INDUSTRIAL DEVELOPMENT AUTHORITY REGULAR MEETING AGENDA

4TH FLOOR CONFERENCE ROOM

October 8, 2024

10:30 AM

A. CALL TO ORDER

B. ROLL CALL

C. MEETING MINUTES

D. FINANCIAL REPORT

E. STAFF UPDATES

F. ACTION ITEMS

1. Request approval for interior upfits of an existing building located at 1350 Barker Road in Ringgold, Virginia

2. Request approval from the Danville Industrial Development Authority to secure a loan from the Virginia Small Business Finance Authority for improvement to 1350 Barker Road, Ringgold, Virginia.

3. Request for approval to execute a Facility Lease agreement between the Danville Industrial Development Authority and RBW Sports & Classics, Inc.

4. Request approval from the Industrial Development Authority Danville, Virginia to approve the contract to complete the renovations at 120 Cane Creek Boulevard located in the

Airside Industrial Park.

5. Resolution to approve a Facility Lease Agreement between the Industrial Development Authority, Danville, Virginia and eBIO Nutritional Sciences, LLC.

6. A resolution of the Industrial Development Authority of Danville, Virginia approving and authorizing a lease agreement between the Industrial Development Authority of Danville, Virginia and Overfinch North America Inc. for the property identified as 500 Stinson Drive.

7. Request approval of a Contract Addendum to add 121-127 North Union Street to the Contract between the Industrial Development Authority and Virginia Architects.

G. CLOSED MEETING

As Permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion or consideration of the acquisition of real property or of the disposition of publicly held real property; and

As Permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion concerning a prospective business or industry related to economic development.

As Permitted by Subsection (A)(7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for consultation with legal counsel concerning actual litigation and briefings by staff regarding specific legal matters requiring legal advice.

A. Motion to Convene in Closed Meeting
B. Motion to Reconvene in Open Meeting
C. Motion to Certify Closed Meeting

H. NEW BUSINESS

I. ADJOURN

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Request approval for interior upfits of an existing building located at 1350 Barker Road in Ringgold, Virginia

Request approval to authorize a contract between Blair Construction and the Danville Industrial Development Authority to make interior unfits for an existing building located at 1350 Barker Road Ringgold, Virginia for an amount not to exceed $1,389,000.

ATTACHMENTS

1. 1619_RES_Revised_Blair Construction_Upfit interior Item 1_TGM Final
2. Proposal - RBW Barker Road Upfit (Revised) (6-18-24)F
3. A141ExhibitB-2014 - Final - 001(2) (1)F
4. AIA 141 - 2014 - Exhibit A - Contract Agreement - RBW Barker Rd UpfitF
5. AIA 141 - 2014 - Contract Agreement - RBW Barker Rd UpfitF

PRESENTED: October 8, 2024

ADOPTED: October 8, 2024

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT OF DANVILLE, VIRGINIA, APPROVING AND AUTHORIZING INTERIOR UPFITS AT 1350 BARKER ROAD, RINGGOLD, VIRGINIA IN AN AMOUNT NOT TO EXCEED $1,389,000.00.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia that the Chairman, or in his absence any Officer, be, and hereby is, approved and authorized to execute the contract with Blair Construction, in an amount not to exceed One Million, Three Hundred and Eighty-Nine Thousand, and/100 ($1,389,000.00) substantially in the form attached to make interior upfits to 1350 Barker Road, Ringgold, Virginia.

BE IT FURTHER RESOLVED, that the Chairman, or in his absence any Officer, be, and hereby is, authorized to execute any and all documents necessary for this Contract Agreement and such other documents as needed to complete this transaction.

Approved:

_____
Chairman

Attest:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

Blair Construction, Inc.

Route 29 South
Gretna, Virginia 24557
Phone: (434) 656-6243
Fax: (434) 656-3290

www.blairbuildsbetter.com
Mailing:
P.O. Box 612
Gretna, Virginia 24557

June 18, 2024

Kelvin G. Perry
City of Danville
Office of Economic Development
427 Patton Street
Danville, VA 24543
kelvin.perry@discoverdanville.com

Re: RBW Barker Road Upfit (Ringgold, VA) (Revised)

Dear Mr. Perry,

Blair Construction, Inc. is pleased to provide a budget quote of $1,389,000.00 for the interior upfit of an existing building located at 1350 Barker Road in Ringgold, VA. All work to be performed in accordance with attached plans and the following scope of work:

General Requirements

- Provide onsite supervision of work
- Provide offsite disposal of all construction debris
- This proposal assumes that all work will be performed during regular business hours
- This proposal includes permit fees
- This proposal includes an **ALLOWANCE of $22,500.00** for all remaining architectural, structural, mechanical, and electrical design and engineering fees
- This proposal includes an **ALLOWANCE of $2,500.00** for X-raying and/or thermal imaging of existing concrete floors as required to locate radiant heat floor tubing prior to installation of fencing and walls as well as owner's installation of lifts, equipment, etc.
- **This proposal EXCLUDES any contingency allowances. However, Blair Construction recommends that the owner consider additional insulation in the roof and walls. Blair can have an ADD for this additional scope early next week. Refer to "Pre-Engineered Metal Building" section for ADD alternate.**

Demolition

- Provide selective demolition of masonry walls, doors, door frames, flooring, rubber base, and cabinets as indicated on plan

Fencing

- Provide interior fencing as indicated on plan, height to be 10', includes (2) 10' double gates, all materials galvanized, 4" gate posts, 3" terminal posts, 2-1/2" line posts, 1-5/8" top rail, 9 ga mesh, tension wire, posts to be plated for attachment to slab with 3/8" tapcons

Concrete

- Includes patching of concrete floors as required at masonry wall demolition

Masonry

- Includes patching of masonry walls as required where adjacent to masonry wall demolition

Wood and Plastics

- Provide new base cabinets and solid surface countertops in Conference Room and Kitchen
    - **ADD $6,432.00 for wall cabinets (uppers)**

Thermal and Moisture Protection

- Includes an **ALLOWANCE of $3,200.00** for top-of-wall fire caulking at new fire rated walls

Doors & Windows

- Provide new hollow metal door frame, hollow metal door, and hardware for doors tagged "2", "3", and "4"
- Provide new hollow metal door frame (where required), pre-finished wood door, and hardware for doors tagged "5" and "6"
- Provide aluminum storefront frames and glazing for windows tagged "C", includes 2" x 4-1/2" non-thermal aluminum storefront, 1" IG clear laminated / clear laminated, includes STC rating of 37, finish to be clear anodized or aluminum
- Provide aluminum storefront frames and insulated glazing for windows tagged "A" and "B", includes 2" x 4-1/2" thermally broken storefront, 1" IG tint / low-e tempered glass,
- Provide interior glazing as required for doors tagged "5" and "6"
- Provide Cornell ERD20 Insulated Coiling Door (door tag "7"), 10'-0" x 10'-0", 24-gauge galvanized steel curtain slats, box shaped steel guides (to match curtain), baked enamel finish (white, gray, tan, or brown), manual chain hoist operated (EXCLUDES STC rating)
- Provide Clopay 904 Aluminum Commercial Dury Sectional Door (door tag "8"), 10'-2" x 10'-0", clear anodized finish, all sections 1/8" DSB glass, 2" reverse angle mount tracks, low headroom track, inside slide bolt lock, manual push up operated
- Provide fire-rated overhead doors, hollow metal door frames, and hollow metal doors where required

Finishes

- Provide metal stud framing and drywall for wall types as indicated, walls to be finished to a Level 4, ready for paint
- Wall Type "F" to include pre-engineered metal building wall panels attached directly to existing wall girts, height to top of metal wall panels to vary so panels can "top out" at an existing wall girt
- This proposal **EXCLUDES** supplemental roof and wall insulation and / or insulation repair in existing exterior walls of pre-engineered metal building
- Includes removal and patching of existing interior walls as required to install framed openings in exterior wall for new windows
- Includes acoustical tile ceilings and grid as indicated on plan, acoustical ceilings to be supported using support wires attached to roof structure
- Includes LVP, Carpet, and resilient base as indicated on plan

- Includes epoxy flooring as indicated on plan, 3830 Resumprime MVB Primer / 3741 Resulflor Novolac Sealer system (or equal)
- Ceramic wall and floor tile in bathrooms to remain as-is
- This proposal **EXCLUDES** floor finishes / sealers for areas not specifying new flooring
- Provide interior painting of hollow metal frames, hollow metal doors, and walls as required
- This proposal **EXCLUDES** painting of existing pre-engineered metal building steel

Pre-Engineered Metal Building

- Includes pre-engineered metal wall panels for walls tagged "F", wall panels to be attached directly to existing wall girts, height to top of metal wall panels to vary so panels can "top out" at an existing wall girt, includes galvanized base angle, panels to be 26-gauge R-panels with screws and trim, color to be Polar White
- Includes new framed openings at windows tagged "A" and "B"
- Includes installation of (5) roof curbs, roof boots, mastic sealant
- Includes an **ALLOWANCE of $37,500.00** for additional steel supports for new RTU's
- This proposal EXCLUDES adding supplemental roof and wall insulation to the existing pre-engineered metal building.
    - **To provide additional roof and wall insulation to the existing pre-engineered metal building, ADD $138,000.00**. Work to consist of:
        - Provide new 8" pre-engineered metal building unfaced insulation to fill purlin cavity, includes working around existing bracing and obstructions as much as possible, additional insulation will provide additional insulation value of R25
        - Includes temporary support of unfaced insulation with metal banding until a fabric liner system can be installed on the bottom side of the purlins to conceal the new insulation
        - Includes same insulation system to be installed in wall cavities

Fire Sprinkler

- Provide a wet pipe sprinkler system in accordance with NFPA 13 and state code, based on starting at the existing 6" fire line connection located inside the building
- System will be designed for an Ordinary Hazard Group 2 Occupancy throughout (manufacturing type use without flammable and / or combustible liquids) with the exception of the Paint Cell room (which will be designed for Extra Hazard Group 2); kitchen, mechanical, and electrical rooms (which will be designed for Ordinary Hazard Group 1); and the offices, corridors, toilets, breakrooms, conference rooms, etc. (which will be designed for Light Hazard)

Plumbing

- Includes compressed air lines as shown
- Remove existing kitchen and bar sink
- Provide (1) 33" x 22" double bowl kitchen sink with single lever faucet, new basket strainers, trap, stops, and supply tubes
- Provided (1) 20" x 16" bar sink with single lever faucet, new basket strainers, trap, stops, and supply tubes
- Test, repair, and fill radiant floor heaters

HVAC

- Provide (5) roof top packaged units with curbs
- Provide (4) drop box concentric diffusers in production area
- Provide (3) VAV's and ducting in showroom, conference room and interior offices and bathrooms
- Provide (2) exhaust fans for (2) bathrooms
- Includes insulation where required
- Includes test and balance
- Includes engineering fees
- Pricing based on using existing radiant floor heating system as a heat source, it is assumed that existing radiant floor heating system will provide sufficient heating in production / warehouse areas, RTU's providing AC only in production areas
- Pricing is based on existing conditions and does not account for future heat loads and associated electrical for larger HVAC systems (this information was not available at time of pricing)

Electrical

- Includes electrical per drawings
- Based on using existing conduit where possible
- Based on using MC cable where allowed by NEC
- Based on furnishing and installing new wire to connect to existing transformer for radiant floor heat
- Furnish and install breakers and wire for HVAC based on plans
- Conduit for receptacles in open area will be ran exposed and horizontal between receptacles
- Based on connecting to existing electrical service
- Pricing is based on the information provided and does not account for additional electrical that may be required by the tenant

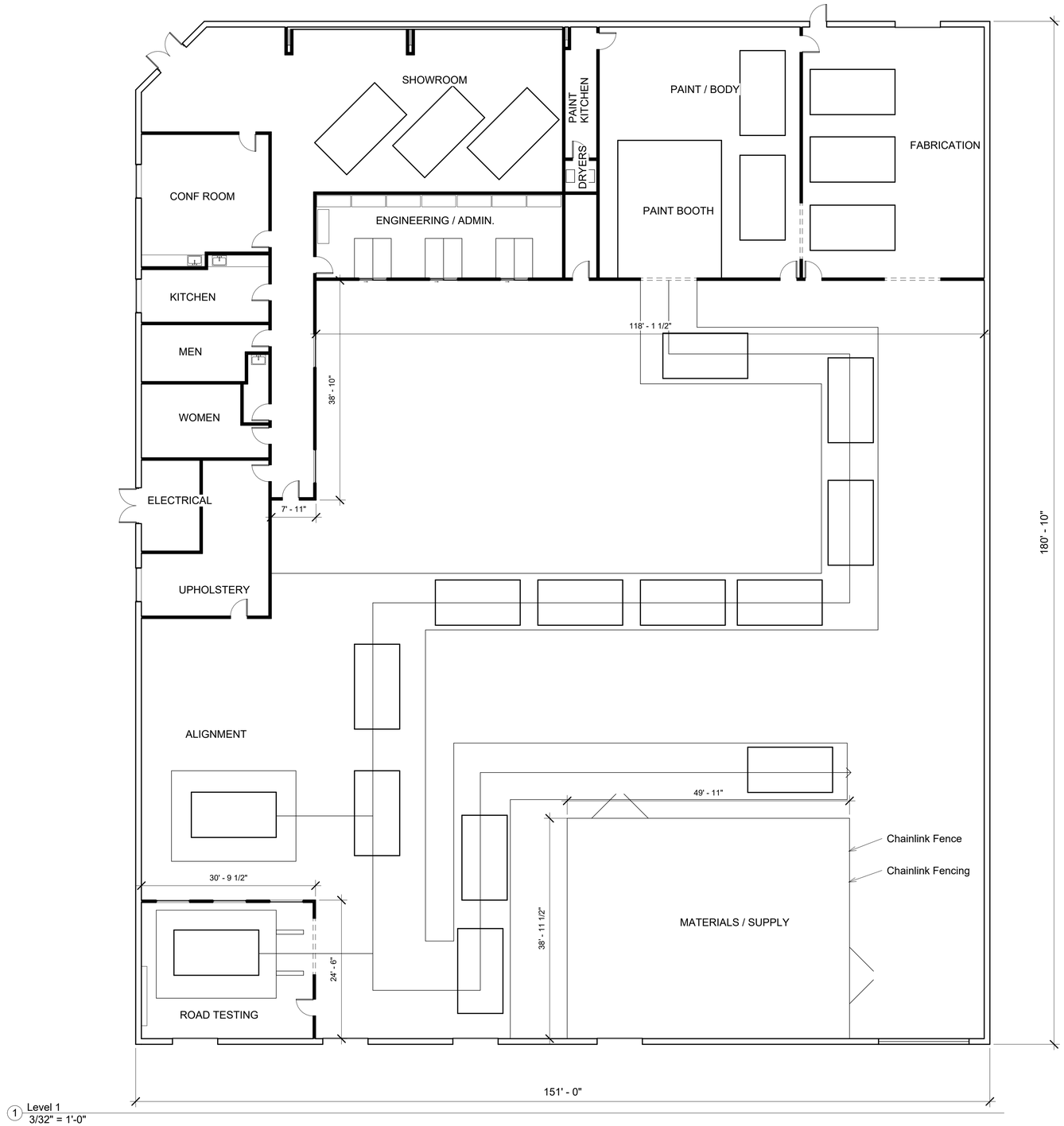
EXCLUSIONS:
Third Party Inspections / Special Inspections
Data and Telecommunications
Access Control \ Security systems
Fire Alarm
Low Voltage
Repairs to existing building
Site Utilities / Utility Fees
Fire Pump / Booster Pump
Backflow Preventers
STC rated overhead doors
Appliances / Vending Equipment
HVLS Fans
Air Compressor Equipment (compressors, dryers, etc.)
Glycol and / or chemical treatment for radiant floor heating system
Paint Booths
Signage
Shelving and Racking
Lockers
Exterior work
Temporary Utilities (temporary electricity and water BY OWNER).
Off hours, night, and weekend work
Cost Escalation
Bonds (can be added for 1%)
Any items not specifically listed above

Blair Construction appreciates the opportunity to work with you on this project. Should you have any questions or need any changes made to this proposal, please let me know.

Sincerely,

Joshua D. Hyler
Estimator

cc: Tim Clark, Blair Construction, tclark@blair-construction.com
Brian Nichols, Blair Construction, bnichols@blair-construction.com



1 Level 1
3/32" = 1'-0"

BLAIR CONSTRUCTION
www.blairbuildsbetter.com

Consultant
Address
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Fax
e-mail

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No.	Description	Date

RBW

RBW Building

Floor Plan

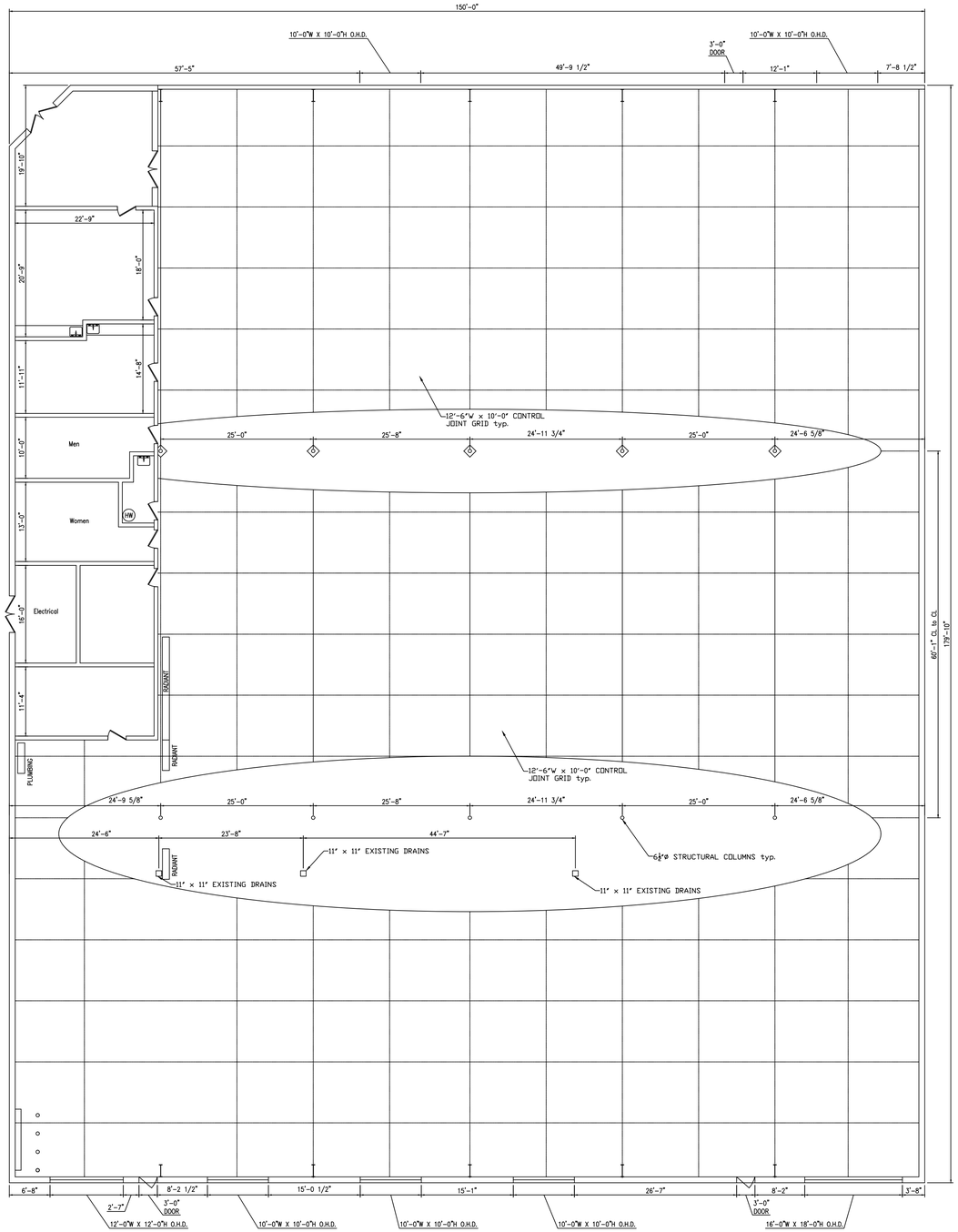
Project number	Project Number
Date	06/10/2024
Drawn by	AKB & JLV
Checked by	TJC

A102

Scale 3/32" = 1'-0"

6/11/2024 11:48:34 AM

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



EXISTING PLAN

SCALE: 3/32" = 1'

FOR REFERENCE ONLY

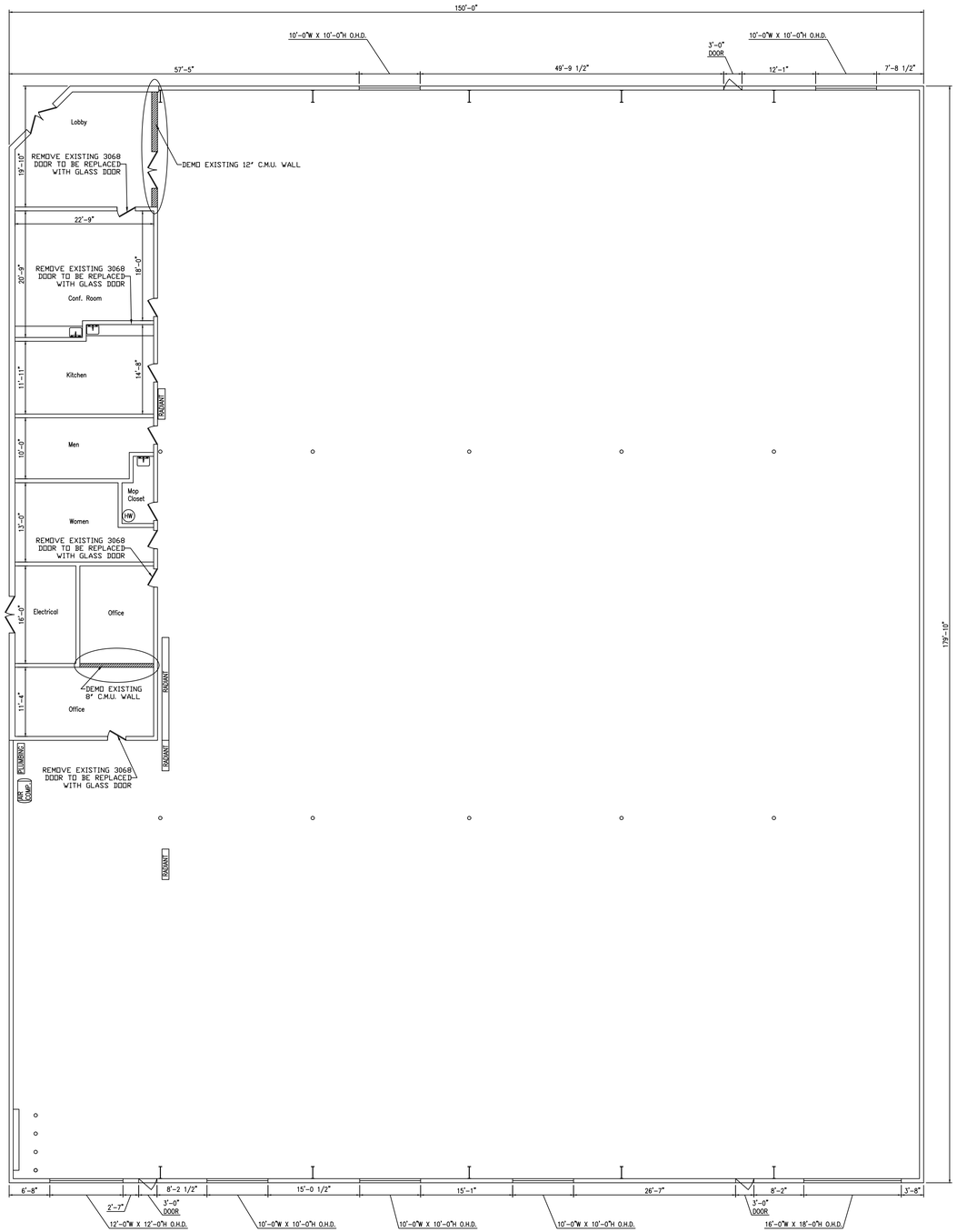
TDD
TRUSS DOC DESIGNS
434 822 3121
341 Barker Rd. Ringgold, Virginina 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002

CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH

SHEET 1 of 10

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



DEMOLITION PLAN

SCALE: 3/32" = 1'

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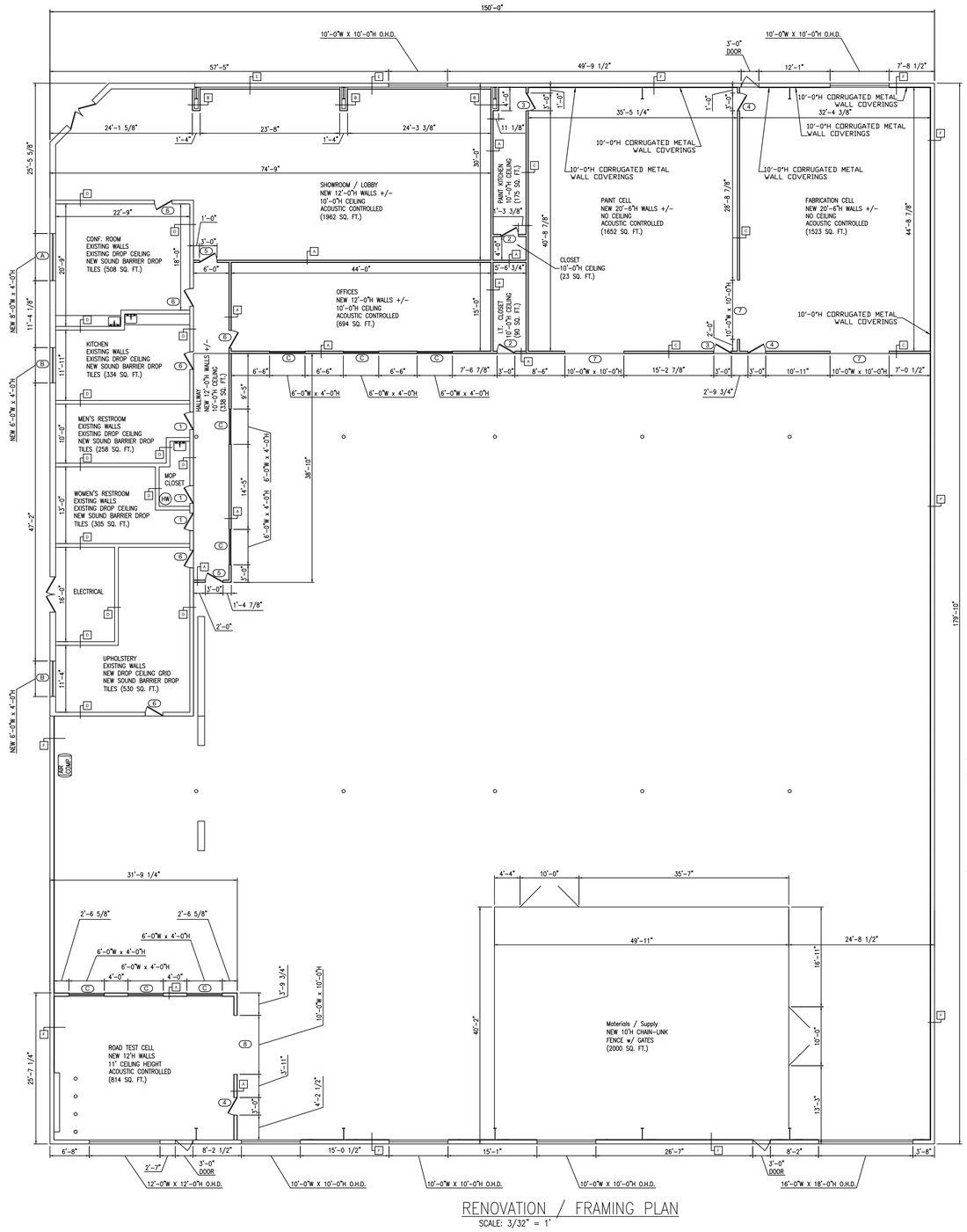
SHEET 2 of 10

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



RENOVATION / FRAMING PLAN
SCALE: 3/32" = 1'

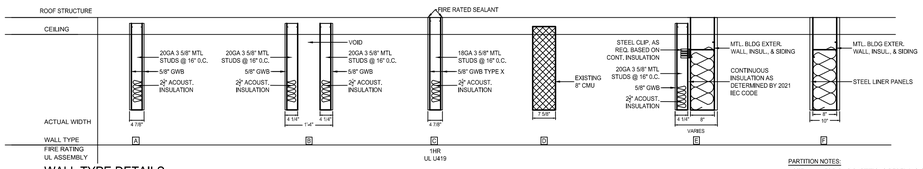
DOOR SCHEDULE

DOOR MARK	DOOR			FIRE RATING	PANIC HRDWR.	FRAME TYPE	COMMENTS
	TYPE	WIDTH	HEIGHT				
1	WD	3' - 0"	7' - 0"			HM	EXISTING (TO REMAIN)
2	HM	3' - 0"	7' - 0"			HM	
3	HM	3' - 0"	7' - 0"	60 MIN		HM	
4	HM	3' - 0"	7' - 0"	60 MIN	YES	HM	
5	GL	3' - 0"	7' - 0"		YES	HM	4"x25" TEMPRD. GLAZING
6	GL	3' - 0"	7' - 0"			HM	4"x25" TEMPRD. GLAZING
7	HM	10' - 0"	10' - 0"	60 MIN		HM	R.U.D. NOISE REDUCTION INSULATED
8	HM	10' - 0"	10' - 0"			HM	R.U.D. w/ GLASS PANELS

DOOR NOTES:
1) ALL GLAZING IN FIRE RATED DOOR ASSEMBLIES SHALL COMPLY WITH & BE TESTED TO ASTM E 119 OR UL 263 AND NFPA 262 TO THE MAXIMUM SIZE TESTED AND IN ACCORDANCE WITH THEIR LISTINGS.
2) ALL DOORS TO INCLUDE ANSI/BHMA GRADE 2 BRUSHED ALUMINUM CYLINDRICAL LEVER LOCKING HARDWARE UNLESS OTHERWISE NOTED. HARDWARE SHALL BE YALE YMCL100 SERIES, PACIFIC BEACH TRIM OR APPROVED EQUAL.
3) DOOR TYPES WITH "C" INDICATE CLOSERS SHALL BE PROVIDED. ALL DOOR CLOSERS SHALL BE UL LISTED AND SHALL MEET REQUIREMENTS OF ANSI/BHMA A156.4 GRADE 2. DOOR CLOSERS SHALL BE AS MANUFACTURED BY YALE OR APPROVED EQUAL.
4) "WD" DOORS SHALL BE SOLID CORE BIRCH STAIN FINISH
5) "HM" DOORS SHALL BE INSULATED PAINTED STEEL
6) DOOR TYPES WITH "P" INDICATE PANIC HARDWARE SHALL BE PROVIDED.

WINDOW SCHEDULE

WINDOW MARK	WINDOW			NOISE REDUCTION	TYPE	COMMENTS
	TYPE	WIDTH	HEIGHT			
A	HM	8' - 0"	4' - 0"		EXT.	FINAL SIZING AND FINISH tbd BY OWNER
B	HM	6' - 0"	4' - 0"		EXT.	FINAL SIZING AND FINISH tbd BY OWNER
C	HM	6' - 0"	4' - 0"	YES	INT.	



WALL TYPE DETAILS
N.T.S.

PARTITION NOTES:
NOTE 1: FOR GWB PARTITIONS RECEIVING CERAMIC OR PORCELAIN TILE APPLICATIONS, THE PARTITION SHALL CONSIST OF 18 OR 20 GAUGE STUDS AND 1/2" TILE BACKER BOARD IN LIEU OF THE INDICATED GWB.
NOTE 2: APPLY SEALANT AROUND ALL CUT OUTS IN GWB WALLS, CAULK SIDES OF ELECTRICAL BOXES.
NOTE 3: ALL PARTITIONS GREATER THAN 10FT IN HEIGHT SHALL HAVE HORIZONTAL BRIDGING INSTALLED AT THIRD POINTS IN STUD SPAN.

FOR REFERENCE ONLY

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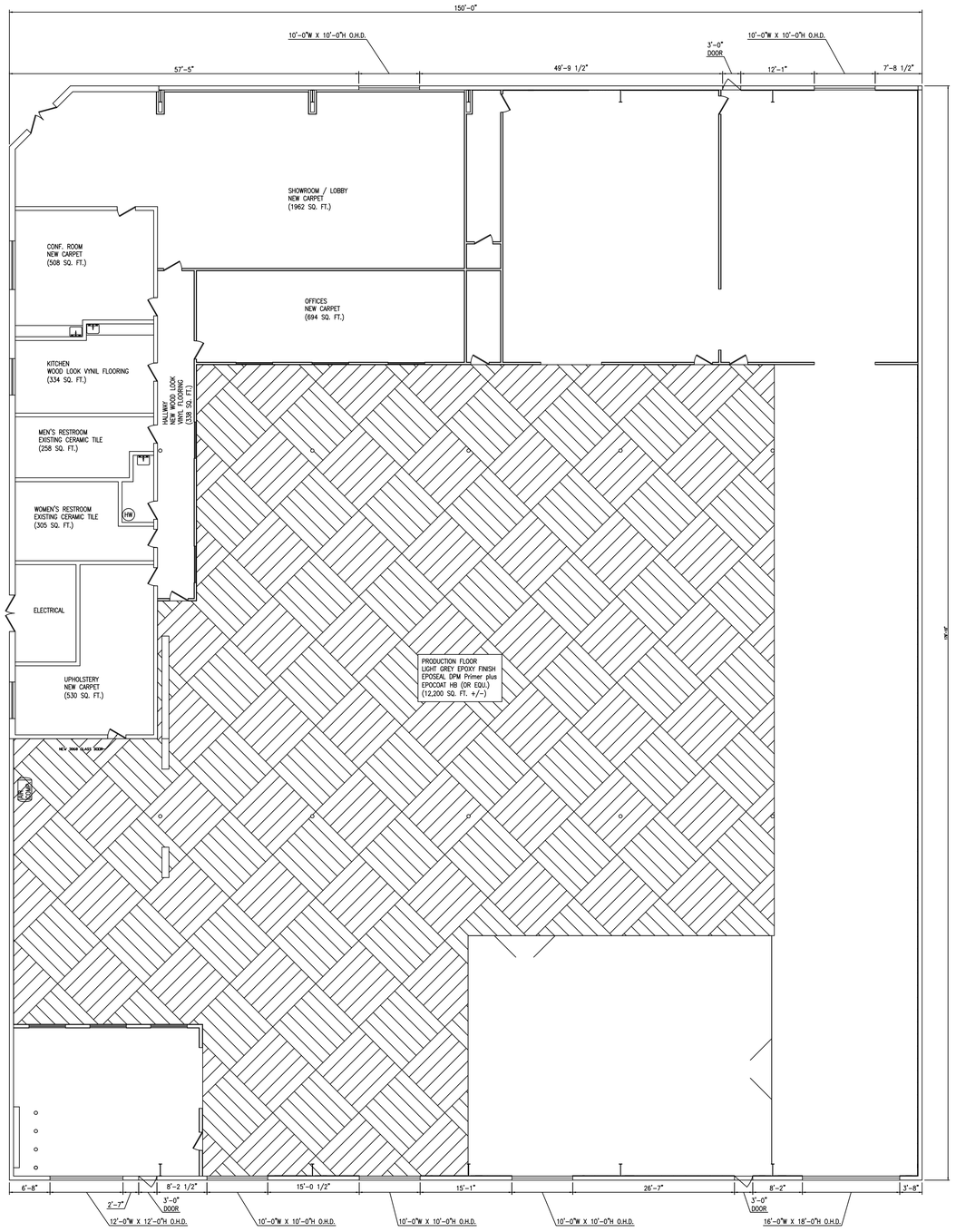
434 822 3121
341 Barker Rd. Ringgold, Virginina 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002
CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH
SHEET 3 of 10

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



FLOORING PLAN

SCALE: 3/32" = 1'

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SHEET 4 of 10

REVISIONS	BY
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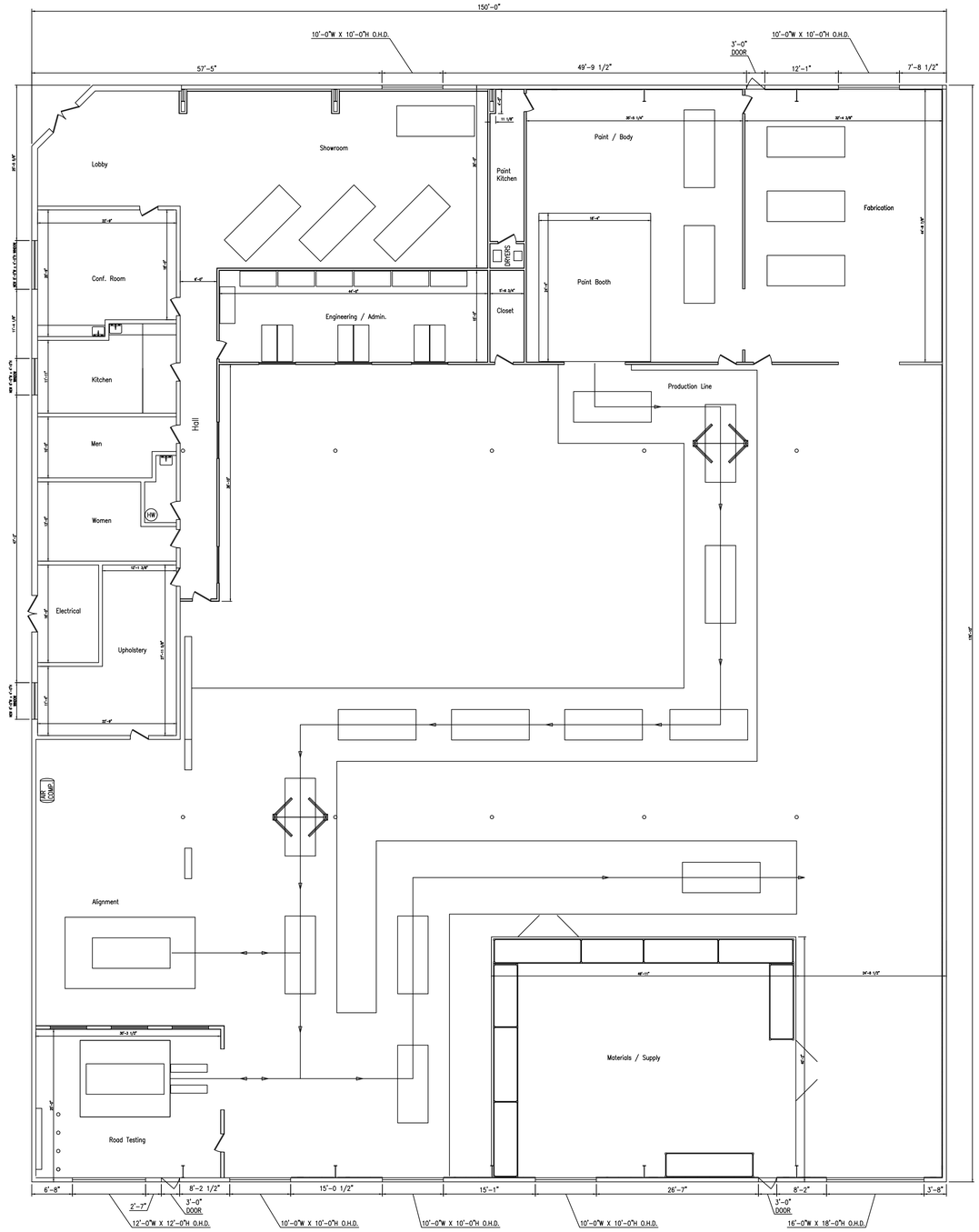
5/01/2024	LCH



FINISHED PLAN

SCALE: 3/32" = 1'

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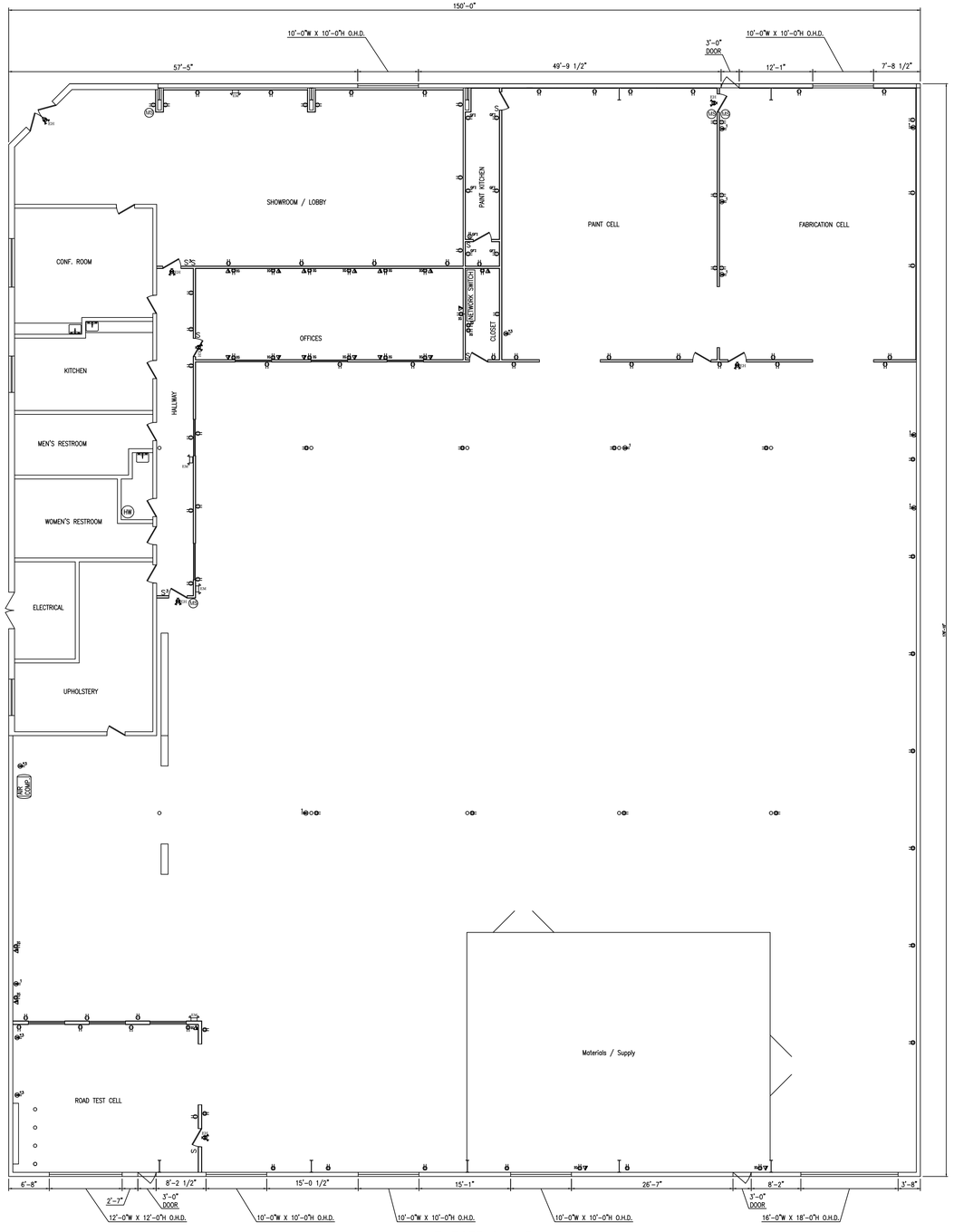
SHEET 5 of 10



ELECTRICAL PLAN

SCALE: 3/32" = 1'

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH

SYMBOL SCHEDULE

SYMBOL	MOUNTING	DESCRIPTION	REMARKS
	16" AFF	120 VOLT DUPLEX LEVITON CR20 (OR EQU.)	
IG	16" AFF	ISOLATED GROUND COMPUTER; 120V DUPLEX 15 AMP (ORANGE); LEVITON 5262IG (OR EQU.)	INSTALL IN OWNER PROVIDED WORKSTATIONS AS SHOWN
	16" AFF	120 VOLT DUPLEX LEVITON CR20 (OR EQU.)	
GFI	16" AFF	GFCI; 120V DUPLEX 20 AMP; LEVITON 5362 (OR EQU.)	INSTALL IN OWNER PROVIDED WORKSTATIONS AS SHOWN
1	16" AFF	240 VOLT DUPLEX – SINGLE PHASE	
*3	16" AFF	240 VOLT DUPLEX – THREE PHASE	
MS	CLG.	MOTION ACTIVATED SWITCH	
	16" AFF	DATA/TELEPHONE COMBINATION PORT BOX ONLY	PROVIDE 3/4" RACEWAY TO CEILING ABOVE
S	44" AFF	SINGLE POLE SWITCH LEVITON CS115-IV	SWITCHES TO EMERGENCY LIGHTING SHALL BE CONNECTED TO NORMAL USE AND EMERGENCY POWER
S3	44" AFF	3 WAY SWITCH LEVITON CS315-IV	

LIGHTING FIXTURE SCHEDULE

SYMBOL	LABEL	MOUNTING	LAMP	DESCRIPTION	REMARKS
	E	UNIVERSAL	LED	LED EXIT RED LETTERS LITHONIA LHQM LED G HO RO	CLG. MTD.; NO LAMP HEADS
	EH	WALL	2-1W	LED EXIT/COMBO RED LETTERS PHILIPS VLLCR2R	
	ER	WALL	2-1W	WALL REMOTE-CONNECT TO EXIT COMBO PHILIPS VLL2RGO	TWO LED's; WEATHERPROOF HEAD
	EM	WALL	2-1.5W	WALL EMERGENCY LITHONIA ELM2 LED	
	A	SUSPENDED	LED	10-1/4" FIELD-ADJUSTABLE HIGH-BAY FIXTURE. RAB H17@12OW,	
	B	SUSPENDED	LED	2'x4' FLAT ARCHITECTURAL LED PANEL RAB EZ PANFA2X4/D10@30W	
	C	SUSPENDED	LED	2'x2' FLAT ARCHITECTURAL LED PANEL RAB EZ PANFA2X2/D10@25W	

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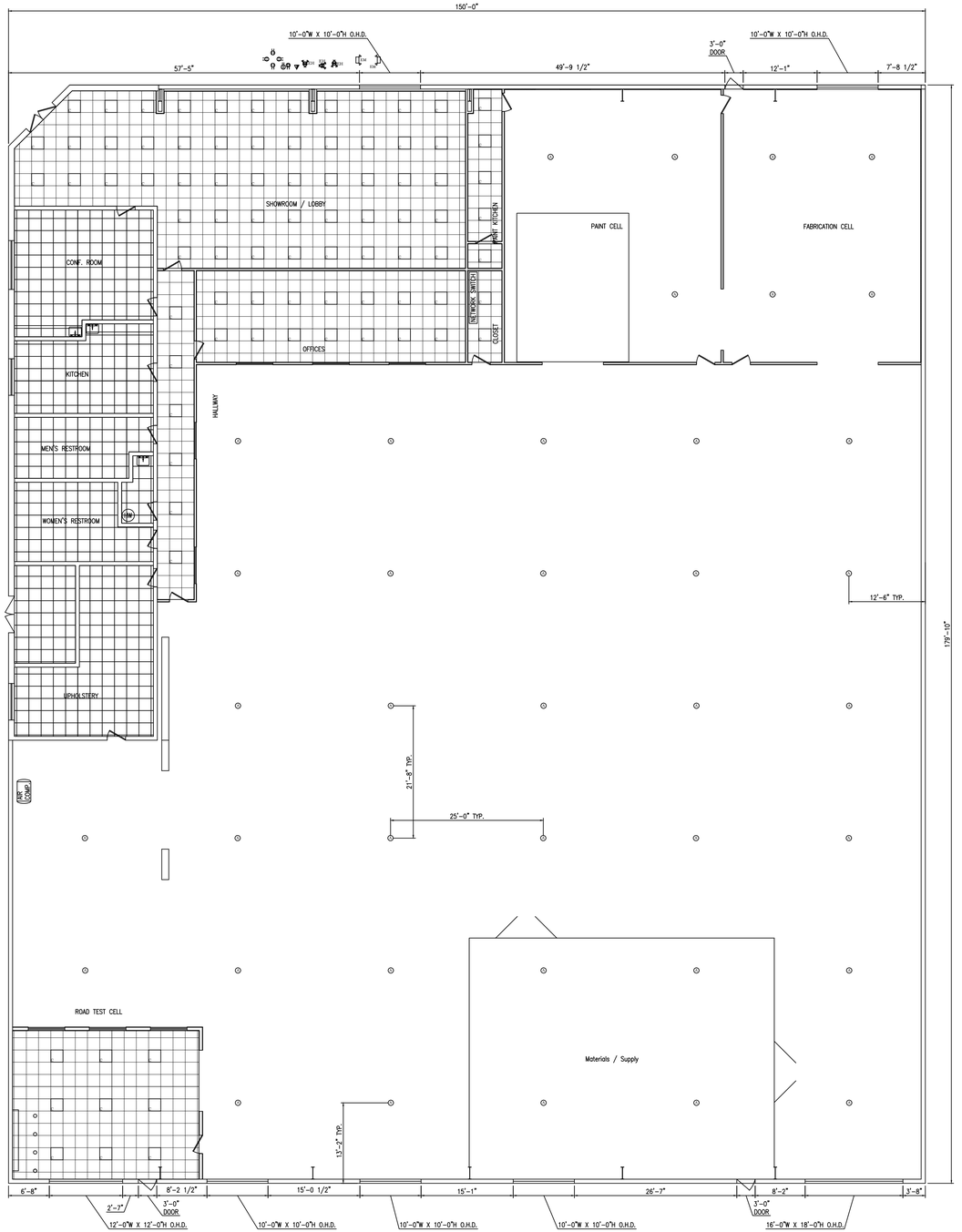
SHEET 6 of 10



REFLECTED CEILING/ LIGHTING PLAN

SCALE: 3/32" = 1'

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH

CEILING LIGHTING SCHEDULE

ROOM LABEL	CEILING TYPE	CEILING HEIGHT	LUMINANCE (FOOT CANDLES)	FIXTURE (OR EQU.)	COMMENTS
CONF. ROOM	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
KITCHEN	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
MEN'S RESTROOM	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
WOMEN'S RESTROOM	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
ELECTRICAL	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
MOP CLOSET	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	LIGHTING SPACING T.B.D. BY CONTRACTOR
UPHOLSTERY	SUSPENDED	10' - 0"	50	RAB EZPANFA2X2/D10 @ 25W	84+ CRI & 4K COLOR TEMP. REQUIRED
ROAD TEST CELL	SUSPENDED	12' - 0"	40	RAB EZPANFA2X2/D10 @ 30W	83+ CRI & 4K COLOR TEMP. REQUIRED
LOBBY / SHOWROOM	SUSPENDED	10' - 0"	50	RAB EZPANFA2X2/D10 @ 25W	84+ CRI & 4K COLOR TEMP. REQUIRED
OFFICES	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	84+ CRI & 4K COLOR TEMP. REQUIRED
I.T. CLOSET	SUSPENDED	10' - 0"	40	RAB EZPANFA2X2/D10 @ 25W	84+ CRI & 4K COLOR TEMP. REQUIRED
PAINT KITCHEN	SUSPENDED	10' - 0"	50	RAB EZPANFA2X2/D10 @ 25W	84+ CRI & 4K COLOR TEMP. REQUIRED
PAINT CELL	FULL	18' - 0" +/-	50	RAB H17 @ 120W	85+ CRI REQUIRED
FABRICATION CELL	FULL	18' - 0" +/-	50	RAB H17 @ 120W	85+ CRI REQUIRED
HIGH BAY AREA	FULL	18' - 0" +/-	50	RAB H17 @ 120W	85+ CRI REQUIRED

FOR REFERENCE ONLY

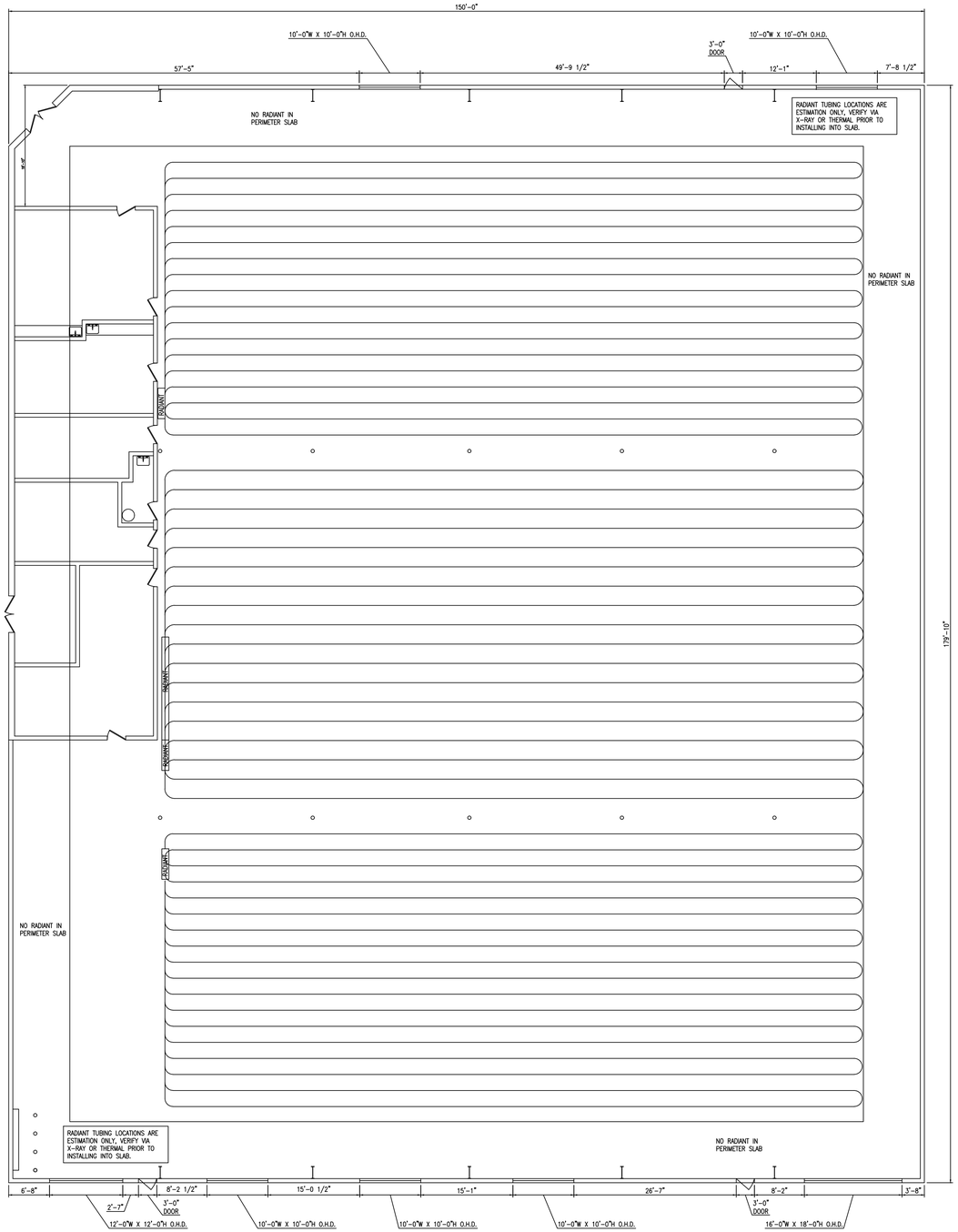
TDD
TRUSS DOC DESIGNS
434 822 3121
341 Barker Rd. Ringgold, Virginia 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002

CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH

SHEET 7 of 10

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



RADIANT PLAN

SCALE: 3/32" = 1'

FOR REFERENCE ONLY

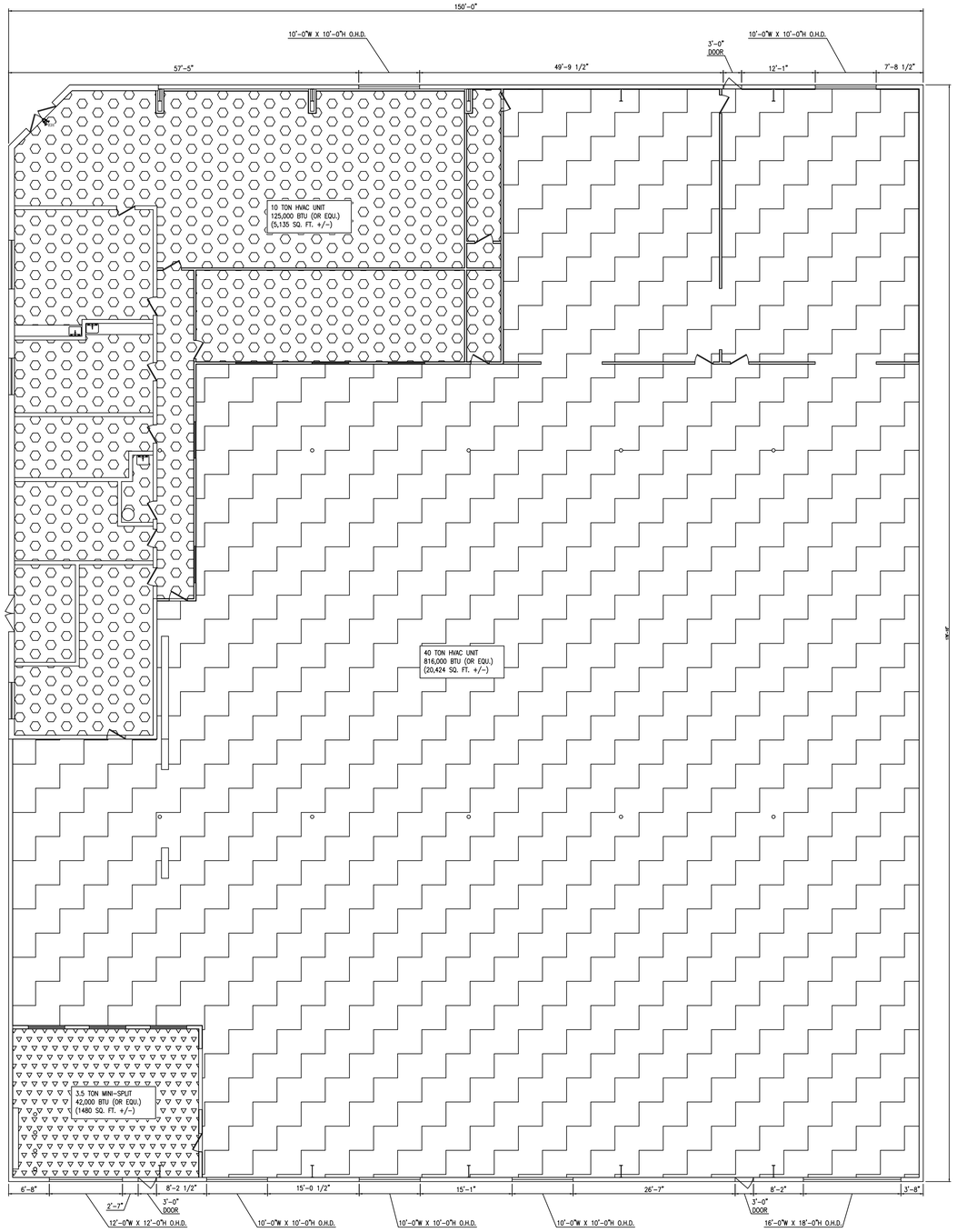
TDD
TRUSS DOC DESIGNS
434 822 3121
341 Barker Rd. Ringgold, Virginia 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002

CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH

SHEET 8 of 10

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH



MECHANICAL PLAN

SCALE: 3/32" = 1'

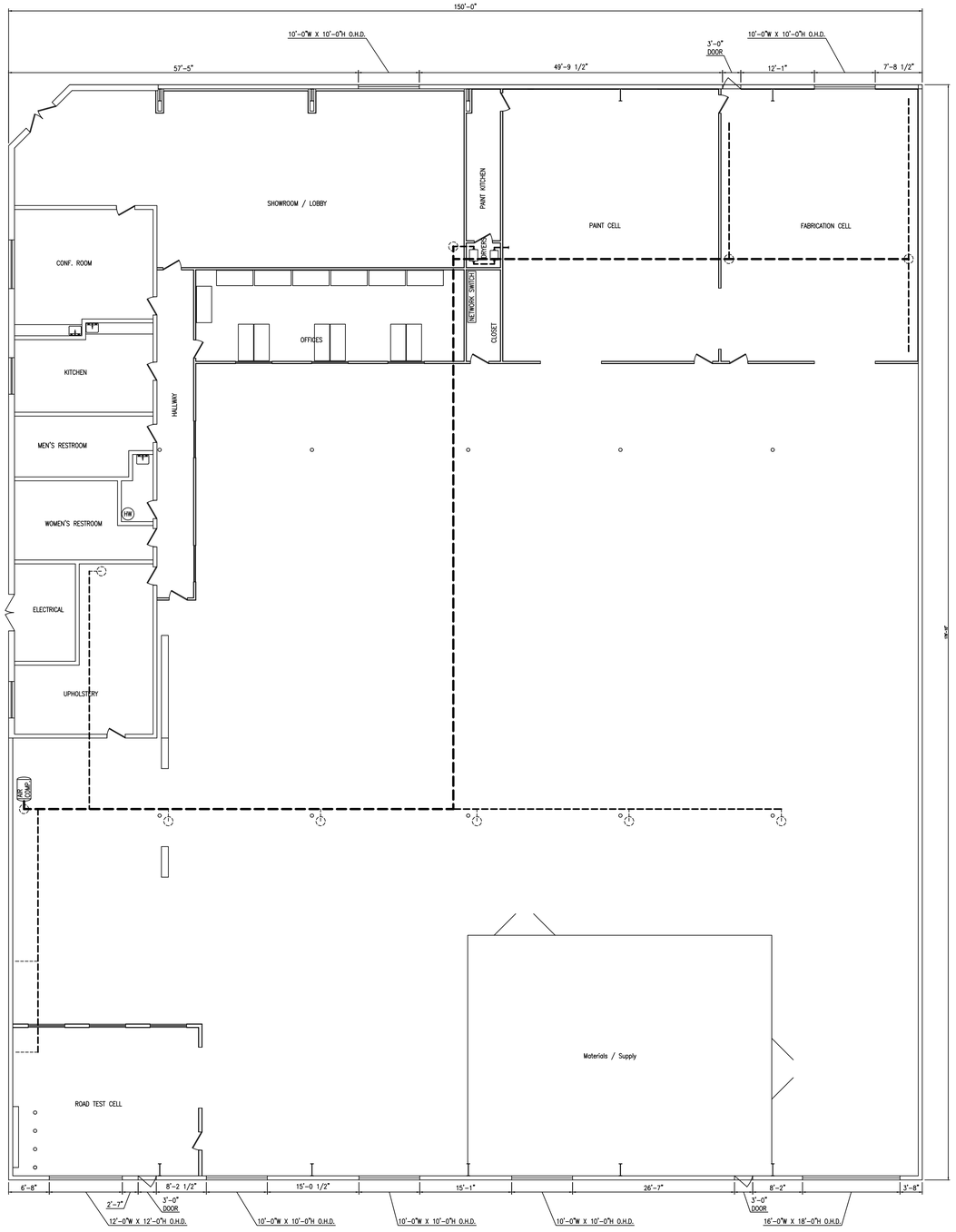
FOR REFERENCE ONLY

TDD
TRUSS DOC DESIGNS
434 822 3121
341 Barker Rd. Ringgold, Virginina 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002

CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH

SHEET 9 of 10



P&ID PLAN

SCALE: 3/32" = 1'

REVISIONS	BY
4/26/2024	LCH
5/01/2024	LCH

P&ID SCHEDULE

PIPE MARK	Ø (DIA.)		HEIGHT	COMMENTS
— —	H	1-1/2"	17' - 0" A.F.F.	FINAL LAYOUT T.B.D. BY CONTRACTOR
— —	H	3/4"	17' - 0" A.F.F.	FINAL LAYOUT T.B.D. BY CONTRACTOR
– – – –	H	3/4"	3' - 0" A.F.F.	FINAL LAYOUT T.B.D. BY CONTRACTOR
◯	V	3/4"	VERTICAL DROP	FINAL LAYOUT T.B.D. BY CONTRACTOR

P&ID NOTES:
1) PIPING SIZES AND DROPS TO BE VERIFIED WITH CUSTOMER PRIOR TO CONSTRUCTION.
2) VALVES AND FILTERS TO BE DETERMINED BY CONTRACTOR AND VERIFIED WITH CUSTOMER PRIOR TO CONSTRUCTION.

FOR REFERENCE ONLY

TDD
TRUSS DOC DESIGNS
434 822 3121
341 Barker Rd. Ringgold, Virginina 24586

JOB: RBW EV _ USA
1350 BARKER ROAD
CUSTOMER: PSI
LOCATION: RINGGOLD, VA
DATE: 4/22/2024
JOB NO. PSI_24_002

CHECKED BY: LCH
DESIGNED BY: LCH
DRAWN BY: LCH

SHEET 10 of 10

AIA® Document A141® – 2014 Exhibit B

Insurance and Bonds

for the following PROJECT:
(Name and location or address)

RBW Barker Road Upfit
Ringgold, VA

THE OWNER:
(Name, legal status and address)

Danville Industrial Development Authority (IDA)
427 Patton Street
Danville, VA 24543

THE DESIGN-BUILDER:
(Name, legal status and address)

Blair Construction, Inc.
23020 US Highway 29 (Physical)
P.O. Box 612 (Mailing)
Gretna, VA 24557

THE AGREEMENT
This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Twenty-fourth day of September in the year Two Thousand Twenty-four .
(In words, indicate day, month and year.)

TABLE OF ARTICLES

B.1 GENERAL

B.2 DESIGN BUILDER'S INSURANCE AND BONDS

B.3 OWNER'S INSURANCE

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL
The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS
§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million ($ 1MM) for each occurrence and Two Million ($ 2MM) in the aggregate providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury;

.3 damages because of injury to or destruction of tangible property;

.4 bodily injury or property damage arising out of completed operations; and

.5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million ($ 1MM) per claim and One Million ($ 1MM) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Three Million ($ 3MM) per claim and Three Million ($ 3MM) in the aggregate.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than Two Million ($ 2MM) per claim and Two Million ($ 2MM) in the aggregate.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than N/A ($ N/A) per claim and N/A ($ N/A) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An

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additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond

The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

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

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where 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 the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 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 the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps

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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.

§ B.3.2.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to 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 Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 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 Section B.3.2.7 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.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, 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 Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, 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 the 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.

§ B.3.2.8 A loss insured under the 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 Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

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§ B.3.2.9 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 as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. 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 Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 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 a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

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Additions and Deletions Report for

AIA® Document A141® – 2014 Exhibit B

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Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:33:04 ET on 09/25/2024.

PAGE 1

RBW Barker Road Upfit
Ringgold, VA

...

Danville Industrial Development Authority (IDA)
427 Patton Street
Danville, VA 24543

...

(Name, legal status and address)

Blair Construction, Inc.
23020 US Highway 29 (Physical)
P.O. Box 612 (Mailing)
Gretna, VA 24557

...

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Twenty-fourth day of September in the year Two Thousand Twenty-four .

PAGE 2

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million ($ 1MM) for each occurrence and Two Million ($ 2MM) in the aggregate providing coverage for claims including

...

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million ($ 1MM) per claim and One Million ($ 1MM) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

...

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Three Million ($ 3MM) per claim and Three Million ($ 3MM) in the aggregate.

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§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than Two Million (2MM) per claim and Two Million ($ 2MM) in the aggregate.

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than N/A ($ N/A) per claim and N/A ($ N/A) in the aggregate.

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AIA® Document A141® – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the Twenty-fourth day of September in the year Two Thousand Twenty-four (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

RBW Barker Road Upfit
Danville, VA 24543

THE OWNER:
(Name, legal status and address)

Danville Industrial Development Authority (IDA)
427 Patton Street
Danville, VA 24543

THE DESIGN-BUILDER:
(Name, legal status and address)

Blair Construction, Inc.
P.O. Box 612
Gretna, VA 24557

The Owner and Design-Builder hereby amend the Agreement as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

[X] Stipulated Sum, in accordance with Section A.1.2 below

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[ ] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[ ] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be One Million Three Hundred Eighty-nine Thousand and NO/100 ($ 1,389,000.00), subject to authorized adjustments as provided in the Design-Build Documents.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

§ A.1.2.3 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit ($0.00)

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the 25th day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 25th day of the month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Owner receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in

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accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent (%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (%);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

(Paragraphs deleted)

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§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than One Hundred Twenty Days (120) days from the date of this Amendment, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

120 calendar days from receipt of all required permits

Portion of Work	Substantial Completion Date

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:
(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages

§ A.3.1.3 The Drawings:
(Either list the drawings here or refer to an exhibit attached to this Amendment.)

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Number	Title	Date
A102	Floor Plan	6-10-24
Truss Doc Designs Sheet 1 of 10		5-1-24

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances and Contingencies:
(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

- $22,500.00 remaining architectural, structural, mechanical, & electrical design and engineering fees
- $2,500.00 for X-raying and/or thermal imaging of existing condrete fkloors as required to locate radiant heat floor tubing prio to installation of fencing and walls as we3ll as owner's installation of lifts, equipment, etc.
- $3,200.00 for top-of-wall fire caulking at new fire rated walls
- $37,500.00 for additional steel supports for new RTU's

.2 Contingencies

§ A.3.1.6 Design-Builder's assumptions and clarifications:

See Attached Proposal Dated June 18, 2024 to Kelvin G. Perry (City of Danville) from Joshua Hyler (Blair Construction, Inc.)

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:
(Identify name, title and contact information.)

Init.
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.1 Superintendent

TBD

.2 Project Manager

TBD

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

ARTICLE A.5 COST OF THE WORK

§ A.5.1 Cost To Be Reimbursed as Part of the Contract

§ A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.
(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate ($0.00)	Rate (unit of time)

§ A.5.1.1.3 Wages and salaries of the Design-Builder'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.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder 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 Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 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 Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, 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 Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

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§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

.1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;

.2 Expenses of the Design-Builder's principal office and offices other than the site office;

.3 Overhead and general expenses, except as may be expressly included in Section A.5.1;

.4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;

.5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;

.6 Any cost not specifically and expressly described in Section A.5.1; and

.7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

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§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services 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.

This Amendment to the Agreement entered into as of the day and year first written above.

Danville Industrial Development Authority (IDA)	**Blair Construction, Inc.**
OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
T. Neal Morris	Timothy J. Clark, President
(Printed name and title)	*(Printed name and title)*

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Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the Twenty-fourth day of September in the year Two Thousand Twenty-four
(In words, indicate day, month and year.)

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

Danville Industrial Development Authority (IDA)
427 Patton Street
Danville, VA 24543

and the Design-Builder:
(Name, legal status, address and other information)

Blair Construction, Inc.
P.O. Box 612
Gretna, VA 24557

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

RBW Barker Road Upfit
Ringgold, VA

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

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(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

§ 1.1.3 The Project's physical characteristics:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:
(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™–2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

See Proposal Dated June 18, 2024 to Kelvin Perry (City of Danville) from Joshua Hyler (Blair Construction

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

.2 Submission of Design-Builder Proposal:

.3 Phased completion dates:

.4 Substantial Completion date:

.5 Other milestone dates:

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
(List name, legal status, address and other information.)

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.1 Architect

.2 Consultants

.3 Contractors

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Design-Builder and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including building information modeling.

§ 1.2 Project Team
§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Kelvin G. Perry

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Timothy J. Clark

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§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[ ] Arbitration pursuant to Section 14.4

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

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§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position	Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses; and
.9 Other Project-related expenditures, if authorized in advance by the Owner.

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§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of percent (%) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

%

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

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§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

.1 Work completed for the period;
.2 Project schedule status;
.3 Submittal schedule and status report, including a summary of outstanding Submittals;
.4 Responses to requests for information to be provided by the Owner;
.5 Approved Change Orders and Change Directives;
.6 Pending Change Order and Change Directive status reports;
.7 Tests and inspection reports;
.8 Status report of Work rejected by the Owner;
.9 Status of Claims previously submitted in accordance with Article 14;
.10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
.11 Current Project cash-flow and forecast reports; and
.12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

.1 Design-Builder's work force report;
.2 Equipment utilization report; and
.3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build 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 Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

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§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants 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 Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, 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, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

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§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1.The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

.1 allocations of program functions, detailing each function and their square foot areas;
.2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
.3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
.4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

.1 Confirmation of the allocations of program functions;
.2 Site plan;
.3 Building plans, sections and elevations;
.4 Structural system;
.5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
.6 Outline specifications or sufficient drawing notes describing construction materials.

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The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

.1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;

.2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;

.3 The proposed date the Design-Builder shall achieve Substantial Completion;

.4 An enumeration of any qualifications and exclusions, if applicable;

.5 A list of the Design-Builder's key personnel, Contractors and suppliers; and

.6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder 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 Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder 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.

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§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

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

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

.1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 the Design-Builder'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; and

.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 Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

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§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner 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 Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity 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 person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed 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 Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder 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 Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

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§ 5.13 Construction by Owner or by Separate Contractors

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

§ 5.13.1.1 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 terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 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 Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder 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 Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder 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 Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder 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 Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, 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 will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

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§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

.1 The change in the Work;

.2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and

.3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by 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 or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

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

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, 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 Design-Build 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 Section 6.3.7.

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

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

.1 Additional costs of professional services;

.2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;

.5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.6 Additional costs of supervision and field office personnel directly attributable to the change.

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§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. 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.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder 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.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract

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Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of 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; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall 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, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner 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 Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the

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right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies 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 Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder'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 Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as 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 Design-Builder 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 Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder 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 Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner 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 to protect the Owner from loss for which the Design-Builder is responsible because of

.1 defective Work, including design and construction, 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 Design-Builder;
.3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

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

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or

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work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 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 Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, 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 Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, 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 Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner 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 Design-Builder to complete all Work in accordance with the Design-Build Documents.

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

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§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build 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.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build 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 Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder 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 Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder 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 Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder 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 Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (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 Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or 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 an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

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§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, 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 Design-Build 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 Design-Builder to the Owner prior to issuance of 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 Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder 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 Design-Builder shall be responsible for precautions for the safety of, and 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 Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and 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 Design-Builder shall implement, 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 notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 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 Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the 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.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and 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 Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder 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 Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has 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 Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, 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 Section 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), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's

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expense and the Design-Builder shall not be entitled to a change in the Contract Time 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 and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build 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, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, 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 Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder 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 the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 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 completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build 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 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

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§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

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§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

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

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or

.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 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.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

.1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;

.2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;

.3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;

.4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

.1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;

.2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

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§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 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 Section 13.2.3.1. 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 Design-Builder is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

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

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder 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 Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder 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.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party 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.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

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§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder'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.

§ 14.1.6.2 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.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder 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 Design-Builder 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 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

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

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

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§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, 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 Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 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.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 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.

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. 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.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 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.

§ 14.4.3 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.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, 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.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to 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 or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build 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.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder 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.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder 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 Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

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§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build 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.

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

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

.1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder

.2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed

.3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds

.4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed

.5 AIA Document E202™-2022, BIM Exhibit for Sharing Models with Project Participants, Where Model Versions May Not be Enumerated as a Contract Document, if completed, or the following:

.6 Other:

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This Agreement entered into as of the day and year first written above.

Danville Industrial Development Authority (IDA)	**Blair Construction, Inc.**
OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
T. Neal Morris	Timothy J. Clark, President
(Printed name and title)	*(Printed name and title)*

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Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Request approval from the Danville Industrial Development Authority to secure a loan from the Virginia Small Business Finance Authority for improvement to 1350 Barker Road, Ringgold, Virginia.

Request approval from the Danville Industrial Development Authority to secure a loan from the Virginia Small Business Finance Authority in an amount not to exceed ninety percent of the appraised value for the property located at 1350 Barker Road, Ringgold, Virginia. Proceeds from the loan will be used to payoff an existing loan outstanding with Atlantic Union Bank and to make interior and exterior improvements to 1350 Barker Road, Ringgold, Virginia.

ATTACHMENTS

1. Res VSB Financing Authortiy Loan Item 2 TGM Final

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE AUTHORITY TO SECURE A LOAN FROM THE VIRGINIA SMALL BUSINESS FINANCING AUTHORITY FOR IMPROVEMENTS TO 1350 BARKER ROAD, RINGGOLD, VIRGINIA.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia (IDA), that it hereby approves and authorizes a loan for no more than $1,700,000.00 for building improvements at 1350 Barker Road, Ringgold, Virginia; and

BE IT FINALLY RESOLVED, by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence any Officer, to execute the Loan Agreement and any other documents necessary to complete the transaction described in this resolution including but not limited to any moral obligation agreement.

Approved:

_____
Chairman

Attest:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Request for approval to execute a Facility Lease agreement between the Danville Industrial Development Authority and RBW Sports & Classics, Inc.

Request to execute the Facility Lease agreement between the Industrial Development Authority of Danville, Virginia and RBW Sports & Classic, Inc for certain real property containing approximately Ten (10) acres in the Cane Creek Industrial Park with a physical address of 1350 Barker Road, Ringgold, Virginia.

ATTACHMENTS

1. 1621_ RES Facility Lease Agreement IDA and RBW Sports Cars at 1350 Barker Road Item 3 TGM Final
2. IDA Lease Purchase AgreementRBW.08.21.2024.CB Law

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE FACILITY LEASE AGREEMENT BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA ("LANDLORD"), AND RBW SPORTS & CLASSICS, INC., A DELAWARE CORPORATION.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia (IDA), that it hereby approves and authorizes a facility lease agreement, substantially in the form attached hereto, between the Industrial Development Authority of Danville, Virginia and RBW Sports & Classics, Inc. a Delaware Corporation at 1350 Barker Road, Ringgold, Virginia; and

BE IT FINALLY RESOLVED, by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence any Officer, to execute the new Lease Agreement and any other documents necessary to complete the transaction described in this resolution.

APPROVED:

_____
Chairman

ATTEST:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

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FACILITY LEASE

THIS FACILITY LEASE (this "**Lease**"), made and entered into as of the _____ day of _____ 2024, by and between the **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("**Landlord**"); and **RBW SPORTS & CLASSICS, INC.**, a Delaware corporation ("**Tenant**");

W I T N E S S E T H :

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

Section 1. - Recitals. The parties recite the following facts:

a. Tenant, Landlord and others entered into that certain Local Performance Agreement dated _____2024 (the "**Local Performance Agreement**"), that certain Commonwealth Opportunity Fund Grant Agreement dated _____, 2024, that certain Commonwealth Opportunity Fund Grant Agreement dated _____, 2024, under which Tenant agreed to locate and to establish a manufacturing operation on that certain real property containing approximately Ten (10) acres in the Cane Creek Industrial Park, with a physical address of 1350 Barker Road, Ringgold, Virginia, as more particularly described on **Schedule 1**, attached hereto and made a part hereof by this reference (the "**Demised Premises**").

Section -2. Lease. Landlord does hereby lease and demise unto Tenant, and Tenant does hereby rent from Landlord, the Demised Premises pursuant to the terms and conditions set forth in this Lease.

Section -3. Term.

a. 120-Month Initial Term. This Lease shall be for an initial term of one hundred twenty (120) months, beginning on the Commencement Date (as hereafter defined) (the "**Initial Term**"), unless sooner terminated as provided for herein. At the conclusion of the Initial Term this Lease shall automatically renew on a year to year basis, unless notice is given by either party of either respective party's intention not to renew at least sixty (60) days prior to the last day of the then-current Term (as hereafter defined). (The Initial Term and all renewals thereof, if any, shall be collectively referred to as the "**Term**".)

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b. Commencement Date. "**Commencement Date**" shall mean the date specified by Landlord in a written notice to Tenant that the Demised Premises are available for possession by Tenant, all items listed in Upfitting Scope of Work (as hereafter defined) have been completed and all items listed in the Inspection Report (as hereinafter defined) have been substantially and materially remedied, and a Certificate of Occupancy has been issued including the Upfitting Scope of Work. Such notice shall be given by Landlord at least fifteen (15) days in advance of the Commencement Date. At any time prior to the Commencement Date, Tenant and its agents shall have the right to perform one or more inspections of the Demised Premises accompanied by Landlord or its agents, and subsequent thereto Tenant may deliver to Landlord a report setting forth any unsatisfactory condition on or upon the Demised Premises (the "**Inspection Report**"). Landlord hereby agrees to remedy any unsatisfactory condition set forth in the Inspection Report prior to the Commencement Date, as mutually agreed upon by the parties, at Landlord's sole cost and expense. If the Tenant takes possession of the Demised Premises prior to the Landlord's agreed upon remediation of any item set forth in the Inspection Report, the Landlord shall thereafter use commercially reasonable efforts to complete any such remediation in a timely manner or as otherwise agreed upon by the parties.

c. Early Termination Right by Tenant after First 60 Months of the Term. So long as Tenant is not then in material default of this Lease, at any time after the first sixty (60) months of the Term, Tenant shall have the right to terminate this Lease upon satisfaction of both of the following: (i) Tenant giving at least ninety (90) days written notice to Landlord of Tenant's intent to terminate this Lease and (ii) Tenant delivering to Landlord payment of the Unamortized Upfitting Costs (as hereafter defined). Upon Tenant giving such notice and making such payment, neither party shall have any further obligations to the other under this Lease, except for those obligations that accrued prior to the date of termination and those obligations that are intended to survive such termination as specifically set forth herein. "**Unamortized Upfitting Costs**" shall be calculated as follows:

$$\text{Unamortized Upfitting Costs} = \frac{\text{Upfitting Costs (as defined in Section 4(d) below) for a project}}{\text{Number of months remaining in the Initial Term at the time Upfitting Costs for that project were last incurred}} \times \text{Number of months remaining in the Initial Term at the time this Lease is terminated early}$$

d. Option to Purchase the Demised Premises. So long as Tenant is not then in material default under this Lease, Tenant shall have the option to purchase the Demised Premises from Landlord at any time during the Initial Term (the "**Option**") at a price equal to Three Million Five Hundred Twenty Six Thousand Nine Hundred Forty Eight and 15/100 Dollars ($3,526,948.15), minus the Aggregate Rent Credit (as hereafter defined) as of the Settlement (as hereafter defined) of the purchase following Tenant's exercise of the Option (the "**Option**

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Purchase Price"). In no event shall the application of the Aggregate Rent Credit result in a refund of any kind to Tenant, and if the application of the Aggregate Rent Credit results in a negative number, then the Option Purchase Price shall be adjusted to equal One and 00/100 Dollar ($1.00). To exercise the Option, Tenant must provide written notice to Landlord on or before the conclusion of the Initial Term (the "**Option Exercise Notice**").

"Aggregate Rent Credit"	=	(	$11,130.42	x	Number of months of Monthly Base Rent paid	)	+	(	$23,082.98	x	Number of months of Upfit Monthly Additional Rent paid	)

i. Settlement Date. After the Option Exercise Notice is duly given to Landlord, settlement on the purchase under the Option shall take place on or before a date selected by Tenant that is not a Saturday, Sunday or holiday for employees of the City of Danville, Virginia, and that is within ninety (90) days, but not sooner than forty-five (45) days after the date of Tenant's delivery of the Option Exercise Notice (the "**Settlement**"). The place of Settlement shall be at the Office of the City Attorney for City of Danville, Virginia or electronically as the parties shall then agree.

ii. Expenses and Prorations. Tenant agrees to pay the expense of preparing the Deed (as defined in Section 3(d)(iii) below), and Landlord's reasonable attorneys' fees in connection with the Settlement not to exceed Two Thousand Five Hundred and 00/100 Dollars ($2,500.00). Landlord shall be responsible for any recording taxes or fees applicable to grantors, if any. Except as otherwise provided herein, all other expenses in connection with the purchase, including without limitation title examination, title insurance premiums, survey costs, recording costs, loan document preparation costs, and fees of Tenant's attorney, shall be borne by solely Tenant.

iii. Title. At the Settlement, Landlord shall convey to Tenant good and marketable fee simple title to the Demised Premises in its "**AS IS**" condition and "**WITH ALL FAULTS**", by special warranty deed (the "**Deed**"), free of all monetary liens, and subject only to such restrictions and easements of record as of the date of the Option Exercise Notice which do not render the title unmarketable. The settlement agent for the Settlement may withhold from the net sales proceeds funds sufficient to satisfy any and all monetary liens to which the Demised Premises may be subject as of the Settlement.

iv. No Commissions. Upon Tenant's delivery of the Option Exercise Notice, Tenant shall be deemed to have represented to Landlord that no commissions are due and owed to any real estate broker or salesperson employed or otherwise engaged by Tenant in connection with the Settlement, Tenant's exercise of the Option or in any way related thereto. Tenant shall indemnify, save and hold harmless Landlord from and against any claim for any real estate or

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sales commission or similar fee, which claim results from an allegation that Tenant engaged or otherwise employed such broker or agent or agreed to compensate such broker or agent in connection with the Settlement or Tenant's exercise of the Option. Any brokerage or other commission claimed by any real estate broker or salesperson retained, employed or otherwise engaged by Landlord shall be the sole responsibility of Landlord.

Section 4. - Rent.

a. Annual Base Rent; Monthly Base Rent; Additional Rent. During the Term and except as otherwise provided in Sections 4(a)(i) and 4(f) below, Tenant shall pay to Landlord or to its designee annual base rent in the amount of One Hundred Thirty Three Thousand Five Hundred Sixty-Five and 07/100 $133,565.07 ("**Annual Base Rent**"), payable in equal consecutive monthly installments of Eleven Thousand One Hundred Thirty Thousand and 42/100 ($11,130.42) ("**Monthly Base Rent**"). In addition to Annual Base Rent, Tenant shall pay to Landlord or to its designee all sums of money, if any, payable by Tenant under this Lease other than Annual Rent ("**Additional Rent**"). Landlord shall have the same remedies available for Tenant's failure to pay Additional Rent as Landlord has for Tenant's failure to pay Annual Base Rent or installments thereof.

b. Property Taxes Additional Rent. Tenant shall promptly pay when due all taxes related to Tenant's use of the Demised Premises which may be levied and assessed by any governmental authority upon the Demised Premises or any improvement thereon, and throughout the Term. Tenant shall, upon request, provide evidence of Tenant's satisfaction of the same to Landlord. In the event that property taxes are not charged on any portion or all of the Demised Premises or any improvements thereon at a rate of one hundred percent (100%), whether on account of Landlord's status as a political subdivision or otherwise, Tenant shall pay to Landlord, as Additional Rent, a sum equal to all real estate taxes which would have otherwise been charged had Tenant, and not Landlord, owned the Demised Premises and improvements thereon, minus the sum of the amounts of real property taxes actually charged upon and paid by Tenant in connection with the lease of the Demised Premises. Moreover, in the event such taxes (or Additional Rent as the case may be) cover periods outside of the Term, Tenant's obligation to pay such taxes (or Additional Rent as the case may be) shall be adjusted, pro rata, with Tenant being responsible for any such tax (or Additional Rent as the case may be) liability for only those periods during which Tenant had possession of the Demised Premises under this Lease. For informational purposes only, reference is here made to Virginia Code § 58.1-3200, as amended. Tenant shall also be responsible for its personal and machinery and tools taxes and any other taxes imposed by any governmental entity, whether federal, state, and/or local.

c. Upfit Monthly Additional Rent. Tenant shall pay to Landlord as Additional Rent, "**Upfit Monthly Additional Rent**", that shall be equal to Upfitting Costs (as defined in Section 4(d) below) divided by the number of months remaining in the Initial Term at the time Upfitting Costs for that project were last incurred. The Upfit Monthly Additional Rent will be

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Twenty-Three Thousand Eighty-Two Dollars and 98/100 ($23,082.98). Upfit Monthly Additional Rent shall be payable and due on the same date that Monthly Base Rent is due. In the event that Upfitting Costs adjust as a result of changes to required mortgage payments, escrow deposits or other payments under the Upfitting Loan (as defined in Section 4(d) below), Upfit Monthly Additional Rent shall be adjusted accordingly. Landlord shall give at least thirty (30) days advance written notice of any change in Upfit Monthly Additional Rent, including an itemized calculation of such change. In the event that Upfitting Costs have been paid in full during the Term and Tenant is not then in default of this Lease, Landlord shall give written notice within thirty (30) days after such payment in full, and Tenant's obligation to make further payments of Upfit Monthly Additional Rent shall cease.

d. Upfitting Costs. "**Upfitting Costs**" shall mean the costs of improvements, replacements, additions or alterations to the Demised Premises to be completed by Landlord prior to the Commencement Date in accordance with the Upfitting Scope of Work, in an amount not to exceed Two Million One Hundred Twenty-Six Thousand and Nine Hundred Forty-Eight Dollars and 15/100 Dollars ($2,126,948.15) without the prior written authorization of the Tenant. In the event that Landlord finances all or a portion of the Upfitting Costs with a loan from a third party lender ("**Upfitting Loan**"), Upfitting Costs shall also include without limitation the finance charges of such lender, under the Upfitting Loan. Upon request of Landlord, Tenant agrees to provide financial information to Landlord's lender and to execute any and all documents as may be reasonably required for Landlord to obtain any Upfitting Loan.

e. Rent Due Date and Delivery of Rent.

i. Rent shall be payable in advance on the first (1st) day of each calendar month during the Term, or if such day is a Saturday, Sunday or holiday for state employees ("**Non-Business Day**"), on the immediately preceding day that is not a Non-Business Day. The initial Rent payment shall become due and payable to Landlord on the Commencement Date. Rent for any period of Tenant's occupancy for less than one month shall be pro-rated and apportioned based on the total number of days in any such month during which Tenant had possession of the Demised Premises after the Commencement Date. Any references to rent, Annual Base Rent, Monthly Base Rent, Additional Rent, Property Taxes Additional Rent, and Upfit Monthly Additional Rent herein shall be referred to collectively as "**Rent**". Tenant shall pay Rent to Landlord at its address set forth below or to such other person or at such other place as Landlord may designate in writing.

ii. If Rent is not paid by the fifth (5th) day of each calendar month (or if such day is a Non-Business Day, the immediately preceding day that is not a Non-Business Day), Tenant shall pay to Landlord, as Additional Rent, a late payment fee equal to five percent (5%) of the amount of arrearage due plus interest which shall accrue on Rent due date and continue until the delinquent amounts owed are paid in full, with such interest to be equal to the then-applicable judgment rate of interest set forth in Virginia Code § 6.2-302, as amended, which rate

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as of the date of this Lease is six percent (6%) per annum.

f. Holdover. Any holding over after the expiration of the Term or earlier termination of this Lease with the prior written consent of Landlord, shall be construed to be a tenancy from month to month on the same terms and conditions set forth in this Lease. However, any holding over after the expiration of the Term or earlier termination of this Lease without the prior written consent of Landlord shall be construed to be a tenancy from month to month on the same terms and conditions set forth in this Lease, except that Rent to be paid shall be one hundred ten percent (110%) of the Rent paid for the last full month of this Lease prior to expiration or termination. Either party may terminate such tenancy upon giving at least thirty (30) days written notice to the other party.

g. Security Deposit. Upon the execution of this Lease by Tenant, Tenant shall deposit with Landlord the sum of Thirty-Four Thousand Two Hundred Thirteen Thousand 40/100 Dollars ($34,213.40) as security ("**Security Deposit**") for Tenant's obligations hereunder. In the event of a breach of this Lease which results in the termination of this Lease, Tenant shall forfeit all rights to the Security Deposit, without limiting the availability of any other remedies available to Landlord at law or in equity or under this Lease. Tenant agrees and covenants that the Demised Premises shall be surrendered at the conclusion of the Term in good condition and without damage, ordinary wear and tear excepted. If in Landlord's reasonable determination, there is damage to the building, equipment, parking areas or any other facilities of Landlord, Landlord shall be entitled to apply the Security Deposit toward such the repair and remediation of any such damage but shall not be limited to such Security Deposit should damage exceed that amount. The refund or return of all or any part of the Security Deposit shall not constitute a waiver of any right hereunder or preclude Landlord from exercising any remedies available to it at law or in equity. In the event that Landlord refunds or returns all or any part of the Security Deposit, Tenant shall not have the right to any interest earned thereon.

Section 5. - Use of the Demised Premises. Tenant may use the Demised Premises only for the purposes of operating its electric vehicle manufacturing, sales and marketing business and for the provision of electric vehicle services ancillary to the operation of its business. No other use of the Demised Premises shall be permitted without Landlord's express written consent, which consent shall not be unreasonably withheld, delayed or conditioned.

Section 6. - Condition of the Demised Premises. Prior to the Commencement Date, the Tenant and its authorized agents shall have the right to conduct, at Tenant’s sole cost and expense, one or more inspections of the Demises Premises or the Upfitting Scope of Work. If Tenant identifies any material deficiencies in the condition of the Upfitting Scope of Work, Tenant shall provide written notice of any such material deficiency to Landlord and Landlord shall have thirty (30) days to complete the remediation of any such deficient condition. If Landlord is unwilling to complete any such repair or remediation, then Tenant shall have the right to terminate this Lease without penalty to Tenant, and Tenant shall be entitled to the

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balance of the Security Deposit. Subject to the obligations of Landlord under this Lease for the repair or remediation of any deficient condition identified by Tenant prior to the Commencement Date, Landlord shall deliver the Demised Premises to Tenant in its "**AS IS**" condition as of the Commencement Date and "**WITH ALL FAULTS**". Except as expressly set forth in this Lease, Tenant acknowledges (i) that Landlord has not made and does not hereby make any representations regarding the physical condition of the Demised Premises or the suitability of the Demised Premises for any particular use or purpose; and (ii) that there are no warranties, either express or implied regarding the condition of the Demised Premises. Any such warranties which may exist are hereby expressly released and waived.

Section 7. - Project(s) for Upfits and Other Improvements.

a. Prior to the Commencement Date, Landlord shall perform or cause to be performed the Upfitting Scope of Work as set forth in **Schedule 7(a)**, attached hereto and incorporated herein by this reference, at Landlord's sole cost and expense.

b. It is understood and agreed that Tenant shall have the right, at its sole cost and expense, from time to time during its tenancy hereunder to make such alterations, additions or improvements to the Demised Premises with Landlord's written consent, which consent shall not be unreasonably withheld, delayed or conditioned. All such construction shall be performed in a good and workmanlike manner using first class building materials in accordance with the applicable building laws, rules and regulations of governmental authorities having jurisdiction thereupon, and not in contravention of any and all protective covenants of record affecting the Demised Premises. Tenant shall be under no obligation to restore or remove any such changes at the expiration hereof, and all permanent improvements so constructed by Tenant shall belong to Landlord and shall become part of the Demised Premises free of any liens placed thereon or otherwise caused by Tenant. It is expressly understood and agreed, that Tenant contemplates the installation of a mezzanine flooring systems, which mezzanine flooring system shall not attach to the Demised Premises, shall remain the property of Tenant upon the termination of this Lease, and Tenant shall be and is hereby permitted to remove and retain any such mezzanine flooring system and all components reasonably related to the use and installation thereof, so long as Tenant, at its expense, restores the Demised Premises to substantially the same condition as they were immediately prior to the installation of the mezzanine flooring system. Nothing contained in this paragraph shall be construed as a requirement that Tenant make any addition, alteration or improvement to the Demised Premises.

Section 8. - Maintenance and Utilities.

a. Utilities. Landlord shall have no obligation to maintain or to provide utilities at the Demised Premises. Tenant shall be responsible for the operational costs of all utilities serving the Demised Premises, including without limitation electric, water, sewer, and trash

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disposal. Tenant agrees to abide by all laws, rules, and regulations established by any governmental entity with regard to waste disposal. Neither Tenant nor its agents or invitees shall permit any environmentally adverse condition to occur upon the Demised Premises, and shall not dispose of litter, rubbish, waste or any other substance upon or adjacent to the Demised Premises. Should Tenant violate such prohibition, in addition to and not in lieu of, other remedies available at law or in equity, Landlord shall be entitled to terminate this Lease and recover the cost of clean-up as well as any diminution in value of the Demised Premises and all other charges, but only after Landlord has provided written notice to Tenant of any such condition and Tenant has had a reasonable opportunity to cure of up to thirty (30) days after such notice or longer period if set forth in the notice by Landlord. Tenant's failure to pay for any utilities serving the Demised Premises shall be deemed a material default under the terms of this Lease.

b. Repairs. Tenant shall promptly repair (including, without limitation, total replacement, if necessary), at Tenant's sole expense, any damage to the Demised Premises arising from Tenant's use or occupancy thereof, or any action or inaction of Tenant's agents, employees, or invitees. All repairs done by or on behalf of Tenant shall be done by a qualified and licensed contractor, plumber, electrician or other tradesman, approved in advance by Landlord. Tenant shall keep the Demised Premises free and clear from all mechanics', materialmen's and/or laborers' liens. All repairs, restorations, alterations, additions or payments which are obligations of Tenant hereunder shall be completed or made within reasonable time following the accrual thereof; should Tenant neglect or refuse to make such repairs, restorations, alterations, additions or payments after written notice, Landlord may, but shall not be obligated to, make such repairs, restorations, alterations, additions or payments and charge the cost thereof to Tenant, provided that such costs are reasonable and consistent with the prevailing customary rates charged for such work in the Danville/Pittsylvania County geographic region.

c. Roof. Tenant, its agents, employees, licensees, and invitees shall not cause accumulation of any debris or extraneous matter on the roof of the Demised Premises, shall not in any manner cut or drive nails into or otherwise mutilate the roof of the Demised Premises. Tenant shall be responsible for any damage caused to the roof by any acts of Tenant, its agents, servants, employees or contractors of any type or nature.

d. Maintenance. Tenant shall be responsible for all maintenance and upkeep of the building and the Demised Premises. Tenant shall keep and maintain the (i) foundation, (ii) exterior walls, (iii) roof (including gutters and downspouts and the reasonable and periodic removal of debris there from) of the building located upon the Demised Premises and other structural portions of the Demised Premises, including, but not limited to, doors, door frames, door checks, windows, including plate glass windows, and window frames located in exterior building walls, in good repair. Tenant shall also be solely responsible for all maintenance and repairs of any heating, ventilation and air conditioning (HVAC) system serving the Demised Premises, including, without limitation, changing the filters as recommended by the

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manufacturer of any such HVAC system, which filters shall in no event be changed less than four (4) times during each year of any Term hereunder. Landlord shall not be called upon to make any improvements or repairs of any kind upon the Demised Premises or appurtenances. Tenant shall keep the Demised Premises reasonably clean from debris, and Tenant shall, as soon as reasonably practicable, cause the reasonable removal of snow and ice from the parking areas and sidewalks of the Demised Premises.

Section 9. - Inspections. Landlord has the right to enter the Demised Premises periodically, at any reasonable time, with reasonable advance written notice, to inspect the Demised Premises.

Section 10. - Memorandum of Lease and Option; Estoppel Certificate. Each party, upon request of the other party, shall join in the execution of a memorandum of this Lease and the Option for the purpose of recordation. Such memorandum shall identify the parties, the Demised Premises, the Option and the Term, and shall incorporate this Lease and the Option by reference and include such other portions which the parties deem appropriate to effectuate the purpose of such recordation. Such memorandum shall be in a form as will be sufficient for recordation and as may be reasonably required by Landlord's lender, which memorandum may be recorded at the election of either party. The costs and taxes of recording such memorandum shall be borne by the party requesting or seeking such recordation. In addition, within thirty (30) days after written request by Landlord, Tenant shall execute and deliver estoppel certificates in the form required by Landlord's lender, on information or facts including, without limitation, any modifications of this Lease, the information contained in the Lease Commencement Date Memorandum, the fact that that this Lease is in full force and effect and the fact that Landlord is not in default of any terms hereof.

Section 11. - Destruction of Premises. If the Demised Premises shall be damaged by fire, casualty or other causes other than willful misconduct or the negligent (both simple and gross) or intentional acts of Tenant, the affected area(s) of the Demised Premises shall be promptly restored by Landlord and, until restored, there shall be an abatement or a proportionate reduction of the Rent as determined by agreement of the parties, in proportion to that portion of the Demised Premises that can continue to be reasonably used by Tenant. If the Demised Premises shall be condemned by lawful authority as unsafe or unfit for use, or if the Demised Premises shall become partially or wholly destroyed by fire or other causes, so as to render the Demised Premises untenantable for a period in excess of ninety (90) days, either party shall have the right, but not the obligation, to terminate this Lease upon providing written notice to the other party, provided, however, that if Landlord commences restoration of the Demised Premises within thirty (30) days of the date on which the Demised Premises were rendered untenantable, Landlord shall give notice of such fact to Tenant shall be required to take a new lease thereon commencing upon the completion of such restoration for a term equal to the balance of the Term remaining under the Lease at the time the Demised Premises become untenantable. All other conditions of such lease, including renewal terms, shall be identical to the terms and conditions

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contained in this Lease. Any Rent paid in advance (or otherwise paid in excess of any applicable abatement or reduction as set forth in this Section 11) shall be refunded.

Section 12. - Indemnification and Insurance.

a. Landlord shall not be liable for any damage to or occurring upon the Demised Premises caused by fire or other hazard, excepting damages caused by Landlord's willful misconduct, regardless of the cause thereof and Tenant does hereby expressly release Landlord of and from all liability for such damages. Landlord shall not be liable for any damage to Tenant's personal property, and if Tenant chooses, Tenant shall insure such property.

b. Tenant agrees to indemnify and hold harmless Landlord, its successors and assigns from and against damage to Landlord, the Demised Premises, and to Landlord's successors, and assigns, from and against all liabilities, losses, damages and expenses, including without limitation court costs and reasonable attorneys' fees incurred or suffered by Landlord, as a result of the failure of Tenant, its agents or employees, to perform any covenant hereunder, or for any accident, injury or damage to person or property occurring on or in the Demised Premises or its appurtenances, parking or other common areas, or resulting from Tenant's use or occupancy of the Demised Premises.

c. Tenant agrees to obtain, pay for and maintain throughout the Term a policy of public liability insurance, naming Landlord and Tenant as the insured parties, in a form satisfactory to Landlord, with coverage of not less than One Million and 00/100 Dollars ($1,000,000.00) for one person and Three Million and 00/100 Dollars ($3,000,000.00) for one accident and property damage coverage in an amount not less than One Million and 00/100 Dollars ($1,000,000.00) for each accident, and Tenant shall provide evidence of said insurance and renewals thereof to Landlord. Nothing contained in the foregoing paragraph shall be construed to prevent Tenant from acquiring insurance carrying coverage in excess of the minimum limits set forth above.

d. Tenant shall obtain at Tenant's expense, a policy or policies of insurance for the mutual benefit of Landlord and Tenant, with Landlord's lender included as a loss payee or as an additional insured party, against loss or damage to the Demised Premises in the amount of the full replacement cost thereof, against any perils included within the classifications of fire, vandalism, explosion, malicious mischief, special extended perils ("**all risk**") and any risk covered by a customary Extended Coverage Endorsement (including leasehold improvements). In the event of any claim against any such policy, the proceeds of such claim shall be used to restore the Demised Premises or to repay the Upfitting Loan in the Landlord's lender's sole discretion.

e. Tenant shall upon demand, use best efforts to promptly procure other commercial insurance reasonably required by Landlord's lender, based on the amount of the then outstanding

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indebtedness, with insurance companies meeting the requirements in Section 12(f) below. In addition, in the event Landlord's lender requires an increase in the amount of any coverage required hereunder, Tenant shall use best efforts to promptly procure such additional coverage. All costs and premiums associated with such additional coverage or increased coverage shall be borne by Tenant. For purposes of this paragraph, "**best efforts**" means that Tenant is required to make a diligent, reasonable and good faith effort to obtain such other commercial insurance if available in the marketplace in the Commonwealth of Virginia at a commercially reasonable rates.

f. Insurance required hereunder shall be underwritten by companies duly licensed to transact business in the Commonwealth of Virginia. Those insurance companies shall maintain during the policy term a "General Policyholders Rating" of at least "A-" (Excellent), as set forth in the most current issues of "Best's Insurance Guide", unless the insurance required hereunder is procured by Landlord through the Virginia Risk Sharing Association. Tenant shall authorize any and all insurance companies to speak directly with either Landlord or Landlord's lender at any time. The parties hereto shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Section. The insuring party shall cause to be delivered to the other party certified copies of or certificates and endorsements evidencing the existence and amounts of the insurance, and with the additional insureds, required under this Section. No such policy shall be cancelable or subject to modification except after thirty (30) days prior written notice to Landlord and Landlord's lender.

g. In the event Tenant shall fail to obtain any insurance policy required hereunder, Landlord shall have the right, but not the obligation, to procure such coverage, and Tenant shall immediately pay the cost thereof to Landlord, with interest thereon at a rate of six percent (6%) per annum, upon written demand by Landlord.

Section 13. - Condemnation. In the event the Demised Premises are taken in condemnation proceedings, the parties agree that any award or other sum payable in respect of condemnation proceedings shall belong exclusively to Landlord, other than any amount paid in respect of improvements or fixtures upon the Demised Premises which shall belong to Tenant. Notwithstanding the preceding sentence, Tenant shall not be entitled to any award related to Unamortized Upfitting Costs.

Section 14. - Peaceful Possession.

a. Landlord covenants that Landlord has lawful fee simple absolute title to the Demised Premises and the right to enter into this Lease for the Term and upon the conditions herein set forth.

b. In the event that there are common areas outside the Demised Premises, such as parking areas and sidewalks, that serve the Demised Premises, Tenant shall have the right to the

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nonexclusive use of those common areas for itself, its employees, agents, invitees and customers.

Section 15. - Assignment and Subletting. Tenant may not sublet or assign the Demised Premises, in whole or in part, without Landlord's express prior written consent. Such subletting or assignment shall be in Landlord's sole discretion.

Section 16. - Default.

a. Generally. It is agreed and understood that Tenant shall pay the Rent in the manner set forth herein, without a demand therefor, and in the event of (i) failure of the Tenant to pay the Rent (including Additional Rent) when due, or any other material default under the terms of this Lease, (ii) Tenant being adjudicated bankrupt or the appointment of a receiver or trustee of Tenant's property, (iii) the abandonment or vacation of the Demised Premises by Tenant, (iv) the failure of Tenant to move into the Demised Premises within thirty (30) days of the Commencement Date, or (v) Other Event of Default (as hereafter defined), then upon fifteen (15) days' notice in writing to the Tenant, the total Rent herein provided for, whether accrued or not, shall at the option of the Landlord, immediately become due and payable, and Landlord shall have the right to enter the Demised Premises at once, by force or otherwise, and to remove any property therein without liability for damage to Tenant, and without obligation to store, such property, and without being liable to any prosecution therefor, and to distrain for rent, and also to re-rent the Demised Premises as agent for Tenant for the unexpired portion of the Term and receive the rent and apply the same, after deduction of appropriate expenses, to the payment of the Rent payable hereunder, Tenant remaining liable for any deficiency; or Landlord may, at its sole option, immediately terminate this Lease, in which event Tenant shall quit and surrender the Demised Premises to Landlord, providing that neither terminating this Lease under this clause or recovering possession of the Demised Premises shall deprive Landlord of any other action or remedy against Tenant for possession, for Rent, or for damages. All of the Landlord's rights shall be cumulative and shall not preclude the Landlord from exercising all other rights and remedies provided by law.

b. Other Event of Default. "**Other Event of Default**" shall mean the occurrence or any one or more of the following events:

i. Tenant is not in good standing with the Virginia State Corporation Commission after having received at least sixty (60) days written notice from the Commission;

ii. Tenant discontinues full-time business for a period of sixty (60) days or more during the first sixty (60) months of the Initial Term; or

iii. An officer or controlling owner of Tenant (i) is convicted of a felony, or (ii) is convicted of any other crime involving lying, cheating, stealing, fraud, misappropriation, or other similar acts of dishonesty.

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Section 17. - Environmental. As used in this Section 17, "**Environmental Law**" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. §§ 9601 *et seq*.), all other federal, state and local laws, regulations, ordinances, court orders, concerning the public health, safety, welfare, environment or a hazardous substance; and "**Hazardous Substance**" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes without limitation any substances defined as "**hazardous material**," "**toxic substance,**" "**hazardous waste,**" "**hazardous substance,**" or "**regulated substance**" under any Environmental Law.

Tenant represents and warrants to Landlord and agrees that:

a. Except as previously disclosed and acknowledged in writing to Landlord, no Hazardous Substance will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Demised Premises, except in the ordinary course of business and in strict compliance with all applicable Environmental Law. It is expressly understood that Tenant contemplates that a segment of the business it conducts upon the Demised Premises will entail the production and storage of batteries and battery components for electronic vehicles, and any such activities reasonably necessary to be conducted or performed in furtherance of said battery production shall not constitute a violation of Section 5 above.

b. Except as previously disclosed and acknowledged in writing to Landlord and agreed by Landlord in writing, Tenant has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Demised Premises or a migration of any Hazardous Substance from the Demised Premises.

c. Tenant will immediately notify Landlord and Landlord's lender on Landlord's behalf, in writing, if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Demised Premises or migrates or threatens to migrate to or from nearby property; or (2) there is a violation of any Environmental Law concerning the Demised Premises. In such an event, Tenant shall promptly take all necessary remedial action in accordance with Environmental Law.

d. Tenant shall immediately notify Landlord, in writing as soon as Tenant has reason to believe there is any such pending or threatened investigation, claim, or proceeding relating to any Hazardous Substance located on, under or about the Demised Premises or violation of applicable Environmental Law. In such an event, Landlord has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

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e. Except as previously disclosed and acknowledged in writing to Landlord, Tenant and every permitted sublessee have been, are and shall remain in full compliance with any and all applicable Environmental Law.

f. Tenant shall regularly inspect the Demised Premises, monitor the activities and operations on the Demised Premises, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

g. Tenant shall allow, or cause any permitted sublessee to allow, Landlord, Landlord's lender or their agents to enter and inspect the Demised Premises and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Demised Premises; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about or migrated to or from the Demised Premises; or (3) whether Tenant and any permitted sublessee are in compliance with applicable Environmental Law.

h. Each of Landlord and Landlord's lender has the right, but not the obligation, to perform any of Tenant's obligations under this Section at Tenant's expense.

i. As a consequence of any breach of any representation, warranty or covenant made in this Section 17, Tenant shall indemnify and hold Landlord and its successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and reasonable attorneys' fees, which Landlord and its successors or assigns may sustain.

Landlord represents and warrants to Tenant and agrees that:

(1) Landlord has no notice of any pending or, to Landlord’s actual knowledge, threatened action or proceedings arising out of the condition of the Demised Premises or any alleged violation of environmental health or safety statutes, ordinances or regulations; and (2) with respect to Tenant’s obligation to indemnify Landlord under this Section 17, Tenant shall be responsible only for contamination or violations of Environmental Laws arising from or attributable to any actions or activities of, or inaction of, Tenant or its agents, employees, contractors, guests or invitees, on or after the Commencement Date and during the Term.

(2) Except as previously disclosed and acknowledged in writing to Tenant, no Hazardous Substance, to Landlord’s actual knowledge and without investigation, is or has been stored, located, transported, manufactured, treated, refined, or handled by any person on, under or about the Demised Premises, except in a manner that is or was at all times in strict compliance with all applicable Environmental Law.

(3) Landlord shall immediately notify Tenant if Landlord has actual knowledge or has

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received written notice of any breach of any Environmental Law or of any release or migration of Hazardous Substances to or from the Demised Premises occurring prior to the Commencement Date.

Section 18. - Regulations. Tenant shall comply with all federal, state, and local laws and ordinances, and all rules, orders, directives, and regulations of any duly constituted authority affecting or respecting the Demised Premises, or the use or occupancy of same, including the business at any time thereon transacted by Tenant, or any permitted assignee or sublessee of Tenant. In addition, should the Demised Premises not include all of the building in which Demised Premises are a part, Tenant shall comply with all rules and regulations, promulgated by Landlord from time to time with respect to the use of the building and common areas serving the building's occupants.

Section 19. - Signs. Tenant shall have the right to place on the Demised Premises signs or other advertising devices advertising its business operation so long as such signs are in compliance with applicable zoning laws and protective covenants governing Cane Creek Centre Industrial Park.

Section 20. - Mechanics', Materialmen's and/or Laborers' Liens. All work performed by or on behalf of Tenant shall be performed in a good and workmanlike manner in conformity with all applicable laws, codes and regulations including without limitation the Americans with Disabilities Act and regulations therefrom, and free from mechanics', materialmen's and/or laborers' liens.

a. Except as otherwise provided herein relating to the Upfitting Work, if Tenant makes any additional alterations or improvements in the Demised Premises, Tenant must pay for same when made. Nothing in this Lease shall be construed to authorize Tenant or any person dealing with or under Tenant, to charge the Rent of the Demised Premises, or the property of which the Demised Premises form a part, or the interest of Landlord in the estate of the Demised Premises, or any person under and through whom Landlord has acquired its interest in the estate of the Demised Premises, with a mechanics', materialmen's and/or laborers' lien or other encumbrance of any kind. Under no circumstances shall Tenant be construed to be the agent, employee or representative of Landlord in the making of any such alterations or improvements to the Demised Premises, irrespective of whether Landlord has given its written consent to such alterations or improvements.

b. In the event a mechanics', materialmen's and/or laborers' lien shall be filed against the Demised Premises or Tenant's interest therein as a result of any work undertaken by Tenant, Tenant shall, within thirty (30) days of receiving notice of such lien, discharge the same by payment of the indebtedness due to the lien. In the event Tenant shall fail to discharge such lien, Landlord shall have the right, but not the obligation, to procure such discharge, and Tenant shall immediately pay the cost of discharging such lien to Landlord, with interest thereon at a rate of

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ten percent (10%) per annum, upon written demand by Landlord. Such cost of discharging the lien shall include without limitation the cost of any bond which Landlord shall procure, any amounts paid to the lien claimant, and attorneys' fees.

c. Tenant agrees to indemnify and save harmless Landlord from and against all loss, claims, damages, costs or expenses suffered by Landlord by reason of any repairs, installations or improvement, made by Tenant.

Section 21. - Notices. Any notice required or contemplated to be given to a party by the other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, as follows:

If to Landlord:
Attn.: Corrie Bobe
Director of Economic Development
427 Patton Street
P.O. Box 3300 (zip code 24543)
Danville, VA 24543

With a copy to:
W. Clark Whitfield
City Attorney
427 Patton Street Room 421
P.O. Box 3300 (zip code 24543)
Danville, VA 24543

If to Tenant:
RBW Sports & Classics, Inc.
1350 Barker Road
Danville, VA 24541

With a copy to:
Howard Cooper
151-153 Park Road
St. Johns Wood
London, NW8 7HT
United Kingdom
Howardcooper@rbwevcars.com

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. Copies hereunder are provided as a matter of courtesy and shall not constitute notice themselves.

Section 22. - Waiver.

a. Generally. Time shall be of the essence relative to this Lease with regard to all provisions herein stipulating a date or number of days within which the parties are required to perform the stated act. No delay or failure of either party to exercise any right hereunder, or to

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insist upon the strict compliance with the terms and provisions hereof, shall constitute a waiver of any right hereunder or a waiver of the right thereafter to insist upon strict compliance with the terms and provisions thereof.

b. Waiver by Landlord. Waiver by Landlord of any default, breach or failure of Tenant under this Lease shall not be construed as a waiver of any subsequent or different default, breach or failure. In case of a breach by Tenant of any of the obligations of Tenant, Landlord nevertheless may accept from Tenant any payment or payments hereunder without in any way waiving Landlord's right to exercise the right of re-entry hereinbefore provided for by reason of any other breach or lapse which was in existence at the time such payment or payments were accepted by Landlord.

Section 23. - Security Interest and Removal of Tenant's Property.

a. Landlord shall have a statutory landlord’s lien under Virginia law upon all furniture, fixtures, equipment and other personal property of Tenant that is installed, located or placed on the Demised Premises to secure Landlord against any and all loss or damage it may sustain as a result of any breach of this Lease, including but not limited to, the payment of all Rent and other charges provided for under this Lease.

b. Tenant shall have a right, however, to remove and replace any of Tenant's property so long as Tenant is not in default of any covenant or agreement herein contained. Tenant shall promptly repair, at its own expense, any damage to Demised Premises occasioned by such removal. It is understood that Landlord's lien shall be in addition to any and all other rights and security interests granted to Landlord by law or under this Lease. Any personal property remaining on the Demised Premises on the date on which this Lease terminates shall be deemed abandoned for all purposes and shall become the property of Landlord. Landlord may retain or dispose of the property without liability of any type or nature to Tenant.

Section 24. Subordination. Upon request of Landlord, Tenant shall subordinate Tenant's rights hereunder to the lien of mortgage or mortgages, or the lien resulting from any other method of financing or refinancing now or hereafter in force against the real property and/or building(s) of which the Demised Premises are a part of against any building(s) hereafter placed upon real property of which the Demised Premises are a part, provided that the holder of such mortgage or lien executes, along with Tenant, an attornment and non-disturbance agreement which permits Tenant to remain in possession of the Demised Premises for the Term so long as Tenant pays the Rent and other charges due and performs all duties during the Term of all of the terms, covenants, and provisions of this Lease to be performed by Tenant. In no event after the assumption of this Lease shall any then existing default remain uncured for a period in excess of the earlier of thirty (30) days or the time period set forth herein. Adequate assurance of Tenant's performance of this Lease shall include without limitation (i) adequate assurance of the source of rent or payments required under all agreements referred to herein, and (ii) adequate assurance

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that the assumption of this Lease will not breach any provision hereunder. In the event of a filing of a petition under the Bankruptcy Code by Tenant, Landlord shall have no obligation to provide Tenant with any services herein required, unless Tenant shall have paid and be current in all payments of operating costs, utilities, or other charges therefor.

Section 25. - Landlord's Remedies. In addition to and not in lieu of any other remedies or relief made available to Landlord under this Lease, at law or in equity, upon the occurrence of a default as defined in Section 16 above or of any obligation otherwise contained in this Lease, irrespective of whether Landlord has terminated this Lease, Landlord may elect any one or more of the following:

a. Non-Acceleration of Rents. Landlord may terminate Tenant's right of possession of the Demised Premises, in which event Landlord may, but shall not be obligated to, relet the Demised Premises, or any part thereof, for the account of Tenant, for such rent and term and upon such other conditions as are acceptable to Landlord. As Additional Rent, Tenant shall pay to Landlord all expenses of reletting the Demised Premises (including without limitation repairs, alterations, improvements, legal fees and brokerage commissions) upon giving written notice to Tenant. In any event, Tenant remains obligated to pay all rent and other charges due to Landlord as provided in this Lease for the balance of the Term. Credited against such rent and charges due to Landlord (including all of Landlord's expenses of reletting the Demised Premises) shall be the rents actually received by Landlord from reletting the Demised Premises. Tenant agrees that Landlord may file suit to recover any sums due Landlord under this subsection from time to time and that such suit or recovery of any amount due Landlord shall not be a defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord.

b. Acceleration of Rents. At any time after the occurrence of an event of material default by Tenant prior to the expiration of the Term, and provided Landlord has provided Tenant with notice of any such default and an opportunity to cure the same as may be required in this Lease, but regardless of whether Landlord has exercised Landlord's remedy described in Section 25(a) above, Landlord may accelerate all payments of rents due under this Lease for the balance of the Term upon written notice to Tenant. If Landlord accelerates such rent, Tenant shall be responsible for such accelerated rent as follows:

i. If the Demised Premises have been re-let at the time of such acceleration for all or a portion of the remaining Term, then Tenant shall pay to Landlord a sum equal to (A) the present value of the total Rent for the remainder of the Term and (B) Landlord's expenses of re-letting the Demised Premises (including without limitation repairs, alterations, legal fees and brokerage commissions). Credited against such sum shall be the present value of the total rent due from the new tenant of the Demised Premises during the remainder of the Term. For the purposes of this sub-subsection, present value shall be computed by discounting such amount to present value at a discount rate equal to the discount rate then in effect at the Federal Reserve

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Bank nearest to the location of the Demised Premises; or

ii. If the Demised Premises have not been re-let at the time of such acceleration, then Tenant shall pay, in addition to, to Landlord as liquidated damages an amount calculated as follows: the Rent multiplied by one half (1/2) of the number of months remaining in the Term (but if the remaining number of months in the Term is less than twelve (12) months, then the number of months for such calculation shall be the lesser of six (6) and the total number of remaining months in the Term).

c. Landlord may re-enter and repossess the Demised Premises and remove all persons and effects therefrom, by summary proceeding, ejectment or other legal action or by using such force as may be necessary. Landlord shall have no liability by reason of any such re-entry, repossession or removal.

d. Legal Remedies. The parties agree that the remedies provided for in this Lease in the event of default on the part of Tenant are in addition to and not in lieu of any other remedies or relief made available to Tenant under Virginia law, which latter remedies or relief shall be likewise available to Landlord in the event of a breach of any of the terms of this Lease.

Section 26. - Limit of Landlord's Liability. The liability of Landlord (and of any successor landlord) shall be limited to the interest of Landlord in the Demised Premises (including rental income, sales and insurance proceeds therefrom). Tenant shall look solely to Landlord’s interest in the Demised Premises for the recovery of any judgment or award against Landlord. Landlord shall not be liable for any judgment or deficiency, and in no event shall Landlord be liable to Tenant for any lost profit, damage to or loss of business or any form of punitive, special, indirect or consequential damages. Before filing suit for an alleged default by Landlord, Tenant shall give Landlord, written notice and reasonable time to cure the alleged default. The provisions of this Section 26 shall not be deemed to be a waiver by Landlord or a limitation of Landlord's sovereign immunity.

Section 27. - Binding Effect. The provisions of this Lease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Section 28. - Enforceability. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 29. - Entire Agreement. This Lease, the schedules hereto and the Local Performance Agreement contain the entire agreement and understanding of the parties to this

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Lease with respect to the transactions contemplated hereby; and this Lease, the schedules hereto and the Local Performance Agreement supersede all prior understandings and agreements of the parties with respect to the subject matter hereof. In the event of a conflict between this Lease and the Local Performance Agreement with respect to the Demised Premises, the provisions of this Lease shall control to the extent necessary to resolve such conflict.

Section 30. - Gender and Number. Throughout this Lease, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 31. - Headings. The descriptive headings in this Lease are inserted for convenience only and do not constitute a part of this Lease.

Section 32. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Lease.

Section 33. - No Third-Party Beneficiaries. Nothing in this Lease is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Lease.

Section 34. - Attorneys' Fees. Each of the parties shall be solely responsible for their respective attorneys' fees in the negotiating, drafting, and execution of this Lease and any of the transactions contemplated hereby.

Section 35. - Brokers. The parties each represent and acknowledge that there were no real estate brokers involved in this lease transaction or the negotiations leading up to this Lease. Each of Landlord, to the extent permitted by law, and Tenant shall indemnify and hold harmless the other from and against any loss, cost, damage or liability resulting from or arising out of any claim by any broker or agent for commission or other compensation on account of any agreement allegedly made with the indemnifying party with respect to, or services allegedly rendered to the indemnifying party as the procuring cause of this Lease, the Upfitting Loan, or the transaction which they embody.

Section 36. - Force Majeure. Notwithstanding the foregoing, neither party will be liable for any delay in performance due to an Event of Force Majeure (as defined herein). "**Event of Force Majeure**" means without limitation any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Virginia or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil

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disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the party in question. The provisions of this Section 36 shall not operate to excuse Tenant from the prompt payment of any sums owed to Landlord under the terms of this Agreement and shall not operate to extend the Term. Delays or failures to perform resulting from lack of funds shall not be deemed delays beyond the reasonable control of Tenant.

Section 37. - Governing Law. This Lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby submit to the exclusive jurisdiction of the state court located in Danville, Virginia, or the U.S. District Court for the Western District (Danville Division) in any action or proceeding arising out of, or related to this Lease, and the parties hereby agree that all claims in respect of any action or proceeding shall be heard or determined only in either of these courts. The parties agree that a final judgment in any action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the judgment, or in any other manner provided by applicable law related to the enforcement of judgments. If any ambiguity or question of intent or interpretation arises, this Lease shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Lease.

Section 38. - Subject to Annual Appropriations. As provided under Virginia law, the obligations of Landlord to pay the cost of performing Landlord's obligations under this Lease are subject to and dependent upon annual appropriations being made from time to time by the governing body of Landlord, for such purpose.

[**SIGNATURES ON FOLLOWING PAGES**]

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WITNESS our signature to this **FACILITY LEASE** as of the date first above written:

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: _____
T. Neal Morris Chairman

ATTEST:

_____
Corporate Secretary
Industrial Development Authority of Danville, Virginia

Docusign Envelope ID: 5E440880-0210-45A0-B36B-B270F4C553F9

WITNESS our signature to this **FACILITY LEASE** as of the date first above written:

RBW SPORTS & CLASSICS, INC., a Delaware corporation

8/21/2024

By: DocuSigned by: 68CE5F74F16549A...

Ryan J. Morris
CEO

List of Schedules
1 - The Demised Premises
3(b) - Commencement Date Memorandum
7(a) – Upfitting Scope of Work

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Schedule 1
(The Demised Premises)

ALL of that certain lot, tract, or parcel of land, together with improvements thereon and appurtenances thereunto belonging, situate in Pittsylvania County, Virginia, and more particularly described as follows:

LOT 1A, containing approximately 10 acres, more or less, fronting on State Road 733 (Barker Road), as shown on "Plat of Survey for Industrial Development Authority of Danville, Virginia showing the Subdivision of Lot 1 Cane Creek Center creating Lot 1A & Lot 1B" by Shanks Associates, P.C., dated April 6, 2022, recorded in the Clerk's Office of the Circuit Court of Pittsylvania County, Virginia (the "**Clerk's Office**") as Instrument No. 23-00602; and

AND BEING, IN FACT, a portion of the same property conveyed by 22 Stars, Inc., a Texas corporation, to Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia, by deed dated October 19, 2019, and recorded in the Clerks' Office as Instrument No. 19-05251, at page 105, to which plat and deed specific reference is here made for a more particular description of the property herein described.

Reference is here made to those certain Cane Creek Centre Declaration of Protective Covenants, dated July 12, 2005, and recorded in the Clerk's Office as Instrument No. 05-06158, in Deed Book 1505, at page 237, as amended by Instrument No. 12-03321, at page 104, and supplemented by Instrument No. 14-00362, at page 1, and Instrument No. 15-00596, at page 1, and as amended by Instrument No. 22-05040, at page 5.

This property is made subject to all easements, conditions, restrictions and agreements of record affecting the real estate hereby described or any part thereof.

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Schedule 3(b)

COMMENCEMENT DATE MEMORANDUM

With respect to that certain Facility Lease dated _____, 20_____ (the "**Lease**"), between **Industrial Development Authority of Danville, Virginia**, a political subdivision of the Commonwealth of Virginia ("**Landlord**"); and **RBW Sports & Classics, Inc.**, a Delaware corporation, whereby Landlord leased to Tenant and Tenant leased from Landlord space commonly known as 1350 Barker Road Ringgold, Virginia in the Cane Creek Industrial Park in Ringgold, Virginia (the "**Demised Premises**"). Tenant and Landlord hereby acknowledge as follows:

1. The Term commenced on _____, 20_____ (the "**Commencement Date**").

2. Landlord delivered possession of the Demised Premises to Tenant on _____, 20_____ (the "**Possession Date**"), and on that date, Tenant accepted possession of the Demised Premises "**AS IS**" and "**WITH ALL FAULTS**".

3. The Initial Term ends at 11:59 p.m., EST, on _____, 20_____.

4. On _____, 2024, Tenant shall commence payment of Monthly Base Rent and Additional Rent.

5. The Demised Premises contain _____ rentable square feet of space.

6. To give timely notice to Landlord of Tenant's intention to exercise the Option, Tenant must give written notice to Landlord on or before _____, 20_____.

7. Tenant has deposited with Landlord the Security Deposit in the amount of $_____.

All capitalized terms herein, not otherwise defined herein, shall have the meaning assigned in the Lease.

WITNESS our signatures to this **COMMENCEMENT DATE MEMORANDUM** is executed the dates set forth below.

LANDLORD:
INDUSTRIAL DEVELOPMENT AUTHORITY, Danville, Virginia a political subdivision of the Commonwealth of Virginia

By: _____
Printed name: _____
Title: _____
Date: _____/_____/20_____

TENANT:
RBW Sports & Classics, Inc., a Delaware corporation

By: _____
Printed name: _____
Title: _____
Date: _____/_____/20_____

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Schedule 7(a)
Upfitting Scope of Work

[TO BE ADDED.]

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Request approval from the Industrial Development Authority Danville, Virginia to approve the contract to complete the renovations at 120 Cane Creek Boulevard located in the Airside Industrial Park.

Request approval from the Industrial Development Authority Danville, Virginia to execute the contract from Blair Construction for renovations to the former Ecomnets Building located at 120 Cane Creek Boulevard, Danville, Virginia, located in the Airside Industrial Park for an amount not to exceed $2,674,418.79. These renovations will be made as required by eBIO Nutritional Sciences, LLC, Inc. Upon the completion of the renovations, the client will repay the Industrial Development Authority through a Lease Purchase Agreement.

ATTACHMENTS

1. 1622_Blair Construction EBIO Item 4 TGM Final_revised
2. 3530_ eBio_PCO No. 01_09232024

PRESENTED: October 8, 2024

ADOPTED: October 8, 2024

RESOLUTION NO. 2024-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO APPROVE FOR UPFITS TO 120 CANE CREEK BOULEVARD, DANVILLE, VIRGINIA IN AN AMOUNT NOT TO EXCEED $2,674,418.79

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia that the Chairman, or in his absence any Officer, be, and hereby is, approved and authorized to execute the contract, substantially in the form attached hereto, from Blair Construction, in an amount not to exceed Two Million Six Hundred Seventy-Four Four Hundred Eighteen and 79/100 ($2,674,418.79) to complete renovations to 120 Cane Creek Boulevard Danville, Virginia.

BE IT FURTHER RESOLVED, that the Chairman, or in his absence any Officer, be, and hereby is, authorized to execute any and all documents necessary for this Moral Obligation Agreement and such other documents as needed to complete this transaction.

APPROVED:

_____
Chairman

ATTEST:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

A	Total Completed and Stored (6-27-24)	$	471,538.79
B	BASE PRICE Proposal to Complete (8-30-24)	$	2,023,700.00
	Includes Contingency Allowace (**$100,000.00**)		
	Includes Strip Curtain Door Allowance ($**2,500.00**)		
	Includes Existing Office / Admin Repairs Allowance (**$25,000.00**)		
	Includes Structural Reinforcing Allowance (**$30,000.00**)		
	Includes Fire Alarm Allowance (**$36,175.00**)		
	Total of all allowances is $193,675.00		
C	ADD ALTERNATE #3 - Curtainwall Replacement (8-30-24)	$	179,180.00
D	**TOTAL PROJECT COST (A+B+C)**	$	2,674,418.79
E	Original Contract Amount (12-30-22)	$	2,425,950.00
F	Change Order Amount to Original Contract to Add New Scope **(D-E)**	$	248,468.79

Project scope would NOT include upgraded epoxy floors or batt insulation above ceilings.

Potential Contingency Items	
Generator Test	$ 7,500.00
Gate Operator	$ 10,000.00
Roof Repairs	$ 10,000.00
Airlock electrical	$ 3,200.00
Airlock hardware	$ 10,194.17
	$ 40,894.17

Blair Construction, Inc.

Route 29 South
Gretna, Virginia 24557
Phone: (434) 656-6243
Fax: (434) 656-3290

www.blairbuildsbetter.com
Mailing:
P.O. Box 612
Gretna, Virginia 24557

August 30, 2024

Mr. Jack M. Polidoro
Engineered BioPharmaceuticals
300 Ringgold Industrial Parkway
Danville, VA 24540
jmpolidoro@engbiopharm.com

Re: Engineered BioPharmaceuticals – 1 EcomNets Way, Danville, VA

Dear Mr. Polidoro,

Blair Construction, Inc. is pleased to provide a quote of $2,023,700.00 for renovations to the former EcomNets Building in Danville, VA as required for Engineered BioPharmaceuticals. This amount reflects the costs required to complete the stated scope from the building's current condition. All work to be performed in accordance with the attached plans and owner provided information as well as the following scope of work:

General Requirements

- Provide onsite supervision of work
- This proposal includes permit fees
- Includes architectural, structural, plumbing, HVAC and electrical drawings as required for permitting
- Provide offsite disposal of all construction debris
- This proposal is based on all work being performed during regular business hours
- This proposal is based on the existing building being vacant during construction
- This proposal includes a **Contingency Allowance of $100,000.00**

Sitework

- Complete site grading as required for proper site drainage at perimeter of existing 60' x 28' pre-engineered metal building canopy, all excess dirt to be disposed of onsite
- Provide additional landscaping where previous landscaping has been removed, includes (13) 3-gal Abelia Little Richards, (6) 3-gal Dwarf Burfurd Hollies, and (4) 3-gal Firepower Nandinas
- Includes seeding around new storage room addition, construction road, and tree / shrub removal areas
- Includes 85 LF of a 2' wide band of river rock with metal edging on front side of building adjacent to new storage room addition (1" to 3" stones)
- Provide and install dyed mulch, prune shrubs and trees around building, remove weeds, and clean up debris

- Includes pruning of trees, removal of (2) damaged trees and grinding of (2) stumps
- Includes removal of (2) Bradford Pears at north corner of parking lot
- Clean all vegetation and debris from asphalt pavement, spray with weed killer
- Saw cut and remove (3) areas of failed asphalt and patch back with the necessary new asphalt, sizes of areas to be 6'x6', 27'x15', and 16'x15'
- Sealcoat all asphalt pavement with (2) coats of commercial grade sealer and restripe all lines and stencils
- This proposal EXCLUDES hot pour crack fill of linear cracks and spider webbed / alligatored areas
- Provide fire hydrant as required per the City of Danville

Demolition

- Remove / trench additional slab areas as required for new under-slab plumbing lines
- Remove curtainwall on north and east sides of the building

Concrete

- Pour back all existing and new plumbing trenches
- Provide concrete apron at new overhead door at the covered storage area as indicated on plan

Masonry

- Provide and install brick veneer on (3) sides of enclosed storage room, includes colored mortar, sand, flashing, termination bar, drip edge, mortar net, lintels, weeps, wall ties, grout, brick wash, and rigid insulation

Metals

- Provide new steel checkered plate dock stair at existing dock area

Doors, Windows, & Glass

- Provide (19) interior hollow metal doors with frames and hardware as required, new interior doors to receive half-lite glass
- Provide (1) exterior hollow metal door, frame, and hardware at enclosed storage room, flush door (no glass)
- This proposal includes an **ALLOWANCE of $2,500.00** for material and labor required to install a new plastic strip door curtain between the dock area and the warehouse area
- Provide (37) 4'-0" x 4'-0" interior aluminum storefront windows, storefront framing shall be 1-3/4" x 4-1/2" clear anodized, glazing to be ¼" clear tempered glass.
- Provide new sliding reception window in existing opening at Lobby
- Install (2) new 8'-2" wide x 10'-0" high Clopay Model 525V insulated commercial ribbed steel sectional overhead doors at dock area, baked enamel finish (white or brown), solid (no windows), electric motor operated with emergency disconnect, NEMA 1 3-button control station included, photoelectric safety eyes
- Install (1) new 12-'2" wide x 12'-0" high Clopay Model 525V insulated commercial ribbed steel sectional overhead doors at enclosed storage area, baked enamel finish (white or brown), solid (no windows), electric motor operated with emergency disconnect, NEMA 1 3-button control station included, photoelectric safety eyes
- Install (1) 12'-0" wide by 12'-0" high USDA rated clean room, high speed fabric door between warehouse area and production area

Finishes

- Provide interior partition walls as indicated on plan, new walls to consist of 20-gauge, 3-5/8" metal studs with 5/8" sheetrock, Level 4 finish, ready for paint
- Provide metal stud framing on (3) exterior walls of new 28' x 60' pre-engineered metal canopy, include insulation, (1) layer of 5/8" sheetrock on interior, (1) layer of DensDeck on exterior, Tyvek / weather barrier, etc.
- Ceilings
    - Provide and install 2' x 2' vinyl-faced acoustical ceiling tiles and grid in Production, Gowning Room, Airlock 1, Airlock 2, Weighing Room, QC Room 1, QC Room 2, and QC Room / Lab
    - Provide and install 2' x 2' acoustical ceiling tiles and grid in Hall 1 and Hall 2
    - Dock Area, Tool Room, Warehouse, and Storage Room to be exposed to structure (no ceilings)
    - Existing ceilings to remain in all other areas
- Flooring
    - Provide standard prime and coat epoxy flooring with integral base in Production, Gowning Room, Airlock 1, Airlock 2, Weighing Room, QC Room 1, QC Room 2, and QC Room / Lab
        - Floors to be prepped using planetary grinders and hand grinders
        - Install primer coat GP3760 at 10-15 mils to provide penetrating bonding into the concrete
        - Install sealer coat of HTS-100 urethane at 10-15 mils (color TBD)
    - Provide LVP flooring (Shaw Terrain II or equal) and rubber base in Hall 1 and Hall 2
    - Provide rubber base on new walls in Warehouse, Dock Area, Tool Room, and Storage Room
    - Existing flooring and base to remain in all other areas
- Painting
    - Provide epoxy painting of walls, hollow metal door frames, and hollow metal doors in Production, Gowning, Airlock 1, Airlock 2, Weighing Room, QC Room 1, QC Room 2, and QC Room / Lab
    - Provide standard commercial paint in Warehouse, Dock Area, Tool Room, and Storage Room
    - Existing wall paint to remain in all other areas
- This proposal includes an **ALLOWANCE of $25,000** for repairs to existing office / administration area

Equipment

- Provide (2) Serco S700 dock seals with head curtain, size to be 8'-0" wide by 10'-0" high, 10" projection top and bottom, 24" drop curtain, 22 oz vinyl base fabric, galvanized mounting hardware
- Provide (2) Durable Corporation P4H-1014 laminated dock bumpers (set), absorbs 80% or more of impact force, 4-1/2" thick by 10" high by 14" wide, anchored to concrete dock face

Special Construction

- Provide modifications to (2) existing overhead door openings at dock area as required to provide sufficient space to accommodate new foam fit dock seals

- Complete remainder of work required at new 28’ x 60’ pre-engineered metal building canopy
- Expand existing / create new framed opening between dock area and warehouse area as required to receive new strip curtain door
- This proposal includes an **ALLOWANCE of $30,000.00** for structural reinforcing of the existing pre-engineered metal building as required for the installation of new rooftop HVAC equipment

Fire Protection / Sprinkler

- Rework the existing wet pipe sprinkler system to accommodate the proposed renovations in accordance with NFPA 13 and state code
- The warehouse, production areas, and new enclosed storage room addition will be designed by Ordinary Hazard Group 2 (manufacturing without the use of flammable or combustible liquids)
    - The Ordinary Hazard Group 2 designed areas will also allow for the storage of Class I thru III commodities up to 12’-0” high; solid-piled, palletized, and / or shelf storage of Class IV commodities up to 12’-0” high; rack storage of Class IV commodities up to 10’-0” high; and storage of Group A plastics up to 5’-0” high. Please note that for the areas that have dropped ceilings, the storage cannot be within 24” vertically of the ceiling.
- The QC Room / Lab will be designed for Ordinary Hazard Group 1
- The corridor (halls) will be designed for Light Hazard

Plumbing

- Provide (12) floor drains in accordance with attached plumbing plan, provide cast iron piping for the first 10 LF of under-slab piping at each floor drain
- Provide (3) eye wash and / or chemical showers in accordance with attached plumbing plan, use filtered tap water
- Provide (1) filtered water supply drop for reverse osmosis water in accordance with attached plumbing plan
- Provide (8) new sinks in accordance with attached plumbing plan, each to have filtered tap water supply and drain
- Provide (6) reverse osmosis water drops in accordance with attached plumbing plan
- Provide underground piping as required, additional investigation will be required to determine exterior piping locations and elevations, proper fall will need to be achieved to properly drain
- Provide medical grade air compressor piping in accordance with attached pneumatic pipe plan (compressor equipment by OWNER)

HVAC

- Provide and install (1) Carrier 15-ton package unit with curb, natural gas heat, commercial programmable thermostat, economizer, and hail guards for warehouse ***(Please note that unit has been selected based on the information provided by Engineered Bio. Heat loads need to be provided for each piece of equipment before a proper load can be calculated. If unit size must be changed, the price will need to change accordingly)***
- Provide and install paintable spiral ductwork and grilles as shown on drawing for 15-ton unit (painting of ductwork is EXCLUDED)

- Provide and install (1) Carrier 20-ton package unit with curb, natural gas heat, commercial programmable thermostat, economizer, hail guards, and room pressure control for production area, air lock, and gowning room ***(Please note that unit has been selected based on the information provided by Engineered Bio. Heat loads need to be provided for each piece of equipment before a proper load can be calculated. If unit size must be changed, the price will need to change accordingly)***
- Provide and install sheet metal rectangular ductwork with fiberglass duct wrap insulation and aluminum grilles as shown on drawing for 20-ton unit
- Provide and install (1) Carrier 4-ton package unit with curb, natural gas heat, commercial programmable thermostat, economizer, hail guards, dehumidification and room pressure control for QC-1, QC-2, weighing area and air lock ***(Please note that unit has been selected based on the information provided by Engineered Bio. Heat loads need to be provided for each piece of equipment before a proper load can be calculated. If unit size must be changed, the price will need to change accordingly)***
- Provide and install sheet metal rectangular ductwork with fiberglass duct wrap insulation and aluminum grilles as shown on drawing for 4-ton unit
- Provide and install (2) fan filter units for the weighing room with 99% HEPA filters, the fan filter units will serve as the supply grilles for the weighing area so all air in the weighing room is filtered
- Provide and install (1) 1,000 CFM roof exhaust mounted fan with curb for the dock area and a combination louver / damper with actuator for ventilation
- Provide and install (1) 450 CFM roof exhaust mounted fan with curb for the tool area and a combination louver / damper with actuator for ventilation
- Provide and install (1) 3,000 CFM roof exhaust mounted fan with curb for the enclosed storage area and a combination louver / damper with actuator for ventilation
- Provide and install a natural gas heater unit with venting and thermostat for the dock area
- Provide and install a natural gas heater unit with venting and thermostat for the tool room
- Provide and install a natural gas heater unit with venting and thermostat for the enclosed storage area
- Provide and install black T&C gas piping for the new unit heaters. Piping will be connected to the existing piping. Includes raising the gas line where it offsets down and back up in the warehouse area. ***This proposal assumes that the existing gas piping is leak free and in good condition.***
- Rework some of the ductwork where the existing hall that leads from the entry and the QC lab and install grilles for this area
- Demo (3) existing 7.5-ton split system cooling units with gas fire duct heaters in existing office space
- Replace (3) existing 7.5-ton split systems with (3) pairs of 4-ton split system cooling units and (3) pairs of 90+ gas furnaces with cooling coils
- Provide balancing for new systems and the reworked ductwork and grilles for the hall and QC Lab
- Provide drawings with engineer's stamp for quoted work

Electrical

- Furnish and install exit / emergency lighting per code
- Furnish and install new 2x4 LED Flat Panels (90 total)
- Furnish and install high bay light fixtures in the warehouse and the enclosed storage room

- Line wiring of (3) roof top units, (3) exhaust fans, (6) air handling units, (6) outdoor condensing units, and (3) unit heaters
- Wiring of exhaust hood
- Wiring of sink mounted water heaters
- Wiring of air compressor
- Line wiring of humidifier
- Furnish and install 20-amp receptacles per code
- Install (20) 3-4" stub-ups for data, EXCLUDES cabling, equipment, terminations, etc.
- Furnish and install line voltage lighting controls
- Wiring of charger for electric fork lift
- Line wiring of equipment as provided by Engineered Bio (equipment by others)
- Line wiring of (3) overhead doors
- This proposal includes and **ALLOWANCE of $36,175.00** for material and labor required to provide a fire alarm system

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ALTERNATES

ALTERNATE #1 – Batt Insulation Above Ceilings – ADD $18,979.00

- Provide R-19 unfaced insulation above all new suspended ceiling systems

ALTERNATE #2 – Epoxy Floor Upgrade – ADD $32,442.00

- In lieu of standard prime and coat epoxy floor system, provide Deco Resuflor Quartz epoxy floor system including the following:
    - Floors will be prepped using planetary grinders and hand grinders
    - Install primer coat GP3760
    - Install receiver coat GP3760 and then broadcast the decorative quartz until refusal (color TBD)
    - Install a second receiver coat GP3760 and second broadcast of decorative quartz until refusal
    - Install (2) top coats of GP3746 (clear) at 10-15 mils each
    - Install sealer coat of HTS-100 urethane

ALTERNATE #3 – Replace Curtainwall – ADD $179,180.00

- Remove and reinstall new aluminum curtainwall with glass on north and east sides of the building only, includes (1) new door with standard panic device, demolition included as non-abatement only, this alternate EXCLUDES removal of hazardous materials as well as replacement of existing storefront windows and doors

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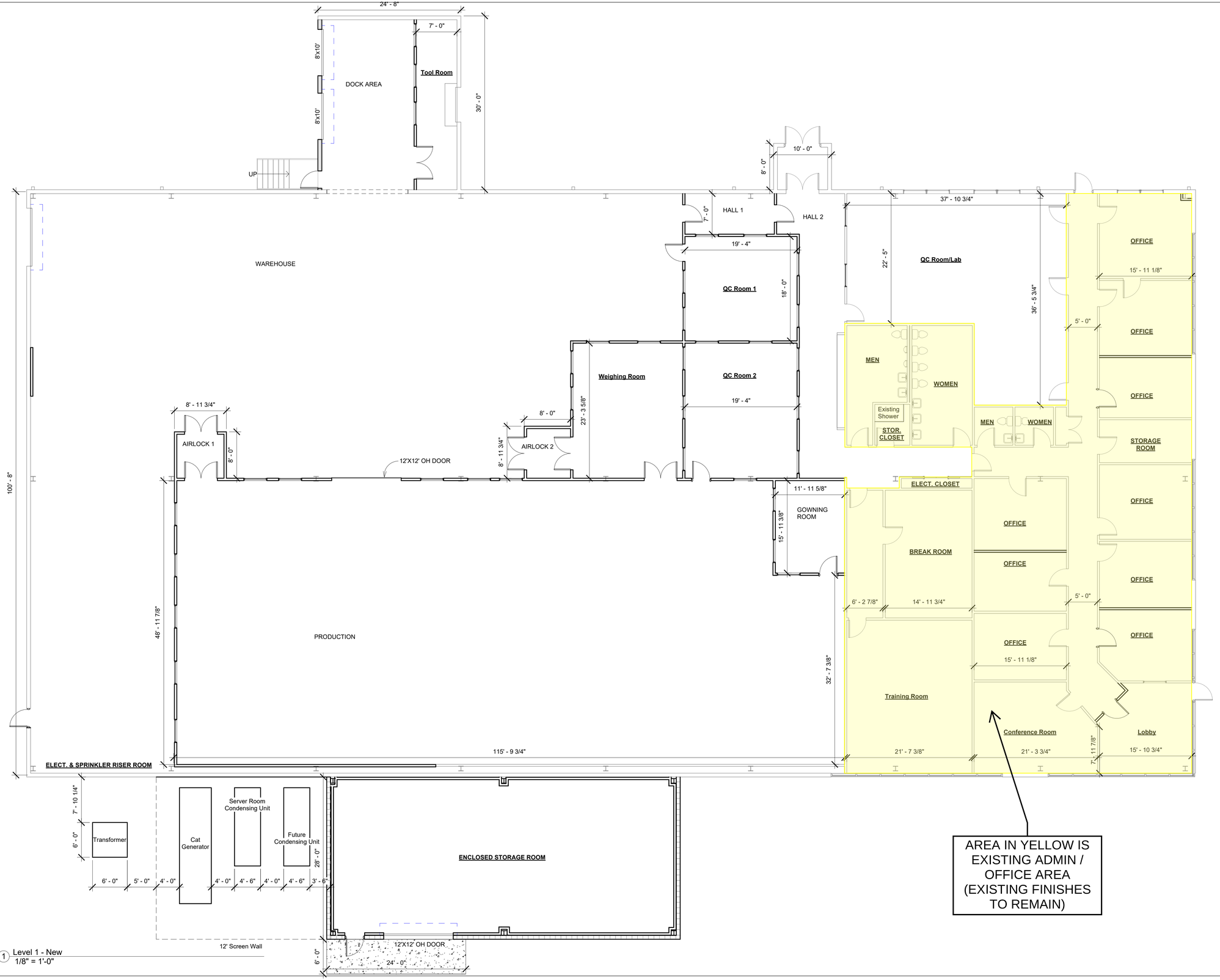
EXCLUSIONS:
Civil and Geotechnical Design Services
Third Party Inspections / Special Inspections
Data and Communications
Access control, CCTV and security systems
Utility Fees
Water Tap / Connection Fees
Fire Pump / Booster Pump
Backflow preventers
HVLS Fans
Air Compressor Equipment
Shelving / Racking
Generator Testing / Repairs / Start Up
Painting of ductwork
Painting of pre-engineered metal building structure
Repair / replacement of existing pre-engineered metal building insulation
Repair and / or replacement of existing gas piping
Seismic / vibration isolation
Storm & roof drain piping
Removal and / or Replacement of Unsuitable Soils
Temporary utilities (temporary power, heating, water, etc.)
Rock Excavation
Fencing
Pipe bollards
Sealed concrete floor finishes
Level 5 finish on sheetrock
Exterior and interior signage
Sodding
Relocation of existing utilities
Cost escalation
Any items not specifically listed above

Blair Construction appreciates the opportunity to work with you on this project. Should you have any questions or need any changes made to this proposal, please let me know.

Sincerely,

Joshua D. Hyler
Estimator



AREA IN YELLOW IS EXISTING ADMIN / OFFICE AREA (EXISTING FINISHES TO REMAIN)

1 Level 1 - New
1/8" = 1'-0"

BLAIR CONSTRUCTION
www.blairbuildsbetter.com

Office: (434) 656-6243
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Consultant
Address
Address
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Consultant
Address
Address
Phone
Fax
e-mail

No.	Description	Date

ENG BIO

Danville, Virginia

New Floor Plan

Project number	Project Number
Date	8/6/24
Drawn by	JLV
Checked by	

A102

Scale 1/8" = 1'-0"

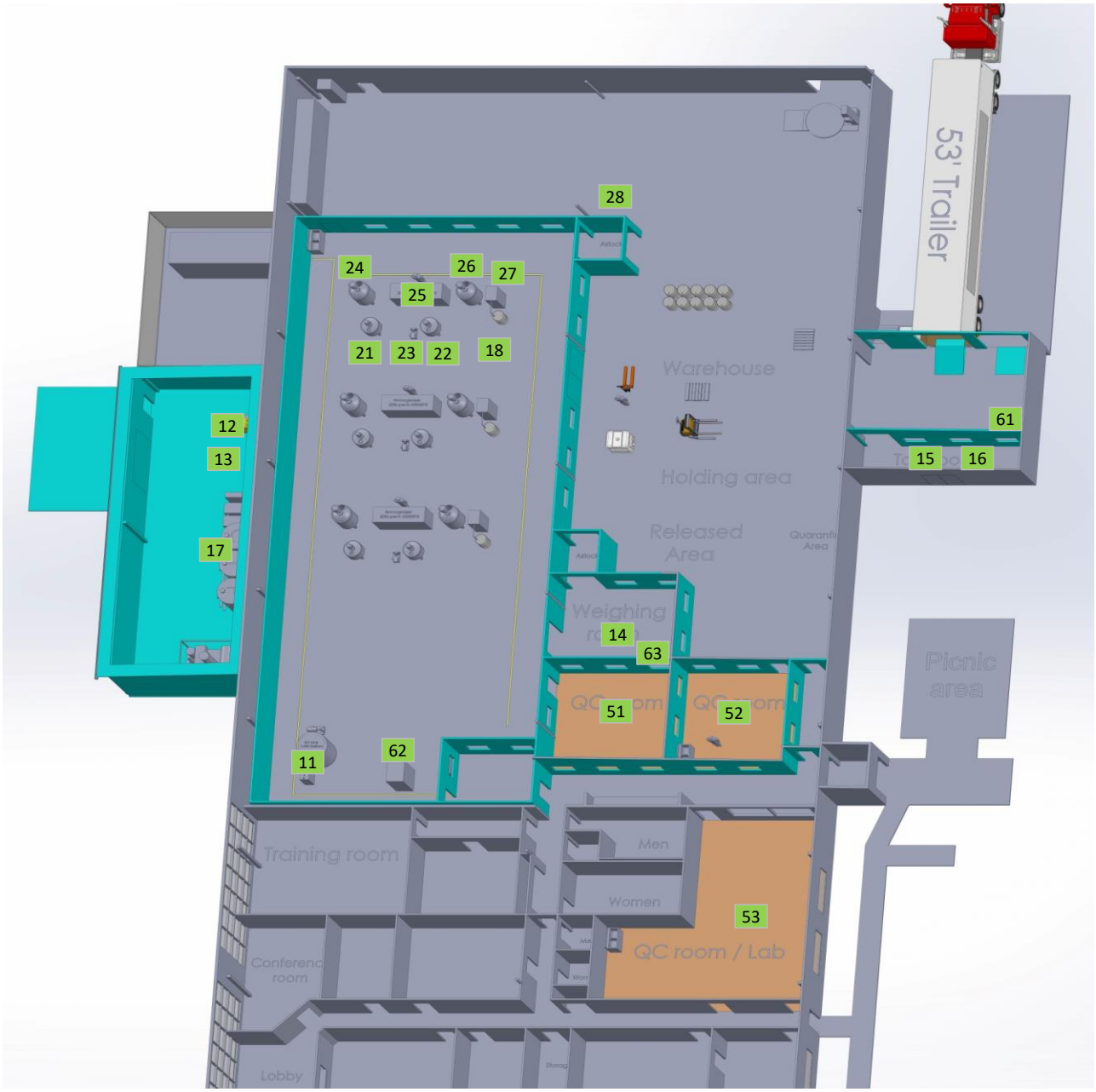
8/6/2024 2:43:03 PM

Requirements to operate

			Electric				Compressed air (0.5 MPa) oil free medical grade	Steam		Filtered tap water	RO water	Drainage	Heat load	
			Voltage	Phase	Ampere	Watts	Air flow	Pressure	Flow	Flow	Flow	Flow	BTU	
General	11	RO water system FSJ41X-0.5XB-2	220	1		10,000	0.2 m3/min	0	0	0	0	yes	0	
	12	Air Compressor, KAESER AS30	230	3	for 20HP motor		-----	0	0	0	0	yes	-----	Outside
	13	Air Dryer, KAESER KAD165	120	1	15		-----	0	0	0	0	yes	-----	Outside
	14	Exhaust hood (2130 CFM) 3 HP	230	3	20		0	0	0	0	0	0	0	
	15	Tool room equipment	230	3	50		0.1 m3/min	0	0	0	0	0	0	
	16	Tool room equipment	120	1	20 x 3		0	0	0	0	0	0	0	
	17	CIP system	220	3		15,000		0	0	0	yes	yes	-----	Outside
	18	Portable steam generater (GVC-36000-480)	220	3		30,000								
Sweetener line 1 [L/h]	21	Mixing tank, w/electric heat 1 (100 gal or 400 L)	380	3		13,100	0	0	0	0	yes		?	
	22	Mixing tank, w/electric heat 2 (100 gal or 400 L)	380	3		13,100	0	0	0	0	0		?	
	23	Pump ?	220	3	20		0	0	0	0	0	0	0	
	24	High shear Mixing tank, w/electric heat (200 gal or 800 L)	460	3		50,000	0	0	0	0	yes		?	
	25	High pressure homogenizer, Debee 4000-20	380	3	150		0.1 m3/min	0	0	0	0	?	?	for 50 HP
	26	Mixing tank, w/electric heat (200 gal or 800 L)	460	3		50,000	0	0	0	0	0		?	
	27	Measuring system or pump ?	220	1	20		0.1 m3/min	0	0	0	0		0	
		Mixing tank, w/electric heat 1 (100 gal or 400 L)	380	3	0	13,100	0	0	0	0	yes	0	?	
		Mixing tank, w/electric heat 2 (100 gal or 400 L)	380	3	0	13,100	0	0	0	0	0	0	?	
		Pump ?	220	3	20	0	0	0	0	0	0	0	0	
		High shear Mixing tank, w/electric heat (200 gal or 800 L)	460	3	0	50,000	0	0	0	0	yes	0	?	
		High pressure homogenizer, Debee 4000-20	380	3	150	0	0.1 m3/min	0	0	0	0	?	?	
		Mixing tank, w/electric heat (200 gal or 800 L)	460	3	0	50,000	0	0	0	0	0	0	?	
		Measuring system or pump ?	220	1	20	0	0.1 m3/min	0	0	0	0	0	0	
		Mixing tank, w/electric heat 1 (100 gal or 400 L)	380	3	0	13,100	0	0	0	0	yes	0	?	
		Mixing tank, w/electric heat 2 (100 gal or 400 L)	380	3	0	13,100	0	0	0	0	0	0	?	
		Pump ?	220	3	20	0	0	0	0	0	0	0	0	
		High shear Mixing tank, w/electric heat (200 gal or 800 L)	460	3	0	50,000	0	0	0	0	yes	0	?	
		High pressure homogenizer, Debee 4000-20	380	3	150	0	0.1 m3/min	0	0	0	0	?	?	
		Mixing tank, w/electric heat (200 gal or 800 L)	460	3	0	50,000	0	0	0	0	0	0	?	
		Measuring system or pump ?	220	1	20	0	0.1 m3/min	0	0	0	0	0	0	
	28	Portable container washer	208	1	20		0	0	0	0	yes	yes	?	
QC equipment	51	?	120	1	20 x 5		0.1 m3/min	0	0	0	0	0	0	
	52	?	120	1	20 x 5		0.1 m3/min	0	0	0	0	0	0	
	53	?	120	1	20 x 10		0.1 m3/min	0	0	0	0	0	0	

Etc.	61	Charging station for small lift truck	120	1	20		0	0	0	0	0	0	0
	62	Wash machine for small container	120	1	20		0	0	0	0	0	yes	?
	63	Measuring equipment	120	1	20		0	0	0	0	0	0	0

Location

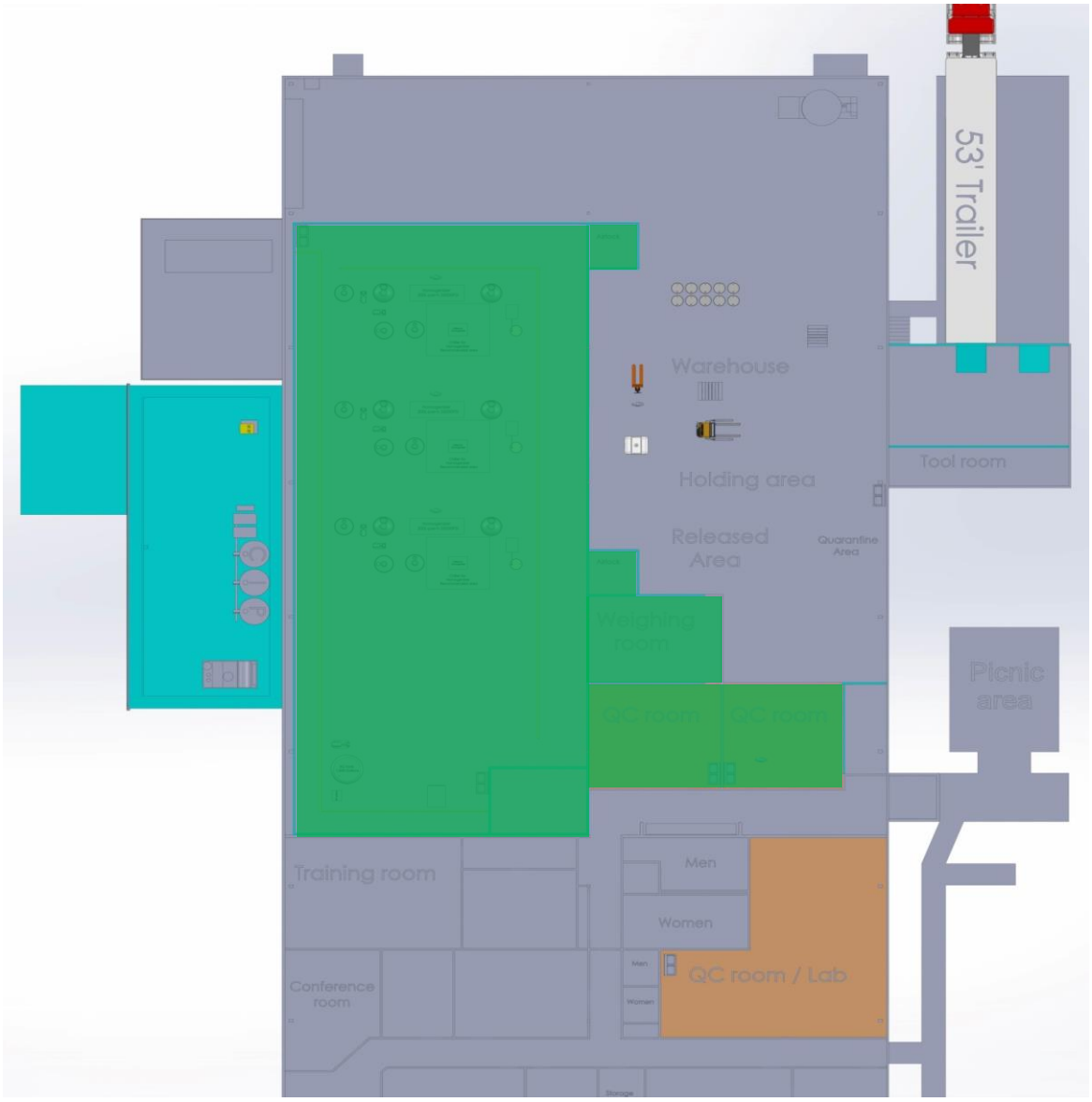

53' Trailer
28
24
26
27
25
21
23
22
18
12
13
17
Warehouse
Holding area
Released Area
61
15
16
Weighing
14
63
51
52
62
11
Picnic area
Training room
Men
Women
53
QC room / Lab
Conferenc room
Lobby

Cleanroom, positive pressure

: GMP ready room, **positive pressure** Temperature control

: Regular atmosphere air, white wall, smooth flooring, and smooth sealing. It must looks like laboratory.

: Rest of the building, Only temperature control



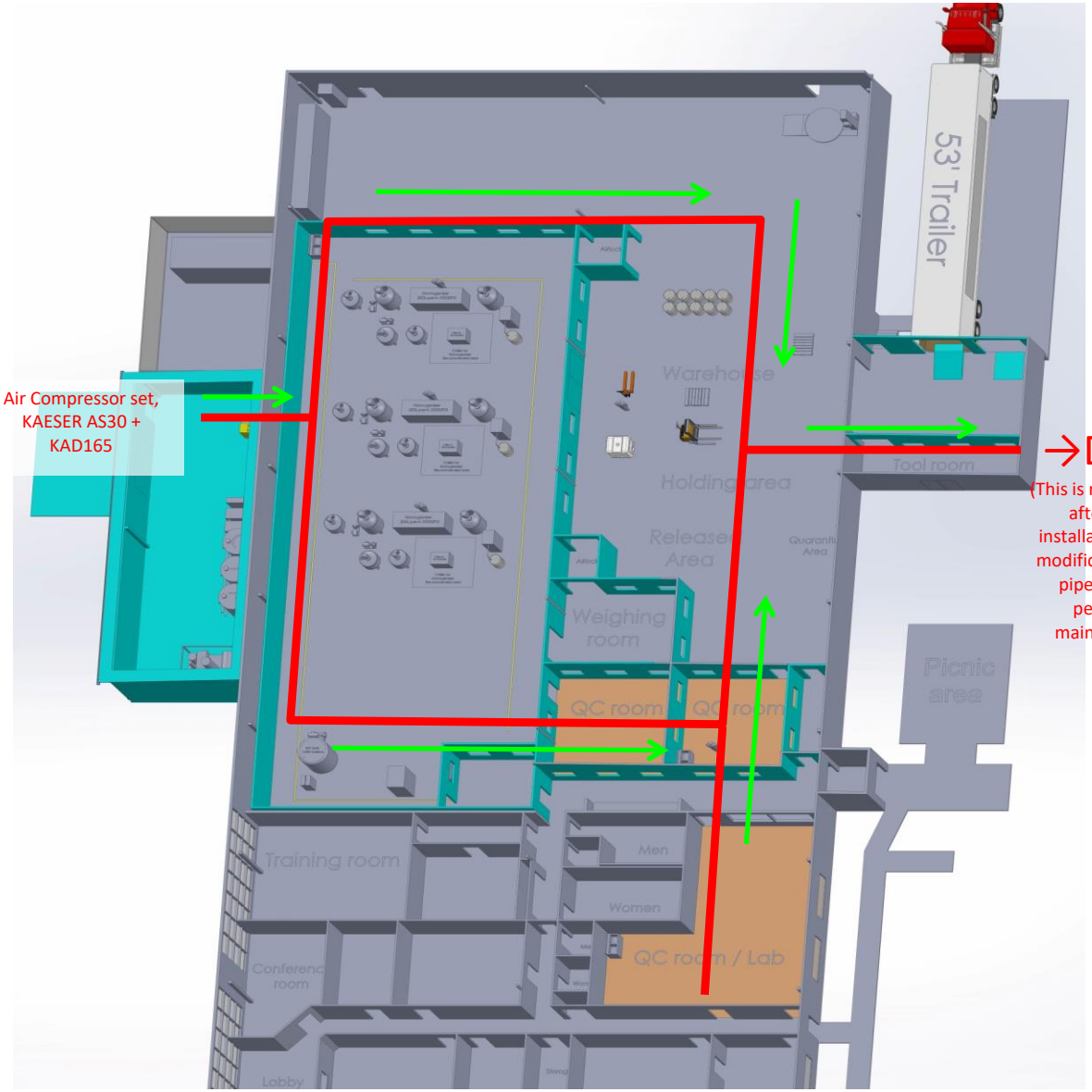
Pneumatic Pipe

Compressed air (0.5 MPa), oil free **medical grade**, KAESER AS30 + KAD165. Lead time : 10 weeks

cfm required: #REF!

Hanging air pipe from roof. (between roof and ceiling at cleanroom)

: Pipe slope/pitch direction (not the air flow)

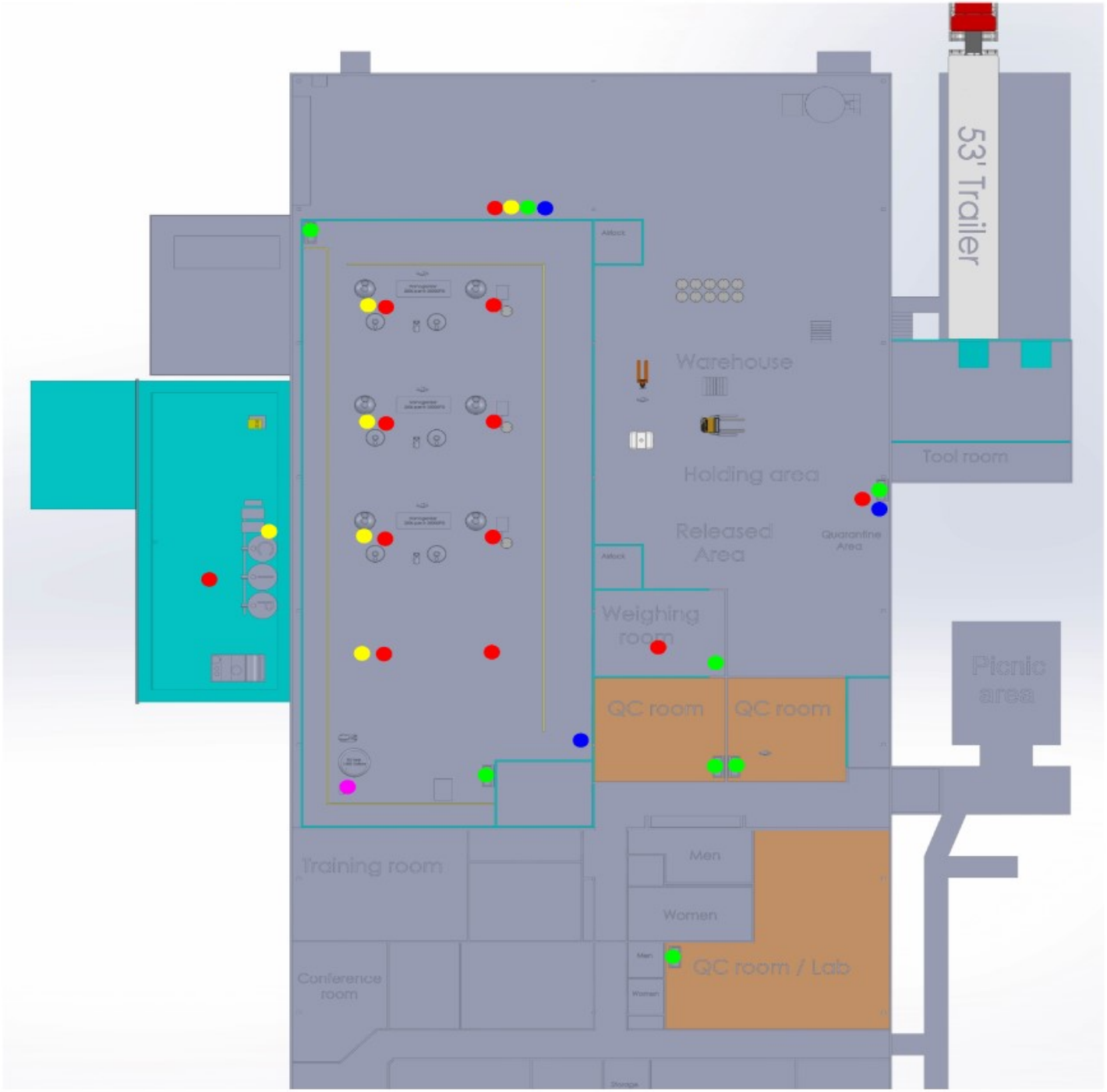


SK20 – 88cfm – KAD90 Average Purge 13 – Available 75 cfm
AS20 – 99cfm – KAD115 Average Purge 16.6 – Available 82.4 cfm
AS30 – 141.3fm – KAD165 Average Purge 23.8 – Available 117.2 cfm

75 cfm =	2.123763 m3/min
82.4 cfm	2.333308 m3/min

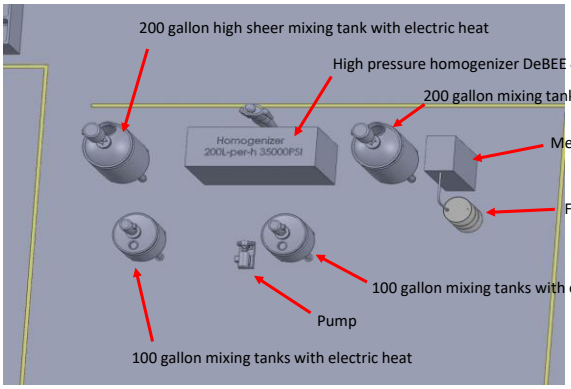
Plumbing

- Red dot (12) : Floor drain
- Green dots (8) : Filtered tap water supply + sink drain
- Blue dots (3) : eye wash and/or chemical shower (filtered tap water)
- Magenta dot (1) : filtered tap water supply drops for RO water
- Yellow dots (6) : RO water supply drops



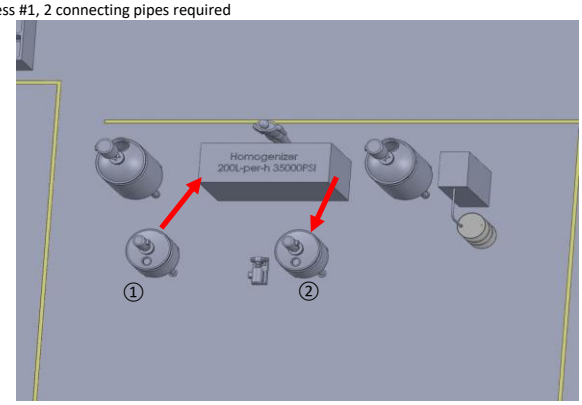
Connecting pipes and pumps requirement (Concept)

Over view



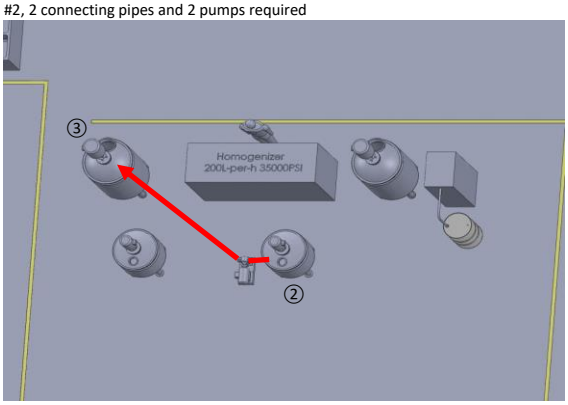
DeBEE 4000-20-290: 20,000psi, 290 L/h	$250k and up
DeBEE 4000-20-450: 20,000psi, 450 L/h	$250k and up

Process #1, 2 connecting pipes required



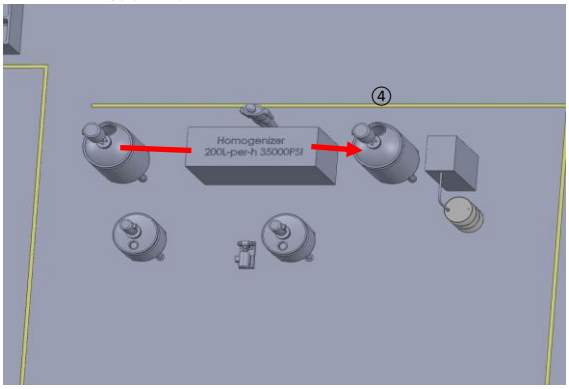
Acid, Stevia → Water (100) – 81 ℃ ----- ①
↓
High Pressure Homogenizer 3 times
↓
②

Process #2, 2 connecting pipes and 2 pumps required



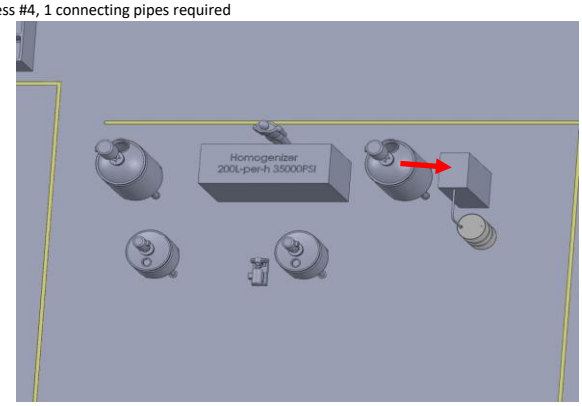
PS → Water (100) – 81℃
↓
High Sheer Mixer 20 mi
↓
Add Oil
↓
High Sheer Mixer 10 min
↓
② → ③
↓
High Sheer Mixer 5 min
↓
Add HA (with water)
↓
High Sheer Mixer 5 min

Process #3, 2 connecting pipes required



High Pressure Homogenizer 3 times
↓
④

Process #4, 1 connecting pipes required



Additional

Connection to High pressure homogenizer must be easy to switch between process #1 and #3.
If TG machine can provide "Measuring unit or pump", it should be easier.
The type of the finish goods container must be desided.

DeBEE 4000

FAN CFM CALCULATOR & CHART
https://www.industrialfansdirect.com/pages/exhaust-fan-cfm-calculator-chart

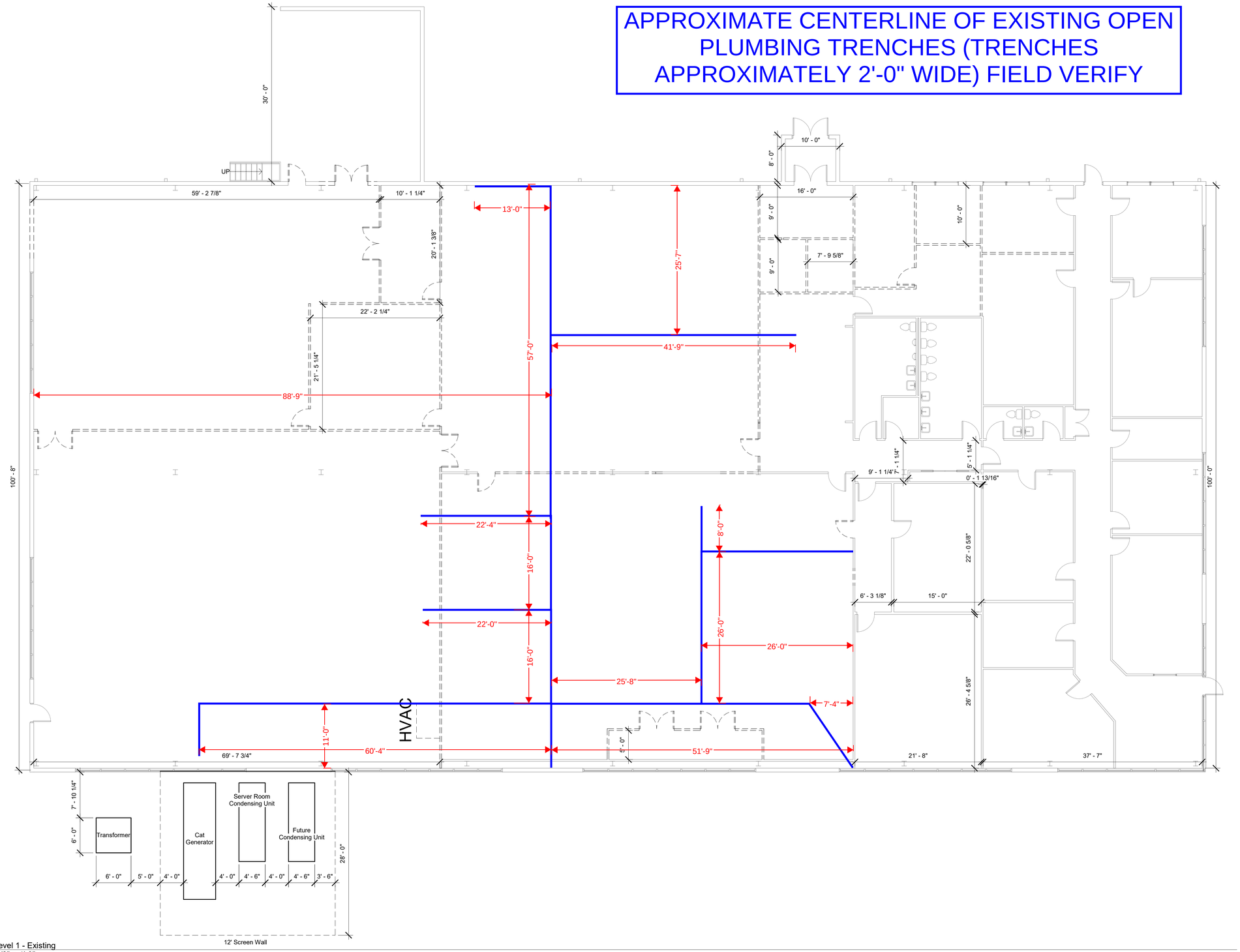
16 x 22 x 11 ft
Frequency of Desired Air Exchange (in minutes) = 2 (reference, Bakeries)
2130 CFM

AaquaSteam – Portable High Pressure Steam Generator
https://aaquatools.com/product/reimers-electric-steam-boiler/

CIP Clean system : 2set 500L holding tank 1set heating exchange 7.5KW from TG Machine

200 gal = 760 liter

15000 W



1 Level 1 - Existing
1/8" = 1'-0"

BLAIR CONSTRUCTION
www.blairbuildsbetter.com

Office: (434) 656-6243
Fax: (434) 656-3290

Consultant
Address
Address
Phone
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Consultant
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Fax
e-mail

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No.	Description	Date

ENG BIO

Danville, Virginia

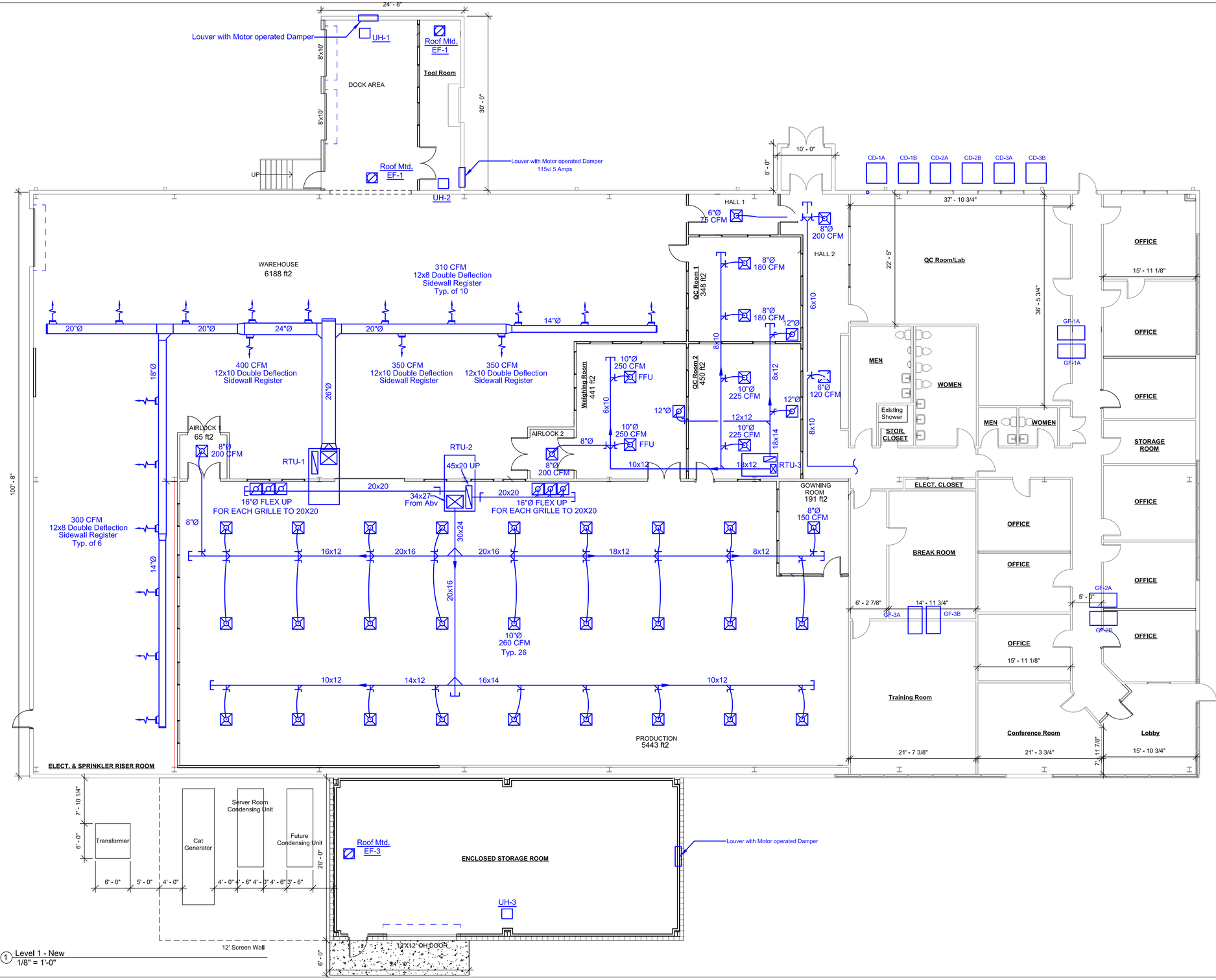
Demolition Floor Plan

Project number	Project Number
Date	12/09/2022
Drawn by	ECS
Checked by	BS

A101

Scale 1/8" = 1'-0"

12/9/2022 8:28:34 AM



1 Level 1 - New
1/8" = 1'-0"

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No.	Description	Date

ENG BIO

Danville, Virginia

New Floor Plan

Project number	Project Number
Date	8/6/24
Drawn by	JLV
Checked by	
Scale	1/8" = 1'-0"

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Resolution to approve a Facility Lease Agreement between the Industrial Development Authority, Danville, Virginia and eBIO Nutritional Sciences, LLC.

Request to approve a Facility Lease Agreement between the Industrial Development Authority Danville, Virginia and eBIO Nutritional Sciences, LLC, for the property located 120 Cane Creek Boulevard, Danville, Virginia located in the Airside Industrial Park.

ATTACHMENTS

1. 2024-10-08 Revised_RES Facility Lease Agreement IDA and EBIO Item

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE FACILTY LEASE AGREEMENT BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA ("LANDLORD"), AND eBIO NUTRITIONAL SCIENCES, LLC, A DELAWARE CORPORATION.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia (IDA), that it hereby approves and authorizes a facility lease agreement between the Industrial Development Authority of Danville, Virginia and eBIO Nutritional Sciences, LLC, , a Delaware Corporation; and

BE IT FINALLY RESOLVED, by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence any Officer, to execute the new Lease Agreement and any other documents necessary to complete the transaction described in this resolution.

APPROVED:

_____
Chairman

ATTEST:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Corrie Bobe, Director of Economic Development and Tourism

RE: A resolution of the Industrial Development Authority of Danville, Virginia approving and authorizing a lease agreement between the Industrial Development Authority of Danville, Virginia and Overfinch North America Inc. for the property identified as 500 Stinson Drive.

Overfinch North America Inc. has requested to renew its lease for 500 Stinson Drive with the IDA for another three-year term. The structure of this lease is based off of two existing loans on this property (acquisition and unfit loans), along with the repayment of the down payment made by the IDA at the time of purchase.

ATTACHMENTS

1. 1625_RES_Lease Renewal_Overfinch Item 6 TGM Final
2. 2024 LEASE RENEWAL - 500 Stinson Drive_Item 6 TGM Final

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2024 - ___.___

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING A LEASE AGREEMENT BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA AND OVERFINCH NORTH AMERICA INC. FOR THE PROPERTY IDENTIFIED AS 500 STINSON DRIVE.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia (IDA), that it hereby approves and authorizes a Lease Agreement between the Industrial Development Authority of Danville, Virginia and Overfinch North America Inc., substantially in the form attached hereto; and

BE IT FURTHER RESOLVED, by the IDA that it hereby approves and authorizes a lease term of Three (3) year at a lease rate of Twelve Thousand Five Hundred Eighty-Seven Dollars and Eighty Cents ($12,587.80) per month; and

BE IT FINALLY RESOLVED, by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence any Officer, to execute the new Lease Agreement and any other documents necessary to complete the transaction described in this resolution.

Approved:

_____
Chairman

Attest:

_____
Secretary

Approved as to Form
and Legal Sufficiency:

_____

City Attorney

EXECUTION VERSION

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), is made this _____ day of October, 2024, by and between **THE INDUSTRIAL AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("Landlord"); and **OVERFINCH NORTH AMERICA INC.,** a Virginia corporation ("Tenant").

W I T N E S S E T H

NOW THEREFORE, for and in consideration of the mutual promises and the mutual covenants, conditions and undertakings of the parties hereto, the parties agree as follows:

Section 1 - Lease. Landlord does hereby lease and demise unto the Tenant, and the Tenant does hereby hire and take from Landlord, certain real property located at 500 Stinson Drive in the City of Danville, Virginia, as more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference ("Demised Premises").

Section 2 - Term.

2.1 This Lease shall be for an initial term of three (3) years beginning on the 1st day of November, 2024 and ending on the 31st day of October, 2027 at 11:59 P.M., unless earlier terminated as provided for herein.

2.2 Tenant shall have the option to renew this Lease for periods of three (3) years each upon Tenant providing at least six (6) months prior written notice of the exercise of such option to renew to Landlord.

2.3 Tenant shall have the right to terminate this Lease at any time by providing at least six (6) months prior written notice thereof to the Landlord in the event the Tenant wishes to relocate to another facility in the City of Danville, Virginia.

2.4 The initial term and any renewal term, if any, of this Lease shall be collectively referred to herein as the "Term".

Section 3 - Rent and Security Deposit.

3.1 Beginning at the commencement of this Lease and for years one through three of this Lease, Tenant shall pay annual rent in the amount of Fifty-Eight Thousand Six Hundred Fifty Three and 24/100 Dollars ($58,653.24) in equal (monthly) installments of Four Thousand Eight Hundred Eighty Seven and 77/100 Dollars ($4,887.77) each ("Monthly Base Rent"), the amortized amount of the down payment made by the Landlord to purchase the Demised premises that equals Twenty Three Thousand Seven Hundred Ninety Six and 00/100 Dollars ($23,796.00) in equal (monthly) installments of One Thousand Nine Hundred Eighty Three and 00/100 Dollars ($1,983.00) each ("Down Payment Rent"), and additional annual rent (as amortization of the up-fit of the Demised Premises) in an amount equal to Six-Eight Thousand Seven Hundred Seventeen and 03/100 Dollars ($68,604.36) in equal (monthly) installments of Five Thousand

Seven Hundred Seventeen and 03/100 Dollars ($5,717.03) (“Additional Rent”) until such time as the costs of the up-fit of the Demised Premises are amortized in full (up to a maximum of $473,813.00 in up-fit costs). In the event of any renewal of this Lease, Tenant shall pay (i) Monthly Base Rent equal to the monthly payment required to be paid to Lender (as defined hereafter) by the Landlord under the Loan (as defined hereafter) plus amortization of the down payment made by the Landlord to purchase the Demised Premises, and (ii) Additional Rent equal to the monthly payment required to be paid to Lender (as defined hereafter) by the Landlord under the Loan (as defined hereafter) until such time as the costs of the up-fit of the Demised Premises are amortized in full (up to a maximum of $473,813.00 in up-fit costs). Tenant acknowledges that its rental payments are tied to mortgage payments under the Loan and that the interest under the Loan may adjust at the end of the fifth year of the Lease which would result in the change in Tenant’s Monthly Base Rent or Additional Rent if the Lease is renewed. Landlord will provide at least thirty (30) days advance written notice of any change in Monthly Base Rent due hereunder. Rent shall be payable in advance on the first (1st) day of each calendar month during the Term. Rent for any period of less than one month shall be apportioned based on the number of days in that month. Any references to rent, Monthly Base Rent, Down Payment Rent, and Additional Rent herein shall be referred to collectively as “Rent”.

The Tenant will pay the Rent to the Landlord at its address set forth below or to such other person or at such other place as the Landlord may designate in writing.

Rent is due and payable on the first (1st) day of each month and is late if not paid by the fifth (5th) day of such month. If Tenant shall fail to pay to the Landlord any installment of Rent within five (5) days following the due date, Tenant shall pay to the Landlord a late payment fee equal to 5% of the amount due plus interest on such late payment from the due date thereof to the date of receipt of payment by the Landlord at the rate of ten percent (10%) per annum.

Should Tenant remain in possession of the Demised Premises after expiration or earlier termination of this Lease, it shall be a tenant from month to month on the same conditions, except that the Monthly Base Rent to be paid shall be 1.5 times the Monthly Base Rent paid on the last full month of this Lease prior to termination.

3.2 Tenant has already deposited with Landlord the sum of Seven Thousand Two Hundred and 00/100 Dollars ($7,200.00) as a security ("Security Deposit") for Tenant’s obligations hereunder. In the event of a breach of this Lease which results in the termination of this Lease, Tenant shall forfeit all rights to the Security Deposit, in addition to all other remedies of Landlord. Tenant agrees and covenants that the Demised Premises will be surrendered at the time and date specified above in good condition and without damage, ordinary wear and tear excepted. If in Landlord's reasonable determination, there is damage to the building, equipment, parking areas or any other facilities of Landlord, the Landlord shall be entitled to apply the Security Deposit toward such damage, but shall not be limited to such Security Deposit should damage exceed that amount. The refund or return of all or any part of Tenant's Security Deposit shall not constitute a waiver of any right hereunder or preclude Landlord from exercising any remedies available to it at law or in equity.

3.3 The Tenant shall pay to or on behalf of the Landlord, at Landlord’s direction, all ad valorem property taxes. Landlord agrees Tenant shall not be responsible for any unreasonable

charges or fees or charges or fees caused by Landlord's negligence, fault, omission or willful misconduct.

3.4. Tenant acknowledges that Landlord has borrowed money from Atlantic Union Bank (the "Lender") to purchase the Demised Premises at the request of Tenant and enter into this Lease as an accommodation to Tenant to induce Tenant to locate its economic development project in Danville, Virginia. The loan ("Loan") is in the original principal amount of $1,117,673.23. Tenant shall have no direct liability to Lender (or the Guarantor) or any responsibility for the Loan except as is expressly set forth herein.

Section 4 – Use. Tenant may use the Demised Premises for the after market enhancement and conversion of the interior and exterior of Range Rovers and related purposes. This will include, but not be limited to, the fabrication of items and application of such items or items purchased for such use to vehicles pursuant to Tenant's ongoing business. Subtenant, as hereinafter defined, may use the Subleased Space, as hereinafter defined, for its current operations in the aeronautics industry and related purposes. No other use of the Demised Premises shall be permitted without Landlord's express written permission.

Section 5 - Condition of Demised Premises. The current condition of the Demised Premises is as set forth on Exhibit B attached hereto and made a part hereof. Tenant has inspected and accepts the Demised Premises "AS IS" and "WITH ALL FAULTS". Tenant acknowledges (i) that Landlord has not made and does not hereby make any representations regarding the physical condition of the Demised Premises; and (ii) that there are no warranties, either expressed or implied regarding the condition of the Demised Premises. Any such warranties which may exist are hereby expressly released and waived.

Section 6 - Improvements. It is understood and agreed that Tenant shall have the right at its cost from time to time during its tenancy hereunder to make such alterations, additions or improvements to the Demised Premises with Landlord's written consent. All such construction shall be done in a good and workmanlike manner using first class building materials in accordance with the applicable building laws, rules and regulations of governmental authorities having jurisdiction thereof. Tenant shall be under no obligation to restore or remove any such changes at the expiration hereof, all permanent improvements so constructed by Tenant shall belong to the Landlord and shall become part of the Demised Premises free of any liens placed thereon by Tenant.

Section 7 - Maintenance and Utilities.

7.1 Landlord shall have no obligation to maintain or to provide utilities at the Demised Premises. Tenant shall obtain and be liable for all utilities necessary or desired to serve the Demised Premises, including but not limited to, electric, water, sewer, and trash disposal. Tenant agrees to abide by all laws, rules, and regulations established by any governmental entity with regard to waste disposal. Neither Tenant nor its agents or invitees shall permit any environmentally adverse condition to occur upon the Demised Premises, and shall not dispose of litter, rubbish, waste or any other substance upon or adjacent to the Demised Premises. Should Tenant violate such prohibition, in addition to and not in lieu of, other remedies available at law or in equity, Landlord shall be entitled to terminate this Lease and

recover the cost of clean up as well as any diminution in value of the Demised Premises and the Property and all other charges. Failure of Tenant to pay for any utilities for the Demised Premises shall be deemed a default under the terms of this Lease. Tenant shall be solely responsible for all maintenance and repairs of any heating and air conditioning system serving the Demised Premises, including but not limited to, changing the filters as required by the manufacturer of the HVAC system, but in no event less than four (4) times each year.

7.2 Tenant shall promptly repair, at Tenant's sole expense, any damage done to the Demised Premises arising from Tenant's use or occupancy thereof, or any action or inaction of Tenant's agents, employees, or invitees. All repairs done by or on behalf of Tenant shall be done by a qualified and licensed contractor, plumber, or electrician approved in advance by Landlord. Tenant shall keep the Demised Premises free and clear from all mechanics or materialmen's liens. All repairs, restorations, alterations, additions or payments which are obligations of Tenant hereunder shall be completed or made within reasonable time; should Tenant neglect or refuse to make such repairs, restorations, alterations, additions or payments after notice, Landlord may, but shall not be required to, make such repairs, restorations, alterations, additions or payments and charge the cost thereof to Tenant.

7.3 Tenant, its agents, employees, licensees, and invitees shall not cause accumulation of any debris or extraneous matter on the roof of the Demised Premises, shall not in any manner cut or drive nails into or otherwise mutilate the roof of the Demised Premises. Tenant shall be responsible for any damage caused to the roof by any acts of Tenant, its agents, servants, employees or contractors of any type or nature.

7.4 Tenant shall keep and maintain the (a) foundation, (b) exterior walls, (c) roof (including gutters and downspouts and the reasonable and periodic removal of debris there from) of the building in which the Demised Premises are located and the structural portions of the Demised Premises, inclusive of doors, door frames, door checks, windows, including plate glass windows, and window frames located in exterior building walls, in good repair. Landlord shall not be called upon to make any improvements or repairs of any kind upon the Demised Premises and appurtenances. Tenant shall keep the Demised Premises reasonably clean from debris, and Tenant shall, as soon as reasonably practicable, cause the reasonable removal of snow and ice from the parking areas and sidewalks of the Demised Premises.

Section 8 - Inspections. Landlord has the right to enter the Demised Premises periodically, at any reasonable time, with reasonable advance notice, to inspect the Demised Premises.

Section 9 - Fixtures. It is understood and agreed that Tenant shall have the right at its cost from time to time during its tenancy hereunder to make such alterations, additions or improvements to its Demised Premises provided, however, Landlord shall have provided its prior written consent hereto, which shall not be unreasonably withheld or delayed. All such construction shall be done in a good and workmanlike manner using first class building materials in accordance with the applicable building laws, rules and regulations of governmental authorities having jurisdiction thereof. Tenant may remove all or any part of any wall in order to enlarge its premises, however, Tenant shall reimburse Landlord for any excess real estate taxes resulting therefrom. Tenant shall be under no obligation to restore or remove any such changes

at the expiration hereof, all permanent improvements so constructed by Tenant and all fixtures shall belong to the Landlord and shall become part of the Demised Premises free of any liens placed thereon by Tenant.

Section 10 – Tenant's Options.

10.1 Prohibition on Sale. During the Term of this Lease, Landlord shall not sell, transfer, donate, assign or otherwise convey the Demised Premises or sign any agreement to sell, transfer, donate, assign or otherwise convey the Demised Premises, except to Tenant pursuant to Sections 10.2, 10.3 and 10.4 below.

10.2 Option to Purchase. The Tenant shall, at any time whatsoever during the Term, have the right and option (the "Option") to purchase the Demised Premises for (i) the principal balance, accrued interest, fees, costs, but not penalties unless caused by Tenant, owed to the Lender for the Loan as of the date of closing plus the down payment of $317,676.23 less earned amortization at the same interest rate as that charged to the Loan. In addition, Tenant shall be liable for and promptly pay any and all costs or fees associated with the sale typically paid by purchaser. In order to exercise its Option to purchase, Tenant must be current, and remain current, on all amounts owed Landlord under this Lease, including Additional Rent. Landlord covenants and agrees not to refinance the Loan so as to increase the principal balance or delay the amortization and payment of the Loan.

At the end of the Term, Tenant may purchase the Demised Premises for Ten Dollars ($10.00), plus any outstanding principal, interest, fees, costs, but not penalties unless caused by Tenant, owed to the Lender, and any and all costs or fees associated with the sale typically paid by purchaser.

If Tenant notifies Landlord of its exercise of its Option to purchase the Demised Premises, the parties shall enter into a contract of purchase and sale forthwith. Such contract shall be acceptable in form and substance to both parties and shall provide, among other things, for prorating taxes to the date of closing and conveyance to Tenant free and clear of all easements, restrictions and encumbrances by Special Warranty Deed, with English Covenants of Title, property executed and in form for recording.

10.3 Notice to Purchase. Notice of the exercise of the Option to purchase the Demised Premises from Landlord must be given by Tenant to Landlord at least ninety (90) days prior to any proposed closing date, unless otherwise agreed to by the parties in writing.

10.4 Upon request by Tenant, Landlord shall execute and deliver a Memorandum of Lease With an Option to Purchase in recordable form and record same in the Clerk's Office, Circuit Court of the City of Danville, Virginia. The parties will pay their own legal fees in connection with preparing such document and the recording costs will be paid by Tenant.

Section 11 - Destruction of Premises. If the Demised Premises shall be damaged by fire, casualty or other cause other than willful misconduct or the negligent (both simple and gross) or intentional acts of Tenant, they shall be restored by Landlord and, until restored, there shall be an abatement or a proportionate reduction of the Rent. If the Demised Premises shall be

condemned by lawful authority as unsafe or unfit for use, or if the Demised Premises shall become partially or wholly destroyed by fire or other causes, so as to render the Demised Premises untenantable for a period in excess of sixty (60) days, either party shall have the right to terminate this Lease upon providing written notice to the other party, provided, however, that if Landlord commences restoration of the Demised Premises within thirty (30) days of the date on which the Demised Premises were rendered untenantable, Landlord shall give notice of such fact to Tenant and Tenant shall have fifteen (15) days after receipt thereof shall be required to take a new Lease thereon commencing upon the completion of such restoration for a term equal to the balance of the term remaining under the Lease at the time the Demised Premises become untenantable. All other conditions of such Lease, including renewal terms, shall be the same as are contained in this Lease. Any Rent paid in advance shall be refunded.

Section 12 - Indemnification.

12.1 Landlord shall not be liable for any damage to or occurring upon the Demised Premises caused by fire or other hazard regardless of the cause thereof and Tenant does hereby expressly release Landlord of and from all liability for such damages. Tenant shall protect its personal property, and if Tenant chooses, to insure such property,

12.2 Tenant agrees to indemnify and hold harmless Landlord, its successors and assigns from and against damage to Landlord, the Demised Premises, and to Landlord's successors, and assigns, from and against all liabilities, losses, damages and expenses, including court costs and reasonable attorney's fees incurred or suffered by Landlord as a result of the failure of the Tenant, its agents or employees, to perform any covenant hereunder, or for any accident, injury or damage to person or property occurring on or in the Demised Premises or its appurtenances, parking or other common areas, or resulting from Tenant's use or occupancy of the Demised Premises.

12.3 Tenant agrees to obtain, pay for and maintain throughout the term of this Lease and any renewal thereof a policy of public liability insurance, naming the Landlord, and the Tenant as the assured parties, in a company licensed to do business in Virginia, and in a form satisfactory to Landlord, with coverage of not less than $1,000,000 for one person and $3,000,000 for one accident and property damage in the amount of $1,000,000 for each accident, and to deposit evidence thereof with the Landlord.

12.4 Tenant shall obtain at Tenant's expense, a policy or policies of insurance for the mutual benefit of Landlord and Tenant, with Lender included as a loss payee or as an additional insured party as may be required by Lender, against loss or damage to the Demised Premises in the amount of the full replacement cost thereof, against any perils included within the classifications of fire, vandalism, explosion, malicious mischief, special extended perils ("all risk") and any risk covered by the so-called Extended Coverage Endorsement (including leasehold improvements). Tenant shall pay such insurance at least thirty (30) days prior to the due date thereof and shall give notice to the Landlord and Lender within ten (10) days of payment by the Tenant. In the event of any claim, the proceeds of such claim shall go to restore the Demised Premises or to repayment of the Loan in the Lender's sole discretion.

12.5 Tenant shall procure and maintain on behalf of Landlord and Lender business interruption insurance in an amount sufficient to pay the principal, interest, costs, fees but not penalties unless caused by Tenant associated with the Loan as and when such becomes due and payable.

12.6 Tenant shall upon demand procure any and all other insurance required by Landlord or Lender at anytime during the term of the Loan with insurance companies acceptable to both Lender and Landlord. In addition, in the event Lender requires an increase in the amount of any coverage required hereunder, Tenant shall immediately procure such additional coverage. All costs and premiums associated with such additional coverage or increased coverage shall be borne by Tenant.

12.7 Insurance required hereunder shall be in companies duly licensed to transact business in the Commonwealth of Virginia, and maintaining during the policy term a "General Policyholders Rating" of at least A, V, as set forth in the most current issues of "Best's Insurance Guide" or if procured by the Landlord may be through the Virginia Municipal League. Tenant shall authorize any and all insurance companies to speak directly with either the Landlord or Lender anytime. The parties hereto shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Section. The insuring party shall cause to be delivered to the other certified copies of or certificates evidencing the existence and amounts of, the insurance, and with the additional insureds, required under this Section. No such policy shall be cancelable or subject to modification except after thirty (30) days prior written notice to the Landlord and Lender.

In the event Tenant shall fail to obtain any insurance policy required hereunder, Landlord shall have the right to procure such coverage, and Tenant shall immediately pay the cost thereof to Landlord, with interest thereon at a rate of ten percent (10%) per annum, upon demand by Landlord.

Section 13 - Condemnation. In the event the Demised Premises are taken in condemnation proceedings, the parties agree that any award or other sum payable in respect of condemnation proceedings shall belong exclusively to Landlord, other than any amount paid in respect of improvements or fixtures upon the Demised Premises which shall belong to Tenant.

Section 14 - Peaceful Possession.

14.1 Landlord covenants that it has lawful fee simple absolute title to the Demised Premises and the right to make this Lease for the Term aforesaid and upon the conditions herein set forth.

14.2 Tenant shall be allowed to use common areas such as parking areas and sidewalks for itself, its employees, agents, invitees and customers. Landlord reserves the right to, at any time, designate certain parking areas as reserved for certain tenants of the building. Tenant shall not park or allow its customers to park in areas designated as reserved and shall not otherwise obstruct, block, or interfere in any manner whatsoever with the common areas.

Section 15 - Assignment and Subletting. Tenant may not sublet or assign the Demised Premises, in whole or in part, without Landlord's prior consent, such consent not to be unreasonably withheld or delayed. In no event shall any subletting or assignment relieve Tenant of its responsibilities hereunder. NextGen Aeronautics, Inc., a California corporation (the "Subtenant") currently occupies approximately 3,228 square feet of space in the Demised Premises as is depicted on Exhibit C, attached hereto (the "Subleased Space"). Upon execution of this Lease, Landlord hereby approves the Subtenant as a subtenant of Tenant. The Subtenant is currently paying rent in an amount equal to Three Thousand Five Hundred Seven and 60/100 Dollars ($3,507.60) per month, all of which shall accrue to the benefit of Tenant. Tenant has provided a copy of the Subtenant's sublease of space in the Demised Premises to Landlord and Landlord has approved same.

Section 16 - Default. It is agreed and understood that the Tenant herein shall pay the Rent in the manner set forth herein, without a demand therefore, and in the event of (i) failure of the Tenant to pay the Rent when due, (ii) in the event of any other default under the terms of this Lease, (iii) Tenant being adjudicated bankrupt or the appointment of a receiver or trustee of Tenant's property, (iv) the abandonment or vacation of the Demised Premises by Tenant, or (v) the failure of Tenant to move into the Demised Premises within thirty (30) days of the commencement of this Lease, then in such event upon thirty (30) days' notice in writing to the Tenant, the total Rent herein provided for, whether accrued or not, shall at the option of the Landlord, immediately become due and payable, and the Landlord shall have the right to enter the Demised Premises at once, by force or otherwise, and to remove any property therein without liability for damage to Tenant, and without obligation to store, such property, and without being liable to any prosecution therefore, and to distrain for rent, and also to re-rent the Demised Premises as agent for the Tenant for the unexpired portion of the Term and receive the rent and apply the same, after deduction of appropriate expenses, to the payment of the rent payable hereunder, Tenant remaining liable for any deficiency; or the Landlord may, at its option, immediately terminate this Lease, in which event Tenant shall quit and surrender the Demised Premises to the Landlord, providing that neither terminating this Lease under this clause or recovering possession of the Demised Premises shall deprive the Landlord of any other action or remedy against the Tenant for possession, for rent, or for damages. All of the Landlord's rights shall be cumulative and shall not preclude the Landlord from exercising all other right and remedies provided by law.

Section 17 - Taxes. The costs of all real estate property taxes on the Demised Premises shall be paid by Tenant.

Section 18 - Environmental. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Tenant represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Landlord, no Hazardous Substance will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Demised Premises, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Except as previously disclosed and acknowledged in writing to Landlord, Tenant has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Demised Premises or a migration of any Hazardous Substance from the Demised Premises.

C. Tenant will immediately notify Landlord, and Lender on Landlord's behalf, if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Demised Premises or migrates or threatens to migrate to or from nearby property; or (2) there is a violation of any Environmental Law concerning the Demised Premises. In such an event, Tenant will take all necessary remedial action in accordance with Environmental Law.

D. Except as previously disclosed and acknowledged in writing to Landlord, Tenant has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Demised Premises; or (2) any violation by Tenant or any sub lessee of any Environmental Law. Tenant will immediately notify Landlord, and Lender on Landlord's behalf, in writing as soon as Tenant has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Landlord has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Landlord, Tenant and every sub lessee have been, are and will remain in full compliance with any applicable Environmental Law.

F. Tenant will regularly inspect the Demised Premises, monitor the activities and operations on the Demised Premises, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

G. Tenant will permit, or cause any tenant to permit, Landlord, Lender or their agents to enter and inspect the Demised Premises and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Demised Premises; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about or migrated to the Demised

Premises; or (3) whether or not Tenant and any sub lessee are in compliance with applicable Environmental Law.

H. Upon the request of Lender and at any time, Tenant agrees, at Tenant's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Demised Premises and to submit the results of such audit to Landlord and Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

I. Landlord, or Lender, has the right, but not the obligation, to perform any of Tenant's obligations under this Section at Tenant's expense.

J. As a consequence of any breach of any representation, warranty or covenant made in this Section, Tenant will indemnify and hold Landlord and Landlord's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and reasonable attorneys' fees, which Landlord and Landlord's successors or assigns may sustain.

Section 19 - Regulations. The Tenant shall comply with all federal, state, and local laws and ordinances, and all rules, orders, directives, and regulations of any duly constituted authority affecting or respecting the Demised Premises, or the use or occupancy of same, including the business at any time thereon transacted by Tenant, or any assignee or sublessee of Tenant. In addition, Tenant shall comply with all rules and regulations, promulgated by Landlord from time to time.

Section 20 - Signs. Tenant shall have no right to place on the Demised Premises signs or other advertising devices advertising its business operation without the express written consent of Landlord, such consent not to be unreasonably withheld or delayed.

Section 21 - Notices. All notices required under this Lease shall be deemed to be properly served only if delivered in writing by certified or registered mail with return receipt requested, to Landlord at P. O. Box 3300, c/o City Attorney's Office, Danville, VA 24543 or to Tenant at 500 Stinson Drive, Danville, VA 24540, or to any subsequent address which either may designate for such purpose. Date of service of a notice shall be the date on which such notice is deposited in a post office of the United States Post Office Department.

Section 22 - Waiver.

Section 22.1 Time shall be of the essence of this Lease with regard to all provisions herein stipulating a date or number of days within which the parties are required to perform the stated act. No delay or failure of either party to exercise any right hereunder, or to insist upon the strict compliance with the terms and provisions hereof, shall constitute a waiver of any right hereunder or a waiver of the right thereafter to insist upon strict compliance with the terms and provisions thereof.

Section 22.2 - Waiver by Landlord of any default, breach or failure of Tenant under this Lease shall not be construed as a waiver of any subsequent or different default, breach or failure. In case of a breach by Tenant of any of the obligations of Tenant, Landlord nevertheless may accept from Tenant any payment or payments hereunder without in any way waiving Landlord's right to exercise the right of re-entry hereinbefore provided for by reason of any other breach or lapse which was in existence at the time such payment or payments were accepted by Landlord.

Section 23 - Security Interest and Removal of Tenant's Property. Landlord shall have a lien upon all furniture, fixtures, including, but in no way limited to installed racks, equipment, or other personal property of Tenant that is installed, located or placed on the Demised Premises to secure Landlord against any and all loss or damage it may sustain as a result of any breach of this Lease, including but not limited to, the payment of all Rent and other charges provided for under this Lease. Upon request, Tenant shall execute a Security Agreement and customary UCC-1s to evidence Landlord's lien in such personal property.

Tenant shall have a right, however, to remove any of its property, or equipment installed by Tenant, so long as Tenant is not in default of any covenant or agreement herein contained. Tenant shall repair, at its own expense, any damage to Demised Premises occasioned by such removal. It is understood that Landlord's lien shall be in addition to any and all other rights and security interests granted to Landlord by law or under this Lease. Any personal property remaining on the Demised Premises on the date on which this Lease terminates shall be deemed abandoned for all purposes and shall become the property of Landlord without the consent of Tenant. Landlord may retain or dispose of the property without liability of any type or nature to Tenant.

Section 24 - Subordination. Upon request of Landlord, Tenant shall subordinate its rights hereunder to the lien of mortgage or mortgages, or the lien resulting from any other method of financing or refinancing now or hereafter in force against the real estate and/or buildings of which the Demised Premises are a part of against any buildings hereafter placed upon real estate of which the Demised Premises are a part, provided that the holder of such mortgage or lien executes, along with Tenant, an attornment and non disturbance agreement which permits Tenant to remain in possession of the Demised Premises for the Term of this Lease so long as Tenant pays all rent and other charges due performance during the Term of all of the terms, covenants, and provisions of this Lease to be performed by Tenant. In no event after the assumption of this Lease shall any then existing default remain uncured for a period in excess of the earlier of thirty (30) days or the time period set forth herein. Adequate assurance of Tenant's performance of this Lease shall include, without limitation, (i) adequate assurance of the source of rent or payments required under all agreements referred to herein, and (ii) adequate assurance that the assumption of this Lease will not breach any provision hereunder. In the event of a filing a petition under the Bankruptcy Code by Tenant, Landlord shall have no obligation to provide Tenant with any services herein required, unless Tenant shall have paid and be current in all payments of operating costs, utilities, or other charges therefore.

Section 25 - Landlord's Remedies. In addition to and not in lieu of any other remedies or relief made available to Landlord under this Lease, at law or in equity, upon the occurrence of a default as defined in Section 16 of this Lease, irrespective of whether Landlord has terminated this Lease, Landlord may elect any one or more of the following:

(a) Non-Acceleration of Rents. Landlord may terminate Tenant's right of possession of the Demised Premises, in which event Landlord may, but shall not be obligated to, relet the Demised Premises, or any part thereof, for the account of Tenant, for such rent and term and upon such other conditions as are acceptable to Landlord. As additional rent, Tenant shall pay to Landlord all expenses of reletting the Demised Premises (including, without limitation, repairs, alterations, improvements, legal fees and brokerage commissions) upon giving Notice to Tenant. In any event, Tenant remains obligated to pay all rent and other charges due to Landlord as provided in this Lease for the balance of the Term. Credited against such rent and charges due to Landlord (including all of Landlord's expenses of reletting the Demised Premises) shall be the rents actually received by Landlord from reletting the Demised Premises. Tenant agrees that Landlord may file suit to recover any sums due Landlord under this subsection from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord.

(b) Acceleration of Rents. At any time after a default by Tenant prior to the expiration of the Term and regardless of whether Landlord has exercised Landlord's remedy described in subsection (a) above of this Section, Landlord may accelerate all payments of rents due under this Lease for the balance of the Term upon Notice to Tenant. If Landlord accelerates such rent, Tenant shall be responsible for such accelerated rent as follows:

(i) If the Demised Premises have been re-let at the time of such acceleration for all or a portion of the remaining Term, then Tenant shall pay to Landlord a sum equal to (A) the present value of the total Rent for the remainder of the Term and (B) Landlord's expenses of re-letting the Demised Premises (including, without limitation, repairs, alterations, legal fees and brokerage commissions). Credited against such sum shall be the present value of the total rent due from the new tenant of the Demised Premises during the remainder of the Term. For the purposes of this sub-subsection, present value shall be computed by discounting such amount to present value at a discount rate equal to the discount rate then in effect at the Federal Reserve Bank nearest to the location of the Demised Premises.

(ii) If the Demised Premises have not been re-let at the time of such acceleration, then Tenant shall pay to Landlord as liquidated damages an amount calculated as follows: the Rent multiplied by one half (½) of the number of months remaining in the Term of the Lease (but if the remaining number of months in the Term is less than twelve (12) months, then the number of months for such calculation shall be the lesser of six (6) and the total number of remaining months in the Term).

(c) Landlord may re-enter and repossess the Premises and remove all persons and effects therefrom, by summary proceeding, ejectment or other legal action or by using such force as may be necessary. Landlord shall have no liability by reason of any such re-entry, repossession or removal.

(d) Landlord may recover from Tenant, to the extent permitted under the laws of the state in which the Demised Premises are located, the value and/or cost of all concessions to Tenant under this Lease.

(e) Legal Remedies**.** The parties agree that the remedies provided for in this Lease in the event of default on the part of Tenant are in addition to and not in lieu of any other remedies or relief made available to Tenant under the laws of the state in which the Demised Premises are located, which latter remedies or relief shall be likewise available to Landlord in the event of a breach of any of the terms of this Lease.

Section 26 - Heirs, Successors and Assigns. The provisions of this Lease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Section 27 - Enforceability. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. The failure of Landlord to insist, in one or more instances, upon strict performance of any covenants of this Lease, shall not be construed as a waiver of the right to enforce any covenant in the future.

Section 28 - Entire Agreement. This Lease contains the entire agreement of the parties, and no representations, inducement, promise or agreement, oral or otherwise, not embodied herein, shall be of any force or effect. The Landlord and Tenant agree to furnish upon reasonable request to the other party a certification that this Lease contains the entire agreement of the parties.

Section 29 - Headings and Gender. Article and paragraph headings used in this Lease are included for the purpose of convenience only and shall not be looked to for the purpose of interpretation or construction. Personal pronouns shall include male and female, singular and plural, corporation, or individual, as may fit the particular party and the context.

Section 30 - Mechanic's Liens. All work performed by or on behalf of Tenant shall be performed in a good and workmanlike manner in conformity with all applicable laws, codes and regulations including, but not limited to, the Americans with Disabilities Act and regulations therefrom, and free from mechanics', materialmen's and/or laborers' liens.

A. If Tenant makes any alterations or improvements in the Demised Premises, Tenant must pay for same when made. Nothing in this Lease shall be construed to authorize Tenant or any person dealing with or under Tenant, to charge the Rent of the Demised Premises, or the property of which the Demised Premises form a part, or the interest of Landlord in the estate of the Demised Premises, or any person under and through whom Landlord has acquired its interest in the estate of the Demised Premises, with a mechanics' lien or encumbrance of any kind. Under no circumstances shall Tenant

be construed to be the agent, employee or representative of Landlord in the making of any such alterations or improvements to the Demised Premises.

B. In the event a mechanic's lien shall be filed against the Demised Premises or Tenant's interest therein as a result of any work undertaken by Tenant, Tenant shall, within thirty (30) days of receiving notice of such lien, discharge the same either by payment of the indebtedness due to the lien claimant or by filing a bond for the benefit of Landlord as security for such lien. The amount of the bond shall be one and one-half (1-1/2) times the amount of the claimed lien, and such bond shall be executed by a solvent insurance carrier acceptable to Landlord. In the event Tenant shall fail to discharge such lien, Landlord shall have the right to procure such discharge, and Tenant shall immediately pay the cost of discharging such lien to Landlord, with interest thereon at a rate of ten (10) percent per annum, upon demand by Landlord. Such cost of discharging the lien shall include, but not be limited to, the cost of a bond which Landlord shall procure, any amounts paid to the lien claimant and attorneys' fees.

C. Tenant agrees to indemnify and save harmless Landlord from and against all loss, claims, damages, costs or expenses suffered by Landlord by reason of any repairs, installations or improvement, made by Tenant.

Section 31 – Brokers. The parties each represent and acknowledge that there were no real estate brokers involved in this Lease transaction or the negotiations leading up to this Lease. Each of Landlord and Tenant shall indemnify and hold harmless the other from and against any loss, cost, damage or liability resulting from or arising out of any claim by any broker or agent for commission or other compensation on account of any agreement allegedly made with the indemnifying party with respect to, or services allegedly rendered to the indemnifying party as the procuring cause of this Lease, the Loan, or the transaction which they embody.

Section 32 - Force Majeure. Notwithstanding the foregoing, neither party will be liable for any delay in performance due to an "Event of Force Majeure" (as defined herein). "Event of Force Majeure" means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth of Virginia or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or cables not caused by the party in question; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the party in question.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, this Lease has been duly executed as of the day and year first above written.

LANDLORD: **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE**

By:_____

Its:_____

COMMONWEALTH OF VIRGINIA)
) to-wit
CITY OF DANVILLE)

Subscribed, sworn and acknowledged before me, a Notary Public in and for the Commonwealth of Virginia, by _____, in the capacity as _____ of **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE** this ___ day of October, 2024.

_____
Notary Public

My Commission Expires:_____

My Registration Number:_____

TENANT: **OVERFINCH NORTH AMERICA INC.**

By: _____

Its:_____

COMMONWEALTH OF VIRGINIA)

) to-wit

CITY OF DANVILLE)

Subscribed, sworn and acknowledged before me, a Notary Public in and for the Commonwealth of Virginia, by _____, in the capacity as _____ of **OVERFINCH NORTH AMERICA INC.** this ___ day of October, 2024.

_____

Notary Public

My Commission Expires:_____

My Registration Number:_____

EXHIBIT "A"

DESCRIPTION OF DEMISED PREMISES

EXHIBIT "B"

CONDITION OF DEMISED PREMISES

Photographs of interior and exterior of the Demised Premises as of the date of this Lease are attached.

EXHIBIT "C"

DRAWING OF SUBLEASED PREMISES

Industrial Development Authority

STAFF REPORT

DATE: October 8, 2024

TO: Industrial Development Authority

FROM: Samantha Bagbey, Project Manager

RE: Request approval of a Contract Addendum to add 121-127 North Union Street to the Contract between the Industrial Development Authority and Virginia Architects.

The Office of Economic Development is requesting approval of an Addendum to the contract with Virginia Architects for the architecture, engineering, and development services in an amount not to exceed $68,000.

ATTACHMENTS

1. 121-127 N Union Addendum Resolution Item 7 TGM Final
2. 121-127 N. Union Street; Danville VA Addendum proposal Item 7 TGM Final
3. 125-127 North Union Street Addendum Agreement Item 7 TGM Final

RESENTED: October 8, 2024

ADOPTED: October 8, 2024

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING ENTERING INTO A CONTRACT ADDENDUM WITH VIRGINIA ARCHITECTS IN AN AMOUNT NOT TO EXCEED $68,000 FOR THE ARCHITECTURE, ENGINEERING, AND DEVELOPMENT SERVICES OF THE PROPERTY IDENTIFIED AS 125-127 NORTH UNION STREET.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia (IDA) that it does hereby approve and authorize entering into a contract Addendum with Virginia Architecture in an amount not to exceed $68,000 for the architecture, engineering, and development services at 125-127 North Union Street in a form approved by the Chairman, the Office of Economic Development, and the City Attorney; and

BE IT FURTHER RESOLVED, the Chairman, or in his absence any Officer, is hereby authorized to execute any documents necessary to complete the above transaction.

APPROVED:

_____
Chairman

ATTEST:

_____
Secretary

Approved as to
Form and Legal Sufficiency:

_____
City Attorney

September 5, 2024

Danville Office of Economic Development
Attn: Samantha L. Bagbey
427 Patton Street, P.O. Box 3300
Danville, VA 24543-3300

Addendum

This addendum is to the original contract for 121-123 North Union Street; Danville, VA 24540 date August 20, 2024. This contract will cover additional architectural and engineering services for 125-127 North Union Street as detailed below. Services included within this contract are architectural, structural engineering, and MEP (mechanical, electrical, and plumbing) to facilitate site design to accomplish the desired outcome.

Project Scope

This addendum will cover the remaining two units, which are located on the right side of the structure. One of the units is occupied on the first level and the other unit is currently vacant. These consist of a first-floor storefront space and an unused second floor that is accessed from stairways. The proposed plan is to develop retail spaces on the first level and combine all four units on the second floor to create leasable office space. A new stairway that is accessed from a new sidewalk entry door will serve as the accessible route for the left side of the second level. There will have to be a second access point for egress and the client would like the option to make the second floor ADA compliant. This may require building an addition to the rear of the right side to house the secondary stairway and optional elevator.

The architectural and engineering services for the expanded scope will be broken into three phases as the initial proposal. The first phase would include coordination with the structural engineer to identify any issues with the building. This would include measuring all the interior spaces of the vacant fourth unit and the unoccupied second level of the leased third unit. Our firm will investigate options to make the second level ADA compliant and perform a preliminary code review. Our firm will present the IDA with our findings along with preliminary drawings of the first and second levels showing potential layouts and elevation design ideas for the front façade of the entire building. Once the initial designs have been approved by the IDA, our firm can start creating the construction documents for the second phase. The third phase will involve construction supervision and has not been determined at this time.

Service Providers

Architectural and HTC: Richard Morris Architecture, LLC

Structural and MEP Design: Master Engineers & Designers

Services Provided

- Architectural and Engineering Services shall provide Construction Documents based on the approved program once that has been agreed upon with client. The Construction Documents shall set forth in detail the requirements for construction of the Project.
    1. Meetings with IDA staff during the different interval of the design development
    2. Construction documents
    3. Life Safety Plan
    4. Code Review (preliminary and final)
    5. As-built drawings
    6. Preliminary drawings showing possible floor plan layouts and design ideas for front façade (Union Street) along with elevations showing the possible location of an addition housing the secondary stairway and elevator
    7. Demolition Plan
    8. Final floor plans and three elevation designs
    9. Reflective ceiling plans (once final layout is approved)
    10. Building sections and details as required
    11. Structural Drawings
    12. Mechanical, Electrical, and Plumbing drawings
    13. Schedules and specifications for construction materials as required
    14. Technical Plan Review with planning/building officials

Fee Schedule

Architectural: Additional fees for expanded scope

Phase1- $8,000.00

Measure the second floor space of the occupied third unit and the first and second floors of the fourth vacant unit; preliminary designs which will include possible floor plan layouts including an optional addition for the secondary stairway and elevator; preliminary elevations as required showing new addition and its relation to the existing building; preliminary code review; coordination with Master Engineers on structural inspection; meetings with IDA for review; meetings with planning/building officials

Phase 2- $28,000.00

Additional demolition plans; floor plans for 1st floor (excluding occupied 3rd unit) and entire 2nd floor along with possible addition for secondary stairway and elevator; reflective ceiling plan, front elevation, right side and rear elevation showing stair/elevator addition; building sections and details as required; schedules for windows/doors and construction materials; coordination with Master Engineers for structural and MEP as well as any other professionals that may be needed once the scope of the project has been determined; meetings with IDA for review

Phase 3- TBD

Construction supervision will be determined at a future date depending on the final scope of the project.

Engineering: Additional fees for expanded scope

Structural- $6,500.00

The structural fees will be based upon an evaluation of the remaining two units and the possible stair/elevator addition. Please note that the scope of work does not include the design of any repairs or reinforcing required to meet the design live loads. This cost will be determined once a full evaluation has been carried out.

MEP- $25,000.00

MEP fees will be based upon final configuration of spaces and tenants' needs for the additional two units and the possible stair/elevator addition. This will include drawings, site visits, meetings with clients/tenants, etc.

Deliveries

The following items will be delivered to the IDA board as part of this contract.

- As-built drawings of existing building including floor plans and elevations (front, right, and rear)
- Preliminary first and second floor layouts and design for front elevation, right and rear elevations showing stair/elevator addition
- Demolition plan to coincide with structural recommendations and hazardous materials analysis
- Proposed floor plans and elevations based upon approved preliminary designs
- Building sections, construction detail drawings as needed
- Specifications and material selections as required

- Sealed final set of drawings once approved by client from the Architect, Structural Engineer, MEP Engineers to be used for the construction phase

Exclusions not covered by this contract

- Renderings
- Additional information/drawings that may be required for elevator from manufacturer/supplier
- Consultant services not expressly identified in this document
- Printing of deliverables
- Permits and review fees
- Any services that are not expressly identified in this document
- Hazardous materials testing

Billing

Invoices will be submitted monthly for services and reimbursable expenses and are due when rendered. We do reserve the right to re-evaluate the scope, schedule, and our fee if there are additions or further revisions to the established program.

Acceptance by representatives and architect

By: _____ **Date:** _____

By: _____ **Date:** _____

Addendum Agreement for "Architectural, Engineering, and Hazardous Material Testing services for property located at 125-127 North Union Street, Danville Virginia "

THIS ADDENDUM made this ____ day of _____ 2024, by and between the Industrial Development Authority of Danville Virginia, 427 Patton Street, Danville, VA 24541, hereinafter called the IDA, and Richard Morris Architecture 10 Ninth Street; Lynchburg, VA 24504, hereinafter called the Firm.

WITNESSETH: That the City and the Firm, for the consideration hereinafter named, agree as follows:

ARTICLE 1. This addendum is to the original contract for 121-123 North Union Street; Danville, VA 24540 date August 20, 2024. This contract will cover additional architectural and engineering services for 125-127 North Union Street that are attached hereto and made a part hereof. Services included within this contract are architectural, structural engineering, and MEP (mechanical, electrical, and plumbing) to facilitate site design to accomplish the desired outcome.

ARTICLE 2. During the performance of this Agreement, the Firm agrees as follows:

a. Within seven (7) days after the receipt of amounts paid to the Firm by the IDA for work performed by any subcontractor under this agreement, the Firm shall either:

(1.) Pay the subcontractor for the proportionate share of the total payment received from the IDA attributable to the work performed by the subcontractor under this agreement; or

(2) Notify the IDA and the sub-contractor on all amounts owed by the Firm that remain unpaid after seven (7) days following receipt by the Firm of payment from the IDA for work performed by the contractor's payment with the reason for nonpayment.

b. The Firm shall pay interest to any subcontractor on all amounts owed by the Firm that remain unpaid after seven (7) days following receipt by the Firm of payment from the IDA of work performed by the subcontractor under this agreement, except for amounts withheld as allowed in subsection a (2) above.

c. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent per month.

d. The Firm shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

e. The Firm's obligation to pay and interest charged to a subcontractor pursuant to this section may not be construed to be an obligation of the IDA.

No contract modification may be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

ARTICLE 3. During the performance of this Agreement, the Firm agrees as follows:

a. The Firm will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Firm. The Firm agrees to post in conspicuous places, available to employees or applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Firm also shall not discriminate against any handicapped person in violation of any state or federal law or regulation and shall also post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this additional nondiscrimination clause.

c. The Firm, in all solicitations or advertisements for employees placed by or on behalf of the Firm, will state that such Firm is an equal opportunity employer.

d. Notices, advertisements, and solicitations placed in accordance with federal law, rules or regulations shall be deemed sufficient for the purpose of meeting the requirements of this article.

The Firm will otherwise comply with all other applicable provisions of local, State, and Federal law. The Firm does not and shall not during the performance of the contract for goods and services in the Commonwealth; knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

ARTICLE 4. During the performance of this Agreement, the Firm agrees to:

a. Provide a drug-free workplace for the Firm's employees.

b. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Firm's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

c. State in all solicitations or advertisements for employees placed by or on behalf of the Firm that the Firm maintains a drug-free workplace.

d. Include the provisions of the foregoing clauses in every subcontract of purchase order of or over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

"Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Firm in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

ARTICLE 5. The IDA and the Firm hereby agree that Firm shall perform all services listed and detailed in the "Proposal for Architectural, Engineering, and Hazardous Material Testing services for property located at 121-123 North Union Street, Danville Virginia", attached hereto, and are incorporated herein and made a part hereof by reference as if fully set forth and include the following in order to greatest to least precedence:

Exhibit #1: Addendum for Architectural, and Engineering, and g services for the property located at 125-127 North Union Street, Danville Virginia dated September 5, 2024
Exhibit #2: Insurance Certificates

All work shall be performed according to the City of Danville Standard Requirements for Architectural and Engineering Agreements incorporated herein by reference.

ARTICLE 6. Notwithstanding any other provision of this Agreement to the contrary, the total obligation of the IDA shall not exceed amounts listed in the fee summary of above-mentioned fee proposal letter and no increase shall be made to this amount except by a written amendment executed by officials of the IDA and Firm who are authorized by law to execute agreements.

In the event that sufficient funds are not appropriated by the Council of the IDA of Danville or, if appropriated, are not allocated or available; or, in the event the amounts due hereunder are to be paid with funds given to the IDA by another private or government entity, and such funds are not sufficient for continuation of this agreement during any fiscal year after the IDA's first fiscal year, the IDA may, without breach, upon prior written notice to the Firm, terminate this Agreement in whole or in part.

ARTICLE 7. Responsibility of the Firm:

a. The Firm shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Firm under this contract in accordance with generally accepted professional standards. The Firm shall, without additional compensation, correct or revise errors or deficiencies in its design, drawings, specifications, and other services.

b. Neither the IDA's review, approval or acceptance of, nor payment for, the services required under this contract shall be construe to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Firm shall be and remain liable to the IDA in accordance with applicable law for all damages to the IDA caused by the Firm's negligent performance of any of the services furnished under this contract.

c. The rights and remedies of the IDA provided for under this contract are in addition to any other rights and remedies provided by law.

d. If the Firm is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

ARTICLE 8. Indemnification

a. The Firm shall indemnify the IDA, its officers, and employees against any damages to property or injuries to or death of any person or persons, including property and employees or agents of the IDA, from any claims, suits, actions, or proceedings to the extent resulting from or arising out of the Engineer's negligence, failure to perform in accordance with the standard of care in Article 7.a., or intentional wrongdoing by the Firm, to the operations in connection with the work described in the contract, including operations of subcontractors and acts or omissions of employees or agents of Firm or Firm's subcontractors. The Firm shall procure and continue to maintain for the duration of the work, Workers' Compensation including Occupational Disease and Employers' Liability Insurance for all of its employees engaged in the work in an amount not less than the minimum required by Code of Virginia (§ 2.2-4332), the Virginia Workers' Compensation Act, Code of Virginia §65.2-100 et seq., and the State Corporation Commission. When any of the work is subcontracted, the Firm shall require each subcontractor to provide similar Workers' Compensation and Employers' Liability Insurance for all of the subcontractor's employees engaged in the work.

b. The Firm shall assume all risks and responsibilities for casualties

but only to the extent resulting from or arising out of the Engineer's negligence, failure to perform in accordance with the standard of care in Article 7.a., or intentional wrongdoing by the Firm and he shall not be held liable or responsible for delays or damage to the work caused by acts of God, acts of Public Enemy, acts of Government, quarantine restrictions, general strikes through the trade, or by freight embargoes not caused or participated in by the Firm. The Firm shall have charge and control of the entire work until completion and acceptance of the same by the IDA.

c. The Firm shall be liable and responsible for, and shall pay, any and all loss or damage sustained by any person or party either during the performance or subsequent to the completion of the work under this agreement, by reason of injuries to persons and damage to property, buildings, and adjacent work, that may occur either during the performance of the work covered by this contract or that may be sustained as a result of or in consequence thereof, but only to the extent resulting from or arising out of the Engineer's negligence, failure to perform in accordance with the standard of care in Article 7.a., or intentional wrongdoing by the Firm,

d. The Firm, however, will not be obligated to indemnify the IDA, its officers, agents, or employees against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of the IDA or its officers, agents, and employees.

ARTICLE 9. It is the intent and understanding of the parties to this Agreement that each provision of law required to be inserted in this Agreement shall be and is inserted herein. Furthermore, if through mistakes and otherwise, any such provision is not inserted in correct form, then this Agreement shall upon application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party.

If this Agreement contains any unlawful provisions, not an essential part of the Agreement and which appear not to have been a controlling or material inducement to the making hereof, the same shall be deemed of no effect, and shall upon the application of either party be stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after omitting such provisions.

ARTICLE 10. This Agreement and the performance hereof shall be governed by and enforced under the laws of the Commonwealth of Virginia, and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefor shall lie in the City of Danville, Virginia.

If any of the terms and provisions of this Agreement conflict with the terms and provisions of any exhibits to this Agreement, then the terms and provisions of this Agreement will control.

ARTICLE 11. The IDA and the Firm, for themselves, their successors, executors, administrators, and assignees hereby agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF, these parties hereto have executed this Agreement on the day and year first above written in two (2) counterparts, each of which is to be deemed to be an original agreement.

Industrial Development Authority of
Danville Virginia

(SEAL)

BY: _____ ATTEST: _____

T. Neal Morris
Chairman

John Laramore
IDA Clerk

****

Richard Morris Architecture, LLC

BY: _____ ATTEST: _____

(signature) (signature)

_____ _____

(printed name/title) (printed name/title)