

SECTION 00 73 00 SUPPLEMENTARY CONDITIONS

The following supplements modify AIA Document A201, “General Conditions of the Contract for Construction”, Sixteenth Edition, copyright 2017. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

ARTICLE 1, GENERAL PROVISIONS

1.1 Basic Definitions

1.1.1 Under this Subparagraph, “The Contract Documents”, add the following:

“1.1.1.1 No provisions of any standard specification, manual or code referenced in the Contract Documents shall be effective to change the duties and responsibilities of the Owner, Contractor or Architect, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor to assign to the Architect, or any of the Architect’s consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 4.2.2 or 4.2.3.

1.1.5 The Drawings. Add to the end of the subparagraph the following:

“The Drawings shall not be scaled for measurements nor serve as shop drawings.”

1.1.9 Add new subparagraph 1.1.9 “WCPRs” as follows:

“1.1.9 WCPRs (Work Changes Proposal Request)
WCPRs are a written notice by the Owner to the Contractor requesting a itemized cost quotation for an addition, deletion, or revision in the Work, issued after award of Contract. WCPRs are not an order or authorization to proceed with any changes in the Work.”

1.2 Correlation and Intent of Contract Documents

1.2.2 Amend 1.2.2, Organization of the Specification...”, by adding the following;

“... Sections of Division 1, General Requirements, govern the execution of all Sections of the Specifications.”

ARTICLE 2, OWNER

2.3 Information and Services Required of the Owner

2.3.5 Delete subparagraph 2.2.5 in its entirety.

2.5 Owner’s Right to Carry Out the Work

2.5 Delete the last two sentences of this subparagraph and insert the following in its place.

“If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within ten (10) days of written notice to the Contractor of the amount of such difference.”

ARTICLE 3, CONTRACTOR

3.3 Supervision and Construction Procedures

3.3.4 Add the following:

“3.3.4 It shall be the responsibility of the Contractor (1) to review any specified construction or installation procedure (including those recommended by manufacturers); (2) to advise the Owner (a) if the specified procedure deviates from good construction practice, or (b) if following the procedure will affect any warranties, including the Contractor’s general warranty; and (3) to propose an alternative procedure which the Contractor will warrant.”

3.4 Labor and Materials

3.4.4 Add the following:

“3.4.4 Unless otherwise provided in the Contract Documents, the Contractor shall establish the Contractor’s own work week and hours of work as required to properly man the Project and to maintain the progress of the Work. The Contractor shall pay the cost of overtime labor required to maintain progress of the Work, and overtime labor otherwise required by the Contract Documents.”

3.4.5 Add the following:

“3.4.5 Possession, sale, or consumption of alcoholic beverages on the construction site is strictly prohibited. The unlawful manufacture, distribution, dispensation, possession or use of drugs is prohibited on the construction site.”

3.5 Warranty

3.5.1 Add the following sentence to the end of the paragraph.

“The Contractor will not be relieved of the general warranty obligation by (1) the specification of products covered by proprietary specifications or (2) as a result of construction procedures specifically required by the Contract Documents.”

3.6 Taxes

3.6 Add the following sentence to the end of the paragraph:

“...Although the Owner is exempted from certain taxes on direct purchases, the Contractor and Subcontractor are not exempt from State of Michigan Sales and Use Taxes applicable to the Work or portion thereof.”

3.9 Superintendent

3.9.1 Amend 3.9.1 by adding the following:

“3.9.1.1 The Contractor’s Superintendent or other authorized representative shall remain in attendance at the site at all times, including overtime hours, when any portion of the Work is being performed.”

3.13 Use of Site

3.13 Add “the directions of the Owner” to 3.13, to read in part as follows:

“... The Contractor shall confine operations at the site to areas permitted by applicable law, statutes, ordinances, codes, rules and regulations, permits, the directions of the Owner and the Contract Documents...”

ARTICLE 4, ARCHITECT

4.1 General

4.1.1 Add the following to the end of subparagraph 4.1.1:

“The term Architect is synonymous with the term Architect/Engineer and Engineer.”

ARTICLE 7, CHANGES IN THE WORK

7.1 General

7.1.1 Add the following:

.1 Definition: WCPR – Work Changes Proposal Request

.2 After award of Contract, the Owner may issue WCPRs which constitute a notice of a proposed change. WCPRs include a written description of the proposed change, WCPRs will not serve as an order to perform the work.. Drawings or Specifications may, or may not, be issued to describe aspects of the proposed change. The Contractor shall review the complete WCPR, current Contract Documents and submittals to determine changes or corrections necessary for the Work to conform to the proposed change.

.3 Within ten days of receipt of a WCPR, the Contractor shall submit to the Owner, for review and acceptance or rejection, duplicate copies of the cost quotation for the proposed change. Cost quotation shall itemize quantities, unit costs and total cost of materials, hours of labor, hourly rates and total labor charges; copies of detailed quotations from subcontractors where applicable, and the percentage fee applicable to the particular class or classes of work.”

7.1.4 Add the following:

“7.1.4 Where change in the Work requires overtime labor, and the Owner approves in advance such overtime labor, the cost to the Owner of overtime labor shall be determined by the actual premium wages paid for such overtime labor, over and above the cost of straight time wages, plus payroll charges applicable thereto, plus the cost of direct additional expenses relating to the overtime work, plus a percentage for the Contractor’s overhead cost as stipulated in the Contract. No Contractor’s profit shall be included in such cost. Overtime labor occasioned per Subparagraph 3.4.4 shall be at no additional cost to the Owner.”

7.3 Construction Change Directives

7.3.4 Delete Subparagraph 7.3.4.5 in its entirety and replace with the following:

“7.3.4.5 In Subparagraph 7.3.4, the allowance for combined overhead and profit included in the total cost to the Owner shall be based on the following schedule:

1. Contractor: For Work performed by the Contractor’s own forces allowance shall be 15%.
2. Subcontractor: For Work performed by the Contractor’s Subcontractors the allowance shall be 5%.
3. Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.7. Overhead expenses shall include Supervision, superintendence, wages of time keepers and clerks, hand tools, field office expenses, and all other costs not described in Subparagraph 7.3.7.
4. In order to facilitate review of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, materials and Subcontractors. Labor and materials shall be itemized in the manner prescribed above.
5. General Conditions charges for time extensions caused by Owner approved changes in the Work shall be limited to the daily pro-rate cost of fixed field office expenses, plus the hourly charges for management and support staff assigned directly to the Project. The labor charges shall be billed on a fixed hourly classification rate basis which shall remain in effect the life of the Project.
6. All General Conditions charges for time extensions shall be separately identified and submitted for approval to the Owner as a part of the Contractor’s pricing for any additional work requested.”

ARTICLE 8, TIME

8.3 Delays and Extensions of Time

8.3.1. To the end of the subparagraph add the following:

“However, minor modifications in Contract Time resulting from adjustments in the Project construction schedule shall not be deemed cause for action under this Subparagraph 8.3.1.”

ARTICLE 9, PAYMENTS AND COMPLETION

9.1 Contract Sum

Add the following:

“9.1.1.1 The Contract Sum and all adjustments thereto shall be rounded off to the nearest dollar.”

9.3 Applications for Payment

9.3.1 Add the following:

“9.3.1.3 Until final payment, Substantial Completion, per 9.8.5, the Owner will pay 90 percent of the amount due the Contractor on account of progress payments. If the manner of completion of the Work and its progress are, and remain satisfactory to the Owner, and in the absence of other good and sufficient reasons, for Work shown to be 50 percent or more complete in the Application for Payment. The Architect will, without reduction of previous retainage, on presentation by the Contractor of Consent of Surety for each Application, certify remaining progress payments for each Work category to be paid in full.

9.3.1.4 The Owner may reinstate the full Contract retainage if the manner of completion of the Work and its progress do not remain satisfactory to the Architect, or if the Surety withholds its consent, or for other good and sufficient reasons.”

9.3.2 Add the following, regarding materials or equipment stored on or off the site:

“9.3.2.1 For each material or equipment stored on or off the site the Contractor shall submit with the Application for Payment a certificate of insurance or a bond against loss incurred by damage, theft or otherwise, naming the Owner as insured, co-insured, or payee, to remain in effect until the material or equipment is incorporated into the Work.

9.3.2.2 Such material or equipment stored off the site shall be stored in a bonded warehouse, with the Owner named as payee on the bond.”

ARTICLE 10, PROTECTION OF PERSONS AND PROPERTY

10.2 Safety of Persons and Property

10.2.4 Delete the subparagraph in its entirety and replace with the following in its place.

“When use, or storage, of explosives or other hazardous materials or equipment or unusual methods are necessary to the execution of the Work, the Contractor shall give the Owner reasonable advance notice of the schedule related to application of these methods. The Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.”

ARTICLE 11, INSURANCE AND BONDS

11.1 Contractor's Insurance and Bonds

11.1.1 In the second line following the words, "...in the jurisdiction in which the Project is located", insert the words, "...and satisfactory to the Owner,...".

11.1.2 Add the following Clause 11.1.2.1

"11.1.2.1 The insurance required by Subparagraph 11.1.1 shall be written for not less than the following, or greater if required by law:

1. Workers' Compensation:
 - a. State: Statutory
 - b. Applicable Federal:(e.g., Longshoremen's) Statutory
 - c. Employer's Liability: \$500,000 Per Accident
\$500,000 Disease, Policy Limit
\$500,000 Disease, each employee

2. Comprehensive or Commercial General Liability (including Premises Operations; Independent Contractor's Protective; Products and Completed Operations; and Broad Form Property Damage):
 - a. Bodily Injury: \$1,000,000 Each Occurrence
\$1,000,000 Aggregate
 - b. Property Damage: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
 - c. Products and Completed Operations \$1,000,000 Aggregate Insurance shall be maintained for two (2) years after final payment.
 - d. Property Damage Liability Insurance shall provide X,C and U coverage as applicable (Explosion, Collapse, Underground)

3. Contractor's Liability:
 - a. Bodily Injury: \$1,000,000 Each Occurrence
\$1,000,000 Aggregate
 - b. Property Damage: \$1,000,000 Each Occurrence
\$1,000,000 Aggregate

4. Personal Injury, with Employment Exclusions deleted. \$1,000,000 Annual Aggregate

5. Business Automobile Liability: Provide automobile insurance for registered vehicles per State of Michigan Act 294 of PA 1972, as amended, but with residual liability insurance of no less than the limits given below. Include an endorsement for employer's non-ownership liability coverage and for hired vehicles coverage.

Further, provide insurance coverage for liability to the public for loss resulting from injury and/or death caused by the ownership, maintenance, or use of non-registered vehicles.

- a. Bodily Injury:

\$1,000,000	Each Person
\$1,000,000	Each Occurrence

 - b. Property Damage:

\$1,000,000	Each Occurrence
-------------	-----------------
6. If the General Liability coverages are provided by a Commercial Liability policy, the:
- a. General Aggregate shall be not less than \$2,000,000 and it shall apply, in total, to this Project only.
 - b. Fire Damage Limit shall be not less than the value of the building.
7. Umbrella Excess Liability:

\$3,000,000	Each Person
\$3,000,000	Each Occurrence
8. Aircraft Liability: When Aircraft (owned and non-owned) are used in the performance of the Contract, the limits shall be as proposed by the Contractor and approved by the Owner.
9. Watercraft Liability: When Watercraft (owned and non-owned) are used in the performance of the Contract, the limits shall be as proposed by the Contractor and approved by the Owner.

11.1.2.2 add the following:

“ 11.1.2.2 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor’s usual source, provided that such source is licensed to do business in the State of Michigan, and is listed in the current Federal Register and has an A.M. Best rating of B+ or higher. The amount of each bond shall be equal to One Hundred percent (100%) of the Contract Sum.

11.1.2.3 add the following:

11.1.2.3 The Contractor shall deliver the required bonds to the Owner not later than three days following receipt of a letter of intent.

11.1.2.4 add the following:

11.1.2.4 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.”

11.1.3 Add the following:

“11.1.3.1 The Contractor shall furnish one copy of each of Certificates of Insurance herein required for each copy of the Agreement which shall specifically set forth evidence of all coverage required by Subparagraph 11.1.1 and 11.1.2. The form of the Certificates shall be AIA Document G705, Certificate of Insurance. The Contractor shall furnish to the Owner copies of all endorsements that are subsequently issued amending coverage or limits. Deliver Owner’s copies of Certificates of Insurance to:

Paul D. Thwing, R.A.
Director of Capital Projects / Planning
Traverse City Area Public Schools
1212 Cass Road
Traverse City, MI 49685.

11.1.3.2 The Owner shall be identified on the Certificate as “**additional named insureds.**”

11.1.5 Add the following:

“11.1.5.1 Liability Insurance shall include all major divisions of coverage and be on a comprehensive basis including; 1) Premises Operations (including X, C and U as applicable); 2) Independent Contractors’ Protective; 3) Products and Completed Operations; 4) Personal Injury liability with Employment Exclusions deleted; 5) Contractual, including specified provisions for Contractor’s obligation under Paragraph 3.18; 6) Owned, non-owned and hired motor vehicles; 7) Broad Form Property Damage including Completed Operations; 8) Umbrella Excess Liability; and 9) Other coverages, if any.

11.1.5.2 If the General Liability coverages are provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier that the termination date of coverages required to be maintained after the final payment, certified in accordance with the Subparagraph 9.10.2.”

11.1.6 add the following:

“11.1.6 The Contractor shall at the Contractor’s own expense provide insurance coverage for materials stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the Work in transit until such materials are permanently attached to the Work.”

11.1.7 add the following:

“11.1.7 The insurance required by Section 11.1 is not intended to cover machinery, tools or equipment owned or rented by the Contractor that are utilized in the performance of the Work but not incorporated into permanent improvements. The Contractor shall, at the Contractor’s own expense, provide insurance for owned or rented machinery, tools or equipment which shall be subject to the provisions of 11.1.”

11.3 Waivers of Subrogation

"Delete 11.3.1 Waivers of Subrogation in its entirety," and replace with the following:

"The parties agree that the School District is not waiving any rights its insurer(s) may have to subrogation. To the extent any term in the agreement is contrary to this provision, such term is void and unenforceable"

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Added Paragraph 13.8 as follows:

13.6 Equal Opportunity for Employment

13.6.1 Contractors shall comply with all applicable provisions of the Owner's Fair Employment Practices Agreement, the Federal Civil Rights Act and Michigan Fair Employment Practices Act. Violation of provisions of any of these documents shall be cause for cancellation of this contract.

13.6.2 Contractors, in accordance with the Michigan Fair Employment Practices Act, to the extent such act is applicable , shall not discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to the hiring, tenure, terms, conditions, privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, national origin, ancestry (or age, or sex, except where based on a bona fide occupational qualification)."

15.3 Mediation

15.3.5 Add the following Subparagraph:

"15.3.5 Mediation proceedings and communications shall remain private."

15.4 Arbitration

Delete Section 15.4 Arbitration, in its entirety.

END OF 00 73 00 - SUPPLEMENTARY CONDITIONS