • 708-326-3950

REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via	Sold to Code	Customer Order Number	Our Order No	From Order No	90 From Order	Order Date	Date Requested	Date Shipped	Document No
STOCK	0044265		1382589		061005	3/06/07	3/06/07	3/06/07	1139180328

SOLD TO: HOWBOLDT CONSTRUCTION CO  
 2550 W 408TH AVE  
 CHICAGO IL 60647  
 SHIP TO: 3015 W DIVISION  
 (Same as SOLD TO unless indicated)  
 CHICAGO, IL  
 ISHAHEL 773-491-4763

2007 0319

10/11

FOR COMMODITY CODE	QUANTITY		PRODUCT DESCRIPTION	EXTENDED QUANTITY	UNIT	PRICE PER UNIT	SALES AMOUNT
	ORDERED	SHIPPED					
00 53+C08	100	100	5/8" F/C D/W 4'X8'	3,200	MSF	255.0000	816.00
23 STOCKS-SERV	3,200	3,200	STOCKING PER MSF - NON-TAX MINIMUM DELY CHARGE	3,200	MSF	40.0000 125.00	128.00 125.00
SUB-TOTAL TAX 1 12 TOTAL INVOICE				3,200 3,200 1,147.00			
YOU MAY DEDUCT THIS INVOICE AS PART OF THE COST OF SALES				PAY LAST AMOUNT SHOWN ABOVE			

Institute of Puerto Rican Culture

TAX FREE JOB

PAY THIS

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET. ON THE DATE SHOWN PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURBS AND AREAS INSIDE CURBS. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES F.O.B. WAREHOUSE OR POINT OF ORIGIN. ALL GOODS ARE SUBJECT TO TERMS AND CONDITIONS ON THE BACK HEREOF WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE REQUIREMENT PROVISIONS. PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.

ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_



303 W. IRVING PARK RD. ROSSELLE, ILL 60472-1197 630-894-5601 630-894-5605 FAX  
 ROSELLE BUILDING MATERIALS 800-894-5200 DEKALB SUPPLY • 815-754-0189  
 PLAINFIELD SUPPLY • 815-439-1013 ZECHMAN SUPPLY • 312-733-6600  
 STATE LINE DRYWALL • 847-395-8100 MAC SUPPLY • 708-339-2886  
 HAMPSHIRE SUPPLY • 847-683-4510 SOUTH COUNTY GYPSUM • 219-661-0337  
 CEILING and BUILDING SPECIALTIES - WOKENA • 708-326-3950  
 CEILING and BUILDING SPECIALTIES - WHEELING • 847-215-6500

**INVOICE**  
 REMIT TO:  
 303 W. IRVING P.K. RD.  
 ROSELLE, IL 60472

Ship Via	Sold To Code	Customer Order Number	Our Order No.	From Order No.	SO From Order	Order Date	Date Requested	Date Shipped	Document No.
CPU	0044265	1381637	061083	3/06/07	3/06/07	3/06/07	3/06/07	1130180329	

SOLD TO: HUMBOLDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647

SHIP TO: HUMBOLDT CONSTRUCTION CO  
 3015 W DIVISION  
 CHICAGO  
 TAX EX. 13953

20070319  
 PO 11

PG	COMBID	ORDERED	SHIPPED	PRODUCT DESCRIPTION	QUANTITY	UNIT	PRICE PER UNIT	SALES AMOUNT
GA	D51426C	8	8	12"X1.5" FACE DW M-T 16P	1.536	MLF	500.0000	768.00
GI	D51424CT	16	16	4"X1.5" FACE DW C-T 48TC	5.072	MLF	463.7500	1,486.08
0	138181025	180	180	158 IR 10' 256 114L	1.880	MLF	235.2059	423.37
GE	D51422ACT	2	2	2"X1.5" FACE DW C-T 48PC	.192	MLF	570.0000	109.44
FA	3EELS	400	400	1/4X3" WOOD EYELEB DTC	400.000	PC	.1600	40.00
CI	H412128B	1	1	12GA HANG WIRE 12' 50#	1.099	BOLE	61.7500	\$1.75
TR	LD	2	2	LAC DRIVER TAX EXEMPT # 13953	2.000	EACH	4.5000	9.00
YS				TAX FREE JOB				

57.95% PAYABLE WITHIN 15 DAYS OF INVOICE DATE  
 4/13/07

INSTITUTE OF PUERTO RICAN CULTURE  
 PAY THIS

2,897.64  
 2,891.64

SUB-TOTAL  
 TAX  
 TOTAL INVOICE

DATE \_\_\_\_\_  
 CUSTOMER CNBY

SHIP TO (Same as SOLD TO unless indicated)  
 HUMBOLDT CONSTRUCTION CO  
 3015 W DIVISION  
 CHICAGO  
 TAX EX. 13953

DATE REQUESTED: 3/06/07  
 DATE SHIPPED: 3/06/07

DATE: \_\_\_\_\_

SHIP VIA: CPU  
 SOLD TO CODE: 0044265  
 CUSTOMER ORDER NUMBER: 1381637  
 OUR ORDER NO.: 061083  
 FROM ORDER NO.: 3/06/07  
 SO FROM ORDER: 3/06/07  
 ORDER DATE: 3/06/07  
 DATE REQUESTED: 3/06/07  
 DATE SHIPPED: 3/06/07  
 DOCUMENT NO.: 1130180329



303 W IRVING PARK RD, ROSELLE, IL 60172-1197 630-894-5801 630-894-5805 FAX  
 ROSSELLE BUILDING MATERIALS 800-884-45200  
 PLAINFIELD SUPPLY • 815-439-1013  
 STATE LINE DRYWALL • 847-395-8100  
 HAMPSHIRE SUPPLY • 847-483-4510  
 CEILINGS and BUILDING SPECIALTIES - WHEELING • 847-215-6200

**INVOICE**  
 REMIT TO:  
 303 W IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via	Sold To Code	Customer Order Number	Our Order No.	From Order No.	Order Date	Date Requested	Date Shipped	Document No
TRAILBLATE	0044265		1382211	061008	2/28/07	2/28/07	2/28/07	1130129811

SOLD TO: HUMBOLDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647  
 2007 03 19  
 SHIP TO: 3015 W DIVISION  
 CHICAGO, IL  
 ISHAMEL 773-491-4763  
 (Same as SOLD TO unless indicated)

PG	COMMODITY CODE	QUANTITY		Product Description	EXTENDED QUANTITY	UNIT	PRICE PER UNIT	SALES AMOUNT
		ORDERED	SHIPPED					
07	588802	60	60	5/8" W/R D/W 4'X8'	1,920	MSF	\$12.0000	595.04
80	11611001	1	1	ARCH CUR BEAD 10 50PC	.500	MLF	160.0000	80.00
<i>Payroll</i>								
<i>SKM</i>								
<i>TAX FREE JOB</i>								
					SUB-TOTAL			679.04
					TAX			01.11
					TOTAL INVOICE			740.15
								<b>679.04</b>

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET. ON THE DATE SHOWN PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE, CAUSED BY SELLER'S TRUCK, TO CURBS AND AREAS INSIDE CURB LINES. ALL CASH SALES ARE FINAL. 10% HANDLING CHARGE FOR ALL GOODS, RETURNED SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES F.O.B. WAREHOUSE ON PICK-UPS AND F.O.B. CURBSIDE, BEFORE ANY UNLOADING, WHEN DELIVERED. THIS ORDER, IF ACCEPTED BY SELLER, IS SUBJECT TO TERMS AND CONDITIONS, ON THE BACK HEREOF, WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE OF RETAILMENT PROVISIONS. PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 15% PER MONTH.

ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_

**PAY THIS**



303 W. IRVING PARK RD. ROSELLE, ILL. 60172-1197 630-884-5801 630-994-5805 FAX  
 ROSSELLE BUILDING MATERIALS • 815-439-1013 DEKALB SUPPLY • 615-754-0169  
 PLAINFIELD SUPPLY • 847-395-8100 ZECHMAN SUPPLY • 312-733-6600  
 STATE LINE DRYWALL • 847-395-8100 MAC SUPPLY • 708-339-2666  
 HAMPSHIRE SUPPLY • 847-883-4510 SOUTH COUNTY GYPSUM • 219-661-0337  
 CEILING and BUILDING SPECIALTIES - MOKENA • 708-328-9950  
 CEILING and BUILDING SPECIALTIES - WHEELING • 847-215-6200

**INVOICE**  
 REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

Ship Via	Sold To Code	Customer Order Number	Our Order No	From Order No	Order Date	Date Requested	Date Shipped	Document No
	0044765		1382114	061005	2/28/07	2/28/07	2/28/07	1130129700

SOLD TO: HUMBOLDT CONSTRUCTION CO  
 2550 W NORTH AVE  
 CHICAGO IL 60647

SHIP TO: 3015 W DIVISION  
 (Same as SOLD TO unless indicated)  
 20070319  
 PO 11

PG	COMPANY CODE	QUANTITY		PRODUCT DESCRIPTION	ORDERED	SHIPPED	UNIT	PRICE PER UNIT	SALES TAX	TOTAL
		ORDERED	SHIPPED							
RD	170120CT	5	5	5/8" TEARAWAY L-2D 10' SQP	2,500	MLF	130.0000			325.00
TR	9126PL0	5	5	RO10ZIP GUIDE PT 811 10P	5,000	EACH	8.9000			44.50
MI										
<b>Institute of Puerto Rican Culture</b>										
TAX FREE JOB PAY THIS: 360.50 SUB-TOTAL 360.50 TAX 0.00 TOTAL INVOICE 360.50										

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET, ON THE DATE SHOWN. PURCHASER ASSUMES RESPONSIBILITY FOR PROPERTY DAMAGE CAUSED BY SELLER'S TRUCK TO CURBS AND AREAS INSIDE CURB LINES ALL CASH SALES ARE FINAL 10% HANDLING CHARGE FOR ALL GOODS RETURNED. SPECIAL ORDERED GOODS ARE NOT RETURNABLE. TITLE PASSES FOB WAREHOUSE ON PICK-UPS AND FOB CURBSIDE BEFORE AND UNLOADING WHEN DELIVERED. THIS ORDER, IF ACCEPTED BY SELLER, IS ACCEPTED BY DATE \_\_\_\_\_ DATE \_\_\_\_\_ SUBJECT TO TERMS AND CONDITIONS ON THE BACK HEREOF WHICH INCLUDE WARRANTY, DISCLAIMER, LIMITATION OF REMEDIES AND NOTICE REQUIREMENT PROVISIONS. PAST DUE ACCOUNTS SUBJECT TO SERVICE CHARGE OF 1 1/2% PER MONTH.

CUSTOMER COPY





303 W IRVING PARK RD. ROSELLE, IL 60172-1197 630-994-5801 630-994-5805 FAX  
 ROSELLE BUILDING MATERIALS • 894-5200  
 PLAINFIELD SUPPLY • 815-439-1013  
 STATE LINE DRYWALL • 847-395-8100  
 HAMPSHIRE SUPPLY • 847-483-4510  
 CEILINGS and BUILDING SPECIALTIES - WHEELING • 847-215-5200

**INVOICE**  
 REMIT TO:  
 303 W. IRVING PK. RD.  
 ROSELLE, IL 60172

\*\*\*\*

1

Ship Via	Sold To Code	Customer Order Number	Our Order No.	Form Order No.	EO Form Order	Order Date	Date Requested	Date Shipped	Document No.
ROOM	0044265	ISMAEL	1300887		061005	2/09/07	2/13/07	2/13/07	1130178758

SOLD TO: HUMBOLDT CONSTRUCTION CO

2550 W NORTH AVE  
 CHICAGO IL 60647

20070319

2011

SHIP TO:  
 (Same as SOLD TO unless indicated)  
 MUSEUM  
 3015 W. DIVISION  
 ISMAEL 775 491 4763  
 CHICAGO IL

COMMODITY CODE	QUANTITY ORDERED	QUANTITY SHIPPED	DESCRIPTION	EXHIBIT NUMBER	UNIT	PRICE PER UNIT	SALES AMOUNT
----------------	------------------	------------------	-------------	----------------	------	----------------	--------------

04 56108	200	200	5/8" F/C D/W 4'X8'		MSF	250.0000	1,600.00
22 3 36W58T	6,400	6,400	STOCKING PER NSF NON-TAX		MSF	40.0000	256.00

*Przywall*

*Tax Free job*

SUB-TOTAL 1,856.00  
 TAX 177.78  
 TOTAL INVOICE 2,033.78

*PAY 4/15*

**Institute of Puerto Rican Culture**

SIGNOR CERTIFIES THAT THE MATERIALS LISTED ON THIS TICKET WERE IN FACT DELIVERED TO THE JOB AND ADDRESS SHOWN ON THIS TICKET, ON THE DATE SHOWN. PURCHASER ASSUMES RESPONSIBILITY FOR PROPER HANDLING AND STORAGE OF MATERIALS. PICK-UPS AND F.O.B. CURBSIDE BEFORE ANY UNLOADING WHEN DELIVERED TO THE JOB. THIS TICKET IS ACCEPTED BY \_\_\_\_\_ DATE \_\_\_\_\_ CUSTOMER COPY



2007 03 09

PO 11

**OCASIO CONSTRUCTION COMPANY**

825 KINGSPPOINT DRIVE WEST \* ADDISON, IL. 60101 \* 1-847-878-1024

**INVOICE #PNT-10**

DATE: 02/19/2007

<b>BILL TO: HUMBOLDT CONSTRUCTION COMPANY</b>	<b>PROJECT:</b>
3015 W. DIVISION AVE CHICAGO, ILLINOIS 60647	I.P.R.A.C. 3015 W. DIVISION ST. CHICAGO, IL. 60647

DESCRIPTION	TOTAL
<b>PAINTING</b>	
<b>LABOR CHARGES</b> Week ending: 02/17/2007	\$10,605.00
<b>MATERIALS</b> Week ending: 02/17/2007	\$487.59
<b>BALANCE DUE</b>	\$11,092.59

**Institute of Puerto  
Rican Culture**

Painting and Plaster

SMM

20070309 p011



**OCASIO CONSTRUCTION COMPANY**  
825 KINGSPPOINT DRIVE WEST \* ADDISON, IL. 60101 \* 1-847-878-1024

**INVOICE #PNT-11**

DATE: 03/07/2007

**Institute of Puerto  
Rican Culture**

<b>BILL TO: HUMBOLDT CONSTRUCTION COMPANY</b>	<b>PROJECT:</b>
<b>3015 W. DIVISION AVE CHICAGO, ILLINOIS 60647</b>	<b>LP.R.A.C. 3015 W. DIVISION ST. CHICAGO, IL. 60647</b>

<b>DESCRIPTION</b>	<b>TOTAL</b>
<b>PAINTING</b>	
<b>LABOR CHARGES</b> Week ending: 02/24/2007 03/03/2007	\$7,365.00 \$10,245.00
<b>MATERIALS</b> Week ending: 02/24/2007	\$583.65
<b>BALANCE DUE</b>	<b>\$18,193.65</b>

Painting and Plaster SMA

2007 03 14

p011



# OCASIO CONSTRUCTION COMPANY

825 KINGSPPOINT DRIVE WEST \* ADDISON, IL 60101 \* 1-847-878-1024

## INVOICE #PNT-12

DATE: 03/14/2007

<b>BILL TO: HUMBOLDT CONSTRUCTION COMPANY</b>	<b>PROJECT:</b>
3015 W. DIVISION AVE CHICAGO, ILLINOIS 60647	I.P.R.A.C. 3015 W. DIVISION ST. CHICAGO, IL. 60647

DESCRIPTION	TOTAL
<b>PAYMENT</b>	
<b>LABOR CHARGES</b> Week ending 03/10/2007	\$10,095.00
<b>MATERIALS</b> Week ending 03/10/2007	\$2,065.92
<b>BALANCE DUE</b>	\$12,160.92

*Institute of Puerto Rican Culture*

*painting and plaster*

*WWS*

*Institute of Puerto Rican Culture*

20070309

PO 11

Phil's Plumbing, Inc  
4600 W. 48th St.  
Chicago, IL 60632  
PHONE (773) 585-1074 FAX (773) 585-1076

\*\* Bill To \*\*  
HUMBOLDT CONSTRUCTION  
2550 WEST NORTH AVENUE  
CHICAGO, IL 60647

Date: 02/15/07  
Invoice #: 9200  
Cust. Code: HUMBO-EFR-2788838  
Our Job #: 1060  
Page #: 1 of 1

DATE	PHASE	DESCRIPTION	AMOUNT
		REQUESTING A PAYOUT FOR ADDITIONAL PLUMBING WORK COMPLETED AT 3015 W. DIVISION, CHICAGO, IL	
		NOTE: NOT PART OF ORIGINAL CONTRACT AND NEEDS TO BE ADDED TO THE CONTRACT AMOUNT	
02/14/07	1	PER ATTACHED CHANGE ORDER	1490.00

**Institute of Puerto  
Rican Culture**

\*\* INVOICE TOTAL \*\* 1490.00

\*\* TERMS: PAYMENT DUE UPON RECEIPT

Plumbing S.M.M.

20070319 7011

**HTH Mechanical Services Inc.**

8450 W. 191st Street Ste 17  
Mokena, IL 60448

Phone : 708-720-0060 Fax : 708-720-4840

**Invoice**

Account #	Date	Invoice #
H105	3/7/2007	8791

**Bill To**  
Humboldt Construction Co.  
2550 W. North Ave.  
Chicago, IL 60647

**Ship To**  
3015 W. Division  
Chicago

P.O. No.	Terms	Job Number			
	Net 30	06019			
Item	Quantity	Description	Rate	Serial Number	Amount
Shop Drawings	1	Shop Drawings	400.00		400.00
XTI-Air Hand...	1	XTI-Air Handler	36,789.00		36,789.00
0003 ROUGH	1	Concrete Pad & Piping to Bldg.	17,850.00		17,850.00
Subcontractor	1	Subcontractor Services/Chill Water Piping	50,228.00		50,228.00
0003 ROUGH	1	Air Handler Ductwork	12,518.70		12,518.70
0004 ROUGH...	1	Air Handler Ductwork/Labor	29,210.30		29,210.30
0003 ROUGH	1	Louvers Fresh Air Ducts	1,350.00		1,350.00
0004 ROUGH...	1	Louvers Fresh Air/Labor	3,150.00		3,150.00
0003 ROUGH	1	Grilles, Registers & Fans	4,045.00		4,045.00
<b>Institute of Puerto Rican Culture</b>					
<b>Total</b>					<b>\$155,541.00</b>
<b>Payments/Credits</b>					<b>\$0.00</b>
<b>Balance Due</b>					<b>\$155,541.00</b>

HVAC / Mechanical

SMM



L.N.D. Electric Company., Inc.

9500 S. Ave L  
Chicago, IL 60617

20070319

roll

# Invoice

Date	Invoice #
2/20/2007	281

Bill To
3015 Division Humboldt Construction Co. 2550 W, North Ave. Chicago IL 60647 Fax:278-5673

## Institute of Puerto Rican Culture

P.O. No.	Terms	Project
	Net 15	

Quantity	Description	Rate	Amount
	Instituto Puertorriqueño de Arte y Cultura		
	This bill reflects activity as of: February 12-16, 207		
96	Material used this week	65.00	6,240.00
	North West Elect Supply Invoice #711183 Northwest Elect. Supply Invoice #710678	10,761.63	10,761.63
	Please make check payable to: LND Electric Co., Inc		
	Thank you!		
	<i>Electrical</i> <i>SMM</i>		
Thank you for your business.		<b>Total</b>	\$17,001.63



L.N.D. Electric Company., Inc

9500 S. Ave L  
Chicago, IL 60617

20070319

PO 11

# Invoice

Date	Invoice #
3/8/2007	283

Bill To
3015 Division Humboldt Construction Co 2550 W, North Ave. Chicago IL. 60647 Fax:278-5673

## Institute of Puerto Rican Culture

P.O No.	Terms	Project
	Net 15	

Quantity	Description	Rate	Amount
	Instituto Puertorriqueño de Arte y Cultura		
	This bill reflects activity as of: Feb 26- March 02, 2007		
96	96 hours Regular time	65.00	6,240.00
	Material used on job for this period time		
	City Electric	7,416.91	7,416.91
	005025		
	004839		
	004843		
	004850		
	004874		
	000418		
	000419		
	004858		
	004961		
	004944		
	NorthWest Electrical Supply		
	711768		
	Bright Electric		
	745958		
	Please make check payable to: LND Electric Co., Inc		
	Thank you!		
	<b>Institute of Puerto Rican Culture</b>		
Thank you for your business.		<b>Total</b>	\$13,656.91

*Electrical / SAM*

**INVOICE**

2007 0319 PO 11

Page 1 of 1



<b>Invoice number:</b> 14109014 <b>Invoice Date:</b> 3/12/07 <b>Customer PO Number:</b> INSTITUTO PRAC <b>KONE Order No:</b> 6012782 <b>Billing Type:</b> YPB <b>Work Progress up to:</b> 3/31/07		<b>Area Office:</b> KONE Inc., Federal Tax CHICAGO - 020 36 2357423 1080 Parkview Blvd Lombard IL 60148 PH 630-629-3100 FAX 630-629-4330	
<b>Bill To:</b> HUMBOLDT CONSTRUCTION CO ATTN: STEVE MATZ 2550 W NORTH AVE 2ND FLR CHICAGO IL 60647 USA		<b>Location/Project</b> INSTITUTO PRAC 3015 W DIVISION ST CHICAGO IL 60622 USA	
<b>Payment Terms:</b> Current Month + 20 Days			
<b>NEB/TRB</b>			
Current Contract Price		\$121,011 00	
Partial Billing		\$121,011.00	
Less 10% Retention		\$12,101 10	
		\$108,909 90	
Less net Amount previously billed		\$87,286.50	
Net amount of this Partial Billing		\$21,623.40	
Sales Tax		\$0	
Total amount with Sales Tax		\$21,623.40	
Invoices not paid within 30 days are subject to a service charge of 1.5% per month, or the maximum permitted by law			
Elevator <span style="float: right;">SMM</span>			

**Institute of Puerto Rican Culture**

Please return this portion with your payment

**PAYMENT ADVICE**

We also accept VISA/Mastercard or EFT payments



<b>Payer:</b> HUMBOLDT CONSTRUCTION CO ATTN: STEVE MATZ 2550 W NORTH AVE 2ND FLR CHICAGO IL 60647 USA		<b>Invoice number:</b> 14109014 <b>Invoice Date:</b> 3/12/07 <b>Customer Number:</b> 221313 <b>KONE Order No:</b> 6012782 <b>Area Office No:</b> U020 <b>Billing Type:</b> YPB	
<b>Remit to:</b> KONE Inc P.O. BOX 429 MOLINE IL 61266-0429		Use this address for payments only Direct calls and area correspondence to our area office above	
		<b>Amount paid if different than invoice amount:</b> <b>INVOICE AMOUNT:</b> <span style="float: right;"><b>\$21,623.40</b></span>	





HUMBOLDT CONSTRUCTION

Invoice

Important! We have changed our name to Allied Waste Services

Page 1 of 1

Account Summary

Account Number 3-0710-0032632
Invoice Date February 15, 2007
Invoice Number 0710-002101683
Previous Balance \$2356.98
Payments/Adjustments -\$621.36
Unpaid Balance \$1735.62
Current Invoice Charges \$609.28

Pay This Amount

\$2,344.90

Due By: 03/07/07

Contact Information

Main Number (773) 579-3600

Important Information

WARNING! CITY ORDINANCE 7-28-251
REQUIRES COMPLETE CLOSURE OF LIDS AND
ALL WASTE TO BE INSIDE OF CONTAINER.
FAILURE TO COMPLY WILL RESULT IN A FINE OF
\$200 TO \$500. CONTACT OUR OFFICE FOR
DETAILS. THANK YOU

www.disposal.com



Address Service Requested

001573-7-30710 M
HUMBOLDT CONSTRUCTION
JOHN KNOX
2550 W NORTH AVE
CHICAGO IL 60647-5216



Payments/Adjustments

Table with 4 columns: Date, Description, Reference, Amount. Row: 02/13 Payment - Thank You, 18779, -\$621.36

Current Invoice Charges

Administrative Fee - \$1.30
Humboldt Construction 3220 W Division St (L19)
Chicago, IL

1 - 20 Yard Roll Off Container On Call Service (S3) Construction/Demolition Debris

Table with 6 columns: Date, Description, Reference, Quantity, Unit Price, Amount. Row: 02/08 Basic Service, 1.0000, \$245.00, \$245.00

Humboldt Construction 3015 W Division St (L25)
Chicago, IL

1 - 20 Yard Roll Off Container On Call Service (S2) Construction/Demolition Debris

Table with 6 columns: Date, Description, Reference, Quantity, Unit Price, Amount. Row: 02/08 Basic Service, 1.0000, \$290.00, \$290.00

Total Fuel/Environmental Recovery Fee \$72.88

Current Invoice Charges \$609.28

Past Due Balance \$1,735.62

MA Visit our website, www.disposal.com to make your payment electronically or to sign up for our convenient automatic payment plan.

Please see reverse side for terms and conditions

Please Return This Portion
With Payment

Pay This Amount \$2,344.90
Account Number 3-0710-0032632
Invoice Date February 15, 2007
Invoice Number 0710-002101683
Payment Due Date March 07, 2007

Make Checks Payable To

ALLIED WASTE SERVICES #710
PO BOX 9001154
LOUISVILLE KY 40290-1154

30710003263200000021016830000609260002344909

steven matz

2007 0309

po 11

From: notifications@basecampHQ.com  
Sent: Wednesday, March 07, 2007 2:20 AM  
To: steven matz  
Subject: [Invoice] Basecamp Monthly Subscription

**Institute of Puerto Rican Culture**

Thank you for using Basecamp.

This is an INVOICE for your Basecamp account <http://humboldtconstruction.updatelog.com>

**SUMMARY**

Your credit card (last 4 digits: 7958) has been charged \$12. This charge covers your account until April 6, 2007. You will be billed again at that time for the next 30 days.

**NEED TO CANCEL?**

If you wish to cancel your Basecamp account, log in to: <http://humboldtconstruction.updatelog.com/global/account>  
Then scroll down to the "Need to cancel your account?" section. Once you cancel you won't be charged again, but you are responsible for charges already incurred.

=====  
**INVOICE**

2007-03-07

Transaction ID: 271540

**IMPORTANT NOTE:**

The charge for Basecamp will appear on your credit card statement from "37SIGNALS, LLC"

37signals, LLC.  
Basecamp Web-Based Project Management  
400 North May Street #301  
Chicago, IL 60622 USA

Bill to:  
Steven Matz  
Humboldt Construction  
Chicago, IL 60647  
United States

*Van Requirements*

*SM*

Quantity	Description	Price
1 month	Basecamp Personal Plan From Mar 7 2007 to Apr 6 2007.	\$12.00

=====  
Amount PAID: \$12.00

Credit card billed: XXXX-XXXX-XXXX-7958  
=====

**WANT TO UPGRADE, DOWNGRADE, OR CHANGE YOUR CARD?**

You can upgrade, downgrade, change your credit card at:  
<http://humboldtconstruction.updatelog.com/global/account>

**WANT TO EARN CREDITS TOWARDS YOUR ACCOUNT?**

Check out the Basecamp Affiliate Program:  
<http://humboldtconstruction.updatelog.com/global/affiliate>

**MORE SMALL BUSINESS SOFTWARE**

You may also want to check out some of our other products for small business. You'll find them at <http://www.37signals.com>

2007 03 09

PO 11

steven matz

From: notifications@basecamphq.com  
Sent: Thursday, January 04, 2007 2 15 AM  
To: steven matz  
Subject: [Invoice] Basecamp Monthly Subscription

Thank you for using Basecamp.

This is an INVOICE for your Basecamp account <http://humboldtconstruction.updatelog.com>

SUMMARY

Your credit card (last 4 digits: 7958) has been charged \$12. This charge covers your account until February 3, 2007. You will be billed again at that time for the next 30 days.

NEED TO CANCEL?

If you wish to cancel your Basecamp account, log in to: <http://humboldtconstruction.updatelog.com/global/account>  
Then scroll down to the "Need to cancel your account?" section. Once you cancel you won't be charged again, but you are responsible for charges already incurred.

INVOICE

2007-01-04 Transaction ID: 231360

IMPORTANT NOTE:

The charge for Basecamp will appear on your credit statement from "37SIGNALS, LLC"

37signals, LLC.  
Basecamp Web-Based Project Management  
400 North May Street #301  
Chicago, IL 60622 USA

**Institute of Puerto Rican Culture**

Bill to:  
Steven Matz  
Humboldt Construction  
Chicago, IL 60647  
United States

*ben Requirements*

*PO 11*

Quantity	Description	Price
1 month	Basecamp Personal Plan From Jan 4 2007 to Feb 3 2007.	\$12.00

Amount PAID: \$12.00

Credit card billed: XXXX-XXXX-XXXX-7958

WANT TO UPGRADE, DOWNGRADE, OR CHANGE YOUR CARD?  
You can upgrade, downgrade, change your credit card at:  
<http://humboldtconstruction.updatelog.com/global/account>

WANT TO EARN CREDITS TOWARDS YOUR ACCOUNT?  
Check out the Basecamp Affiliate Program:  
<http://humboldtconstruction.updatelog.com/global/affiliate>

MORE SMALL BUSINESS SOFTWARE  
You may also want to check out some of our other products for small business. You'll find them at <http://www.37signals.com>

2007 0219

P011

|||||

HUMBOLDT CONSTRUCTION  
 Account Number 3-0710-0032632  
 Invoice Date February 28, 2007  
 Invoice Number 0710-002117152  
 Page 2 of 2



HUMBOLDT CONSTRUCTION  
 Account Number 3-0710-0032632  
 Invoice Date February 28, 2007  
 Invoice Number 0710-002117152



Current Invoice Charges

Humboldt Construction 3015 W Division St (L25)  
 Chicago, IL

1 - 20 Yard Roll Off Container On Call Service (S2) Construction/Demolition Debris

Date	Description	Reference	Quantity	Unit Price	Amount
02/19	Basic Service		1.0000	\$290.00	\$290.00
02/27	Basic Service		1.0000	\$290.00	\$290.00
	Receipt Number: 30799				\$132.31
	Total Fuel/Environmental Recovery Fee				\$1103.61
Current Invoice Charges					\$1103.61

IPRAC

General Requirement

SMN

THIS IS A  
 COPY ONLY

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20070319

POI

INVOICE  
03/07-11

DATE:  
MARCH 14, 2007

FROM: HUMBOLDT CONSTRUCTION CO.  
2550 WEST NORTH AVENUE  
CHICAGO, IL. 60647  
TELEPHONE (773) 278-5669  
FAX: (773) 278-5673

TO: INSTITUTO PUERTORRIQUEÑO  
DE ARTE Y CULTURA (IPRAC)  
P.O.BOX 47589  
CHICAGO, ILLINOIS 60647

PAYROLLS:

From: 02/10/2007-03/09/2007  
(Two payrolls paid 03/01/07, 03/15/07)

.P.R.A.C.

SUPERVISION

<u>EMPLOYEE NAME</u>	<u>SALARY</u>	<u>FRINGE BENEFITS</u>	<u>TOTAL</u>
STEVEN MATZ	\$4,384.62	\$1,120.13	\$5,504.75
SUB-TOTALS	<u>\$4,384.62</u>	<u>\$1,120.13</u>	<u>\$5,504.75</u>
		TOTAL DUE.	<u><u>\$5,504.75</u></u>

*General Requirements*



Remit To  
 Dept CH 17588  
 Palatine, IL-60055-7588

WWW.PLANEXPRESS.NET

2007 0319

ROLL

Want to see your plans online? Call TODAY  
 It's FREE as part of our commitment to you  
 Toll Free 1-800-752-6390 (or) 901-843-2142

<b>Bill To:</b>
Humboldt Construction Accounts Payable 2550 West North Avenue Chicago, IL-60647-5216 , US

<b>Invoice Details:</b>
Invoice Number: W16062 Date: 2/9/2007 Payment Term: Net 30 Due Date: 3/10/2007

PROJECT: INSTITUTO PUERTORRIQUENO DE ARTE Y CULTRA - 3015 W. DIVISION ST. -  
 CHICAGO, IL  
 3015 W. DIVISION ST  
 CHICAGO , IL-60622

<b>Invoice Summary:</b>	
Total Printing Cost	\$12.00
Total Binding Cost	\$4.00
<hr/> Sub Total	\$16.00
Shipping :	\$17.74
Surcharge	\$0.02
Sales Tax	\$1.40
<b>Invoice Total:</b>	<b>\$35.16</b>

van Requirements

**NATIONAL**  
**CONSTRUCTION RENTALS**

20070309 INVOICE

poll

P.O. Box 4503 • Pacoima, CA 91333-4503  
customer@rentnational.com

**SALES DEPARTMENT**  
(800) 352-5675

**BILLING QUESTIONS**  
(800) 952-5675

**Customer #** C162576  
**Job #**  
**Cust Rep.** Kay D - Aurora (58)  
**Our Location.** Aurora, IL 030  
**Our Local Phone #** 630-499-6848  
**Our Order #** RO-226535

**Invoice #** RI-1728748  
**Invoice Date:** 02/07/07  
**Due Date:** 03/09/07  
**Terms:** Net 30 days  
**Purchase Order #**

Humboldt Construction Co  
2550 W North Ave  
Chicago, IL 60647

**Job Site:** 0004  
Bldg Rehab  
3015 W Division St  
Humboldt  
Chicago, IL 60647

Description	Qty	UOM	Term	From/Thru	Install/ One-Time	Service Rate	Rental Rate	Extended Total
Portable toilet rental	1	Ea	I	02/07/07 02/22/07			0.357 *	5.71
1 x a wk service-regular unit	1	Ea	I	02/07/07 02/22/07		2.571 *		41.14
Delivery & pick-up sani	1	Ea	I	02/07/07 02/07/07	0.00			0.00

\* This item co-terminates with other items on this jobsite and was therefore charged at a per-day rate

*Gen Requirements*

*SMM*

Subject to Sales Tax 5.71 Exempt from Sales Tax 41.14

Subtotal: 46.85 Tax: 0.34 Total Due: 47.19

⌋ Detach here ⌋

**NATIONAL**  
**CONSTRUCTION RENTALS**

rentnational.com

Be sure to write your account number on your check

**Customer No:** C162576  
**Our Order No:** RO-226535  
**Invoice No:** RI-1728748

Check here and see reverse for address and phone corrections

Check here and see reverse if paying by credit card



Amount Enclosed: \$

⌋ Remit to: ⌋ To pay online, go to rentnational.com

**National Construction Rentals, Inc.**  
**P.O. Box 4503**  
**Pacoima, CA 91333-4503**

**EXHIBIT J**

**OPINION OF DEVELOPER'S COUNSEL**

[See attached]



CARLOS A. VAZQUEZ  
ATTORNEY AT LAW

City of Chicago  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to the Institute for Puerto Rican Arts and Culture, an Illinois not-for-profit corporation (the “**Developer**”), in connection with the rehabilitation and construction of certain facilities known as the Humboldt Park Stables located in the IPRAC Redevelopment Project Area (the “**Project**”). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the “**Documents**”:

- (a) IPRAC Redevelopment Agreement (the “**Agreement**”) of even date herewith, executed by the Developer and the City of Chicago (the “**City**”);
- (b) Agreement Between the Institute of Puerto Rican Arts and Culture and the Chicago Park District;
- (c) Illinois Department of Commerce and Economic Opportunity Grant Agreement for grant nos. 02-120376 and 03-121413; and
- (d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

- (a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) By-Laws, as amended to date, and (iv) the minutes of the meetings of Developer's Board of Director relating to the project; and
- (b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

City of Chicago  
Re: IPRAC

Page 2

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign entity under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. The Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's Articles of Incorporation or By-Laws or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its property, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer or its business.

6. To the best of our knowledge after diligent inquiry, there is no default by the Developer or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which the company or its properties is bound.

7. To the best of our knowledge after diligent inquiry, all of the assets of the Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

8. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person, except for the consent of the Chicago Park District under its Agreement between the Institute of Puerto Rican Arts and Culture, which consent has already been given, or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

9. To the best of our knowledge after diligent inquiry, the Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

City of Chicago  
Re: IPRAC

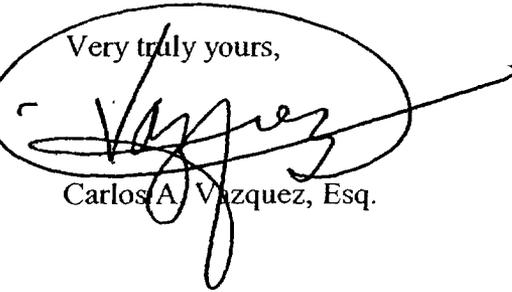
Page 4

10. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois.

This opinion is issued at the Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

A handwritten signature in black ink, appearing to read "Vizquez", is written over a large, hand-drawn oval. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Carlos A. Vizquez, Esq.

CAV:ban



**INSTITUTE FOR PUERTO RICAN ARTS AND CULTURE**

By: \_\_\_\_\_

Name

Title: \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

Agreed and accepted:

\_\_\_\_\_  
Name  
Title: \_\_\_\_\_  
City of Chicago  
Department of Planning and Development

**EXHIBIT M**

**AGREEMENT BETWEEN THE INSTITUTE OF PUERTO RICAN ARTS AND CULTURE  
AND THE CHICAGO PARK DISTRICT**

[Attached]

**AGREEMENT BETWEEN THE  
INSTITUTE OF PUERTO RICAN ARTS AND CULTURE AND  
THE CHICAGO PARK DISTRICT**

This Agreement is made this 23<sup>rd</sup> day of October, 2002, by and between the Institute of Puerto Rican Arts and Culture (the "IPRAC"), a not-for-profit corporation organized and existing under the laws of the State of Illinois, and the Chicago Park District (the "Park District"), a municipal corporation organized and existing under the laws of the State of Illinois.

**WITNESSETH:**

**WHEREAS**, IPRAC was founded to establish a Puerto Rican cultural arts institute in the City of Chicago and to expand the Puerto Rican cultural arts initiative in Humboldt Park; and

**WHEREAS**, the Park District owns the land and buildings known as Humboldt Park, the Humboldt Park Stables, the adjacent grounds and parking lots located at 1440 N. Sacramento Avenue in Chicago, Illinois; and

**WHEREAS**, the Park District and IPRAC desire to enter into an agreement whereby the parties agree that IPRAC would operate on Park District land for the purpose of offering a diverse interdisciplinary arts program that is reflective of the Puerto Rican community, including: exhibitions; music; dance; theater performances; classes and workshops in the arts; presentations by visiting speakers, artists and curators; and opportunities for community artists and instructors to share their resources and knowledge.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties hereby agree to enter into this Agreement as follows:

**Section 1. Definitions.** As used in this Agreement, the following terms shall have the respective meanings set forth below unless the context otherwise requires:

**"Adjacent Grounds"** means the real property outside of and adjacent to the Building, described in *Exhibit A*.

**"Board"** means the Board of Commissioners of the Park District.

**"Building"** means the first floor of the Humboldt Park Stables in Humboldt Park, at the southwest corner of Sacramento and Division in Chicago, Illinois.

**"Contractors"** means all construction, rehabilitation and Maintenance and service contractors and subcontractors that provide services for IPRAC.

**"Maintenance"** includes, but is not limited to, day-to-day upkeep, security, waste removal and repairs to machinery and equipment.

"Park District Indemnitees" has the meaning given that term in Section 12.

"Parking Lot" means the parking lot near the Humboldt Park Stables, as noted on Exhibit A.

"Site Plan" means IPRAC's plan for use of the Building, the Adjacent Grounds and the Parking Lot as set forth in Exhibit B.

**Section 2. Use.** The Park District agrees to make available to IPRAC free of charge and in accordance with Section 3, the Building and five (5) spaces in the Parking Lot, and IPRAC agrees to renovate, with the prior approval of the Park District as provided in Section 3, and use the Building, for the purpose of offering a diverse interdisciplinary arts program that is reflective of the Puerto Rican community, including: exhibitions; music; dance; theater performances; classes and workshops in the arts; educational activities; presentations by visiting speakers, artists, artisans, and curators; and opportunities for community artists, artisans and instructors to practice their arts and crafts and to share their resources and knowledge.

(a) Immediately following execution of this Agreement, the Park District will allow IPRAC to use two (2) areas in the northeast area of the Building for office use, and these areas will become part of the initial space to be used by IPRAC upon completion of the initial renovation pursuant to Section 3(b).

(b) Immediately following execution of this Agreement and for the duration of this Agreement, the Park District will ensure that IPRAC has access to the Parking Lot during normal park hours, seven (7) days a week.

(c) Until IPRAC assumes occupancy of the Building, the Park District will coordinate use of the Building. Excluding the period during which the Park District is undertaking renovation of the Humboldt Park Stables, IPRAC will have exclusive use and control of the Building.

**Section 3. Building and Renovation.** (a) After the Park District receives a grant from the State of Illinois, or other source, for the renovation of the Humboldt Park Stables in a sufficient amount as determined by the Park District, then the Park District will undertake an initial renovation of the Humboldt Park Stables. The Park District shall use its best efforts to secure funding for such renovations and to commence and complete the renovations as promptly as possible. The Park District shall keep IPRAC reasonably informed as to the status of funding for the renovations and the timetable for its commencement and completion.

(b) Upon completion of the initial renovation, the Park District shall authorize IPRAC to occupy and use the Building, and five (5) parking spaces in the Parking Lot.

(c) IPRAC shall have the right, subject to Sections 3(d) and (e), to renovate the Building for its intended use. It is understood that the renovation of the Building may occur in phases over a period of years.

(d) IPRAC shall submit a general plan and design of proposed renovations to the Park District for review and approval. IPRAC shall obtain written Park District approval of the final Site Plan prior to implementation of said plan. Any and all changes to the Site Plan shall require prior written approval from the Park District. IPRAC shall obtain written Park District approval of the final construction documents prior to commencing renovations. Once approved, the Site Plan will be incorporated into this Agreement as *Exhibit B*.

(e) Prior to the commencement of each phase of renovation, IPRAC shall have the financial means necessary to complete renovation of that phase or evidence of commitments for funding each such phase, and shall provide the Park District with preliminary drawings of the proposed scope of work, a budget for completing such work and evidence of available funding to undertake such work as well as any other relevant documentation to support the commencement of renovation. IPRAC shall obtain all required permits and prior written approval from the Park District before the commencement of renovation for each phase. Failure by IPRAC to complete each phase in a timely manner shall be cause for termination under this Agreement as to the phase not completed in a timely fashion.

(f) Upon completion of the renovation of the Building by IPRAC, IPRAC shall have right to expand and to occupy and use additional portions of the Humboldt Park Stables as depicted in *Exhibit B* with the prior written approval of the Park District General Superintendent under the conditions identified in Sections 3(d) and 3(e). After the approval of such expansions to additional areas by the Park District General Superintendent, the Building shall be automatically expanded to include such approved additional areas.

(g) Prior to each expansion of the Building, IPRAC shall demonstrate to the satisfaction of the Board that IPRAC has had sufficient attendance and has and will have the financial means to maintain and operate the areas to which IPRAC wishes to expand.

(h) Except as provided for in this Section, IPRAC shall not make any alteration, improvement, addition to, or perform any construction or renovation on the Building without prior written Park District approval. In addition, IPRAC shall obtain any required permits for the renovation of the Building. IPRAC agrees and acknowledges that Park District reviews, approvals, and engineering permits are not intended to indicate approval as to the safety, soundness, or structural integrity of any planned alteration, improvement, addition or construction and that it is IPRAC's responsibility to perform all necessary tests and evaluations for those purposes.

(i) The Park District represents and warrants to IPRAC that there are no hazardous materials at, on, or under the Site and that there are no violations of or obligations under environmental laws, rules, regulations or ordinances in connection with the Site. IPRAC covenants that its operations will comply with environmental laws and hereby indemnifies the Park District for any violation of such laws caused by IPRAC's operations.

**Section 4. Capital Financing.** The Building renovation will be funded through a combination of local, state and/or Federal grants, bonds, private donations, and/or foundation funds.

**Section 5. Operation and Maintenance of the Building and Parking Lot.**

(a) Subject to the terms of this Agreement, IPRAC shall have sole charge and control of the Building, provided, however, that IPRAC shall submit proposed hours of operation to the Park District for its review and approval.

(b) IPRAC shall be solely responsible for the operation and Maintenance of the Building and the Park District will be solely responsible for Maintenance of the Adjacent Grounds and Parking Lot.

**Section 6. Purpose of Building.** If at any time IPRAC shall cease to use the Building for the purposes stated in Section 2 of this Agreement, all of the rights of the IPRAC in the Building shall cease and terminate, and all of the rights of IPRAC in stock, equipment and other property purchased from funds received from the Park District shall cease and terminate and thereupon become the property of the Park District.

**Section 7. Insurance.** IPRAC shall be responsible for providing insurance for the Building on the basis set forth in *Exhibit C* attached hereto and made a part hereof.

**Section 8. Utilities.** (a) Upon completion of the initial renovation of the Humboldt Park Stables by the Park District and the occupancy of the Building by IPRAC, IPRAC agrees to pay for all utility costs for the renovation, operation and Maintenance of the Building.

(b) Utility costs include, but are not limited to, gas, electric, water, sewage, communication charges and all utility infrastructure costs associated with the renovation of the Building. If the Park District provides utilities to the Building, IPRAC shall reimburse the Park District for the costs of providing such utility service.

(c) IPRAC may explore alternative energy sources for the Building. The Park District shall have the right to review and approve the use of such sources.

**Section 9. Concessions.** IPRAC shall have the right to operate a gift shop in the Building, either through its own employees or through independent Contractors. IPRAC shall control and be entitled to receive all revenue earned from such gift shop within the Building provided, however, that such gift shop shall comply with the Code of the Park District, Park District ordinances, resolutions, rules, and regulations governing concessions and that all concessionaires obtain and pay for all required licenses.

**Section 10. Special Events.** IPRAC may have special events at the Building if such events are consistent with IPRAC's intended use of the Building as provided for in Section 2 of this Agreement ("Special Events"). IPRAC shall have the right to charge admission to special events sponsored by IPRAC or other entities in the Building. IPRAC shall be entitled to hold Special Events in the Building during or after normal business hours, but in no event beyond normal park hours; and shall be entitled to charge an admission fee for such Special Events; provided, however that IPRAC shall obtain all permits required by the Park District for such events in compliance with the Code of the Park District, ordinances, resolutions, rules and regulations of the Park District and shall pay for any applicable vendor fees.

**Section 11. Admission Fees.** IPRAC may charge an admission fee as allowed by law and to the extent authorized and permitted by the Board. All proceeds of such admission fees shall be used for the operation and Maintenance of the Building. On or before March 1 of each year IPRAC shall furnish to the Park District a detailed statement of the receipts from admission fees and the cost of the operation and Maintenance of the Building.

**Section 12. Indemnification.** (a) IPRAC for itself and its successors and assigns agrees to and does hereby expressly assume all responsibility for and agrees to defend, indemnify, save and keep harmless the Park District, its commissioners, officers, employees, volunteers, contractors and agents (collectively, the "Park District Indemnitees") against any loss, claims, damage, liability, action, suit, proceeding, cost or expense that the Park District Indemnitees may suffer, incur or sustain or for which it may become liable (including, but not limited to, personal and bodily injury to or death of persons or loss or damage to property) resulting from, arising out of, or relating to any acts, errors or omissions in the use and operation of the Building, the Parking Lot, or the Adjacent Grounds and its performance under this Agreement, and for any such loss, claims, damage, liability, action, suit, proceeding, cost or expense resulting from, arising out of, or relating to any acts, errors and omissions in the Contractors' performance of any work for IPRAC.

(b) IPRAC shall require the Contractors and their successors and assigns to defend, indemnify, save and keep harmless the Park District Indemnitees against any loss, claims, damage, liability, action, suit, proceeding, cost or expense that the Park District Indemnities may suffer, incur or sustain or for which it may become liable (including, but not limited to, personal and bodily injury to or death of persons or loss or damage to property), resulting from, arising out of, or relating to any acts, errors or omissions in the Contractors' performance of any work for IPRAC.

(c) IPRAC shall indemnify, save and keep harmless the Park District for and from any claims for mechanics' liens by reason of any construction work, repairs, replacements or other work or for any improvements made to the Building by or in behalf of IPRAC.

(d) The duties to indemnify, save and keep harmless, and defend the Park District Indemnitees shall survive the termination or expiration of this Agreement.

**Section 13. Term; Termination.** (a) IPRAC shall have the exclusive use and occupancy of the Building for a period of fifteen (15) years from the date of execution of this Agreement, unless the Agreement is terminated pursuant to the terms herein.

(b) Failure by IPRAC to satisfy the terms and conditions of this Agreement at any time shall be cause for the Park District to terminate this Agreement if such failure has not been cured, or steps to cure such failure have not been commenced to the reasonable satisfaction of the Park District, within thirty (30) days following written notice from the Park District of such failure. Upon termination of this Agreement, IPRAC shall remove all property not purchased with funds from the Park District and shall vacate the Building. If IPRAC shall fail to remove said property and vacate the Building, the Park District shall have the right to enter upon and occupy the Building and remove said property.

(c) During the term of this Agreement, the Park District and IPRAC will review the Building activities every three (3) years, or more frequently if desired by the Park District, to determine if IPRAC has achieved the intended purpose of the Building as provided for in Section 2 of this Agreement. If the Park District determines, in its sole discretion, that IPRAC has failed to meet the intended purpose of the Building then, notwithstanding any other provision of this Agreement, the Park District may terminate this Agreement upon thirty (30) days prior written notice to IPRAC.

**Section 14. Right of Entry and Inspection.** Throughout the term of this Agreement, the Park District shall have the right of entry and inspection of the Building at all times with prior notice to IPRAC.

**Section 15. Signage.** IPRAC shall obtain prior written Park District approval before erecting any exterior signs on the Building. The Park District shall have the right to remove any signage or signs that are erected without its consent after giving IPRAC notice and an opportunity to cure the lack of consent or correct the signage.

**Section 16. Books and Records.** IPRAC shall keep, and make available at the request of the Park District, such books, records and recording devices showing accurate and complete data on all receipts and disbursements arising from its performance of this Agreement, including but not limited to, accurate and complete data on operational expenses, maintenance expenses, concession fees, special event fees and admission fees. The Park District and its accounting and auditing officers or their designees shall have the right during normal business hours to examine and audit all of said books, records and recording devices. Upon receipt of a written request to make available or produce such books or records, IPRAC shall make available or submit same to the Park District's representative within five (5) working days of such request.

**Section 17. MBE/WBE Requirements.** IPRAC shall observe all requirements promulgated and enforced from time to time by the Park District that relate to Minority Business Enterprise and Women's Business Enterprise utilization.

**Section 18. Recording.** IPRAC and the Park District shall have the right to record this Agreement.

**Section 19. Notices.** All notices hereunder shall be in writing and shall be given as follows:

if to the Park District, to:

Chicago Park District  
541 North Fairbanks  
Chicago, Illinois 60611  
Attention: General Superintendent

with a copy to the same address,  
attention: General Counsel

if to the IPRAC, to:

Institute of Puerto Rican Arts and Culture  
939 Clinton  
Chicago, Illinois 60604  
Attention: Executive Director

with a copy to:

Alzheimer & Gray  
10 South Wacker, Suite 4000  
Chicago, Illinois 60606  
Attention: Rolando Acosta

Notices shall be effective upon receipt with written confirmation thereof. Either party may change the address or addresses for notices to be sent to it by giving notice to the other party.

**Section 20. Assignment.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party. The foregoing shall not prohibit IPRAC from contracting with third parties to provide services to support the Maintenance obligations that IPRAC has undertaken under this Agreement, or to operate the gift shop within the Building.

**Section 21. Interpretation.** Section titles and headings are provided for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. References in this Agreement to Sections or Exhibits are to Sections or Exhibits of this Agreement. Both parties have reviewed and discussed this Agreement with legal counsel, and this Agreement shall be interpreted without applying any rule providing for construction against the drafting party.

**Section 22. Entire Agreement; Beneficiaries; Amendments.** This Agreement constitutes the entire agreement of the parties and supersedes all prior agreements or understandings, both written and oral, between the parties with regard to the subject matter hereof. This Agreement is not intended to confer upon any person other than the parties hereto any rights or remedies. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each party.

**Section 23. Waivers.** The failure of a party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

**Section 24. Partial Invalidity.** Wherever possible, each provision hereof will be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein is held to be invalid, illegal or unenforceable in any respect for any reason, such provision will be ineffective to the extent, but only to the extent, of

such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

**Section 25. Representation of Authority to Contract.** Each party represents and warrants to the other party that the execution and delivery of this Agreement by it has been duly authorized by all proper actions and proceedings and that this Agreement constitutes the legal, valid and binding obligation of such party.

**Section 26. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by each party.

**Section 27. Disputes.** In the event any questions or disputes as to the meaning or requirements of anything in this Agreement arise, the matter shall at once be referred for consideration and decision to the Park District General Superintendent.

**Section 28. Request for Approvals.** The Park District shall make a good faith effort to respond within a reasonable time to all requests for approval submitted by IPRAC as required under this Agreement.

**Section 29. Compliance With Law.** (a) In performing their duties under this Agreement, IPRAC shall fully comply with all applicable Federal, state and local laws, and the Code of the Park District. IPRAC shall also comply with all rules, regulations and ordinances (including all health and safety regulations) promulgated by the Park District from time to time. Further, IPRAC, including all of its officers, employees, servants, agents, volunteers contractors, subcontractors, sub-operators shall abide by the provisions of the Park District Code of Conduct and hereby acknowledges receipt of a copy of the Park District Code of Conduct.

(b) IPRAC specifically agrees that no person(s) shall be subjected to discrimination in the use of the Building or to discrimination in employment decisions by IPRAC, on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap, unfavorable discharge from military services, parental status or sexual orientation.

**Section 30. Relationship.** This Agreement shall not be construed to create a partnership, joint venture, or employment relationship between the parties.

**Section 31. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, excluding, however, those relating to choice or conflict of laws.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their duly authorized representatives as of the date first above written.

**INSTITUTE OF PUERTO RICAN ARTS AND CULTURE**

By: *[Handwritten Signature]*

Title: *President-IPRAC*

**CHICAGO PARK DISTRICT**

By: *[Handwritten Signature]*

Title: \_\_\_\_\_

## EXHIBIT C

### INSURANCE COVERAGE

IPRAC shall procure and maintain at all times, at IPRAC's own expense, during the period of this Agreement, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois with a Best's rating of A or better covering all operations of the Building.

The kinds and amounts of insurance required are as follows:

1) Workers' Compensations and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois, or any other applicable jurisdiction, covering all employees who are to provide a service. Employer's liability coverage with limits of not less than \$500,000 each accident or illness shall be included.

2) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence, combined single limit, for bodily injury, personal injury, and property damage liability. Products/completed operations with extension of 2 years, explosion, collapse, underground, , broad form property damage and contractual liability coverages are to be included. The Park District is to be named as an additional insured on a primary, non-contributory basis.

3) Automobile Liability Insurance

When any motor vehicles are used in connection with work to be performed, IPRAC shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence combined single limit, for bodily injury and property damage. The Park District is to be named as additional insured on a primary, non-contributory basis.

4) Property Insurance

IPRAC shall procure broad form all risks property insurance coverage which covers all of the real property, fixtures, machinery and equipment with a blanket limit equal to the amount required to replace all real property, permanent fixtures, machinery and equipment at functional replacement cost and a deductible of no greater than \$10,000. The Park District is to be a named insured on the policy.

5) Pollution Liability Insurance

When any pollution risk exposure is apparent, IPRAC shall provide Pollution Liability Insurance on a blanket basis covering bodily injury, property damage and environmental restoration for claims arising from performance of services including handling, clean-up

and excavation of waste and hazardous materials (may be provided by IPRAC or by contractor of IPRAC with IPRAC and Park District named as additional insured). Limits required for each shall not be less than \$1,000,000 each accident, \$2,000,000 general aggregate. The coverage may be on a claims made form. Such insurance shall provide an inception or retroactive date prior to the date of performance and be renewed each year for a period of (3) years after completion of performance or provide an extended claims reporting period of not less than (3) years after completion of performance.

6) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced for the Building, valuable papers insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the recreation and reconstruction of such records.

7) Fidelity Insurance

IPRAC shall procure crime insurance with a limit of \$500,000 and a deductible of no greater than \$10,000. The Park District is to be a named insured on the policy.

IPRAC will furnish the Park District original certificates of insurance evidencing the required coverage to be in force prior to commencement of work, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. IPRAC shall submit evidence of insurance prior to contract award, and reference on the Certificate the contract number and/or description of work to be performed. The failure of the Park District to obtain such evidence from IPRAC before permitting IPRAC to commence work shall not be deemed to be a waiver by the Park District, and IPRAC shall remain under continuing obligation to maintain insurance coverage.

The insurance hereinbefore specified shall be carried during the period of this Agreement. Failure to keep such insurance in force may constitute a violation, and the Park District maintains the right to terminate this Agreement.

The insurance shall provide for 60 days prior written notice to be given to the Park District, Department of Risk Management, in the event coverage is substantially changed, cancelled, or non-renewed.

Any and all deductibles on referenced insurance coverages shall be borne by IPRAC.

IPRAC expressly understands and agrees that any insurance coverages and limits furnished by IPRAC shall in no way limit IPRAC's liabilities and responsibilities specified with the contract documents or by law.

IPRAC agrees that the insurer shall waive their rights of subrogation against the Park District.

IPRAC expressly understands and agrees that any insurance maintained by the Park District shall apply in excess of and not contribute with insurance provided by IPRAC.

If IPRAC desires additional coverage, higher limits of liability, or other modifications for its own protection, IPRAC shall be responsible for the acquisition and cost of such additional protection.

The Park District maintains the right to modify, delete, alter or change these insurance coverage requirements.