

REQUEST FOR PROPOSALS
FOR
A DESIGN AND BUILD PROJECT
FOR THE EXTERIOR PAINTING
FOR HAWAI'I CONVENTION CENTER

RFP No. 2023-24

HONOLULU, HAWAII

August 2023

Proposal Due Date: September 7, 2023

For Information, Contact:
Cumming Management Group, Inc.,
HCC's Construction Manager at atanton@cumming-group.com

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Appendix A:	Hawaii Convention Center Event Schedule Template
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NOTICE TO OFFERORS

AEG Management HCC, LLC a wholly owned subsidiary of ASM Global (“HCC”) is requesting proposals (“Proposals”) from qualified companies (“Offerors”) for a design and build project for (The Exterior Painting).

Thank you for your interest in submitting a proposal for this solicitation. The purpose of this request for proposals is to identify and select the best qualified supplier/provider that will provide superior goods/services to meet the scope of services at competitive rates. The rationale for this request for proposals (“RFP”) is to promote and ensure the fairest, most efficient means to obtain the benefits of the most qualified responsive and responsible proposal. In order for HCC to evaluate your proposal in a timely manner, please follow the instructions presented in each section of this document.

It is the intent to award a Stipulated Sum Design Build contract during this procurement process as outlined below. The price shall include the cost of all labor, materials, supplies, equipment, job-related incidental work, and the securing of all required permits, notifications, and/or inspections that are required to specify (The Exterior Painting) as specified in the Scope of Work herein.

This RFP does not commit HCC to award a contract, nor to pay any costs incurred in the preparation and submission of Proposals in anticipation of a contract. HCC also reserves the right to unilaterally cancel this solicitation at any time without any liability.

Forms and information are available by contacting:

Project and Construction Manager for AEG / HCC (PM/CM) - Mr. Andrew Tanton
Cumming Management Group, Inc.
841 Bishop Street – Suite 725
Honolulu, Hawaii 96813
Email: atanton@cumming-group.com

And by copy to:

Contracting Officer – Ms. Mari Tait
AEG/Hawaii Convention Center
1801 Kalakaua Avenue
Honolulu, Hawaii 96815
Email: hccrfp@hccasm.com

Offerors should carefully read the entire RFP documents. Proposals must comply with all instructions herein provided and must be submitted with a completed and signed Proposal Form, a copy of which is provided hereto as Appendix D. Interested parties should register with the PM/CM (as defined in Section 1.2 below) with copy to the Contracting Officer by **Wednesday, August 9, 2023**.

Written questions regarding this RFP may be submitted via email to the PM/CM with copy to the Contracting Officer by **4:00 p.m. Hawaii Standard Time (“HST”) on Thursday, August 24, 2023** at the addresses listed above.

SECTION 1 - GENERAL INSTRUCTIONS TO OFFERORS

1.1 DEADLINE FOR PROPOSALS

Proposals **MUST** be submitted via email to the PM/CM with copy to the Contracting Officer no later than **4:00 p.m. HST on Thursday, September 7, 2023.**

Proper delivery of the proposal is the sole responsibility of the Offeror.

Pursuant to HRS § 201B, this RFP is subject to Part III of Chapter 103D of the Hawaii Public Procurement Code, Hawaii Revised Statutes. Accordingly, all proposals and Offerors must comply with all the requirements applicable to the formation of a contract pursuant to Part III of Chapter 103D of the Hawaii Public Procurement Code, Hawaii Revised Statutes.

1.2 CONTRACTING OFFICER AND PROJECT AND CONSTRUCTION MANAGER

The Contracting Officer is responsible for administering/facilitating all requirements of the RFP solicitation process. The Contracting Officer will also be responsible for "contractual actions" throughout the term of the contract. The Contracting Officer is:

Contracting Officer -- Ms. Mari Tait
AEG/Hawai'i Convention Center
1801 Kalakaua Avenue
Honolulu, HI 96815
Email: hccrfp@hccasm.com

Assisting and providing guidance, oversight, procurement, construction, and project management services for HCC on the Project is HCC's Project and Construction Manager, Cumming Construction Management, Inc. ("PM/CM" or "Cumming"). Cumming shall be the primary point of contact on the project for procurement and work-related issues and will provide construction and project management services throughout the term of the contract. Cumming's project manager for the HCC is:

Project and Construction Manager for AEG / HCC – Mr. Andrew Tanton
Cumming Management Group, Inc.
841 Bishop Street – Suite 725
Honolulu, HI 96813
Email: atanton@cumming-group.com

1.3 AEG COMPANY OVERVIEW

ASM Global is the world's leading venue management and services company. The company was formed by the combination of AEG Facilities and SMG, global leaders in venue and event strategy and management. The company's elite venue network spans five continents, with a portfolio of more than 300 of the world's most prestigious arenas, stadiums, conventions, and exhibition centers, and performing arts venues. For more information, please visit www.asmglobal.com.

Facility Overview

The Hawaii Convention Center opened to the public in June 1998 and is used for a variety of events, including conventions, trade shows, public shows, meetings, and sporting events. The Hawaii Convention Center offers approximately 350,000 square feet of rentable space, including 51 meeting rooms.

AEG Management HCC, LLC, a part of the ASM Global collection of companies, is the manager of the HCC pursuant to a Contract for Professional Services effective as of January 1, 2014, as may have been amended, with the Hawai'i Tourism Authority ("HTA"), a duly organized authority of the State of Hawai'i (the "State").

For more information on HCC, please visit <https://www.meethawaii.com/convention-center/>

1.4 PROCUREMENT TIMETABLE and SIGNIFICANT DEADLINES

The Timetable and Significant Deadlines set out herein; represents HCC's best estimate of the schedule to be followed in the RFP process. If an activity of the timetable (i.e., Proposal Due Date for Receipt of Proposals) is delayed, the rest of the timetable deadlines may be shifted by the same number of days. HCC will advise Offerors by issuing an addendum to the RFP of any changes to the proposed timetable.

<u>Activity</u>	<u>Scheduled Date</u>
RFP Announcement	Sunday, August 6, 2023
RFP Issue	Monday, August 7, 2023
Register by	Wednesday, August 9, 2023
Pre-Proposal Conference (mandatory)	Monday, August 14, 2023
Closing Date for Receipt of Questions	Thursday, August 24, 2023
HCC's Response to Offeror's Questions	Thursday, August 31, 2023
Proposal Due Date	Thursday, September 7, 2023
Best and Final Offers (optional)	Wednesday, September 13, 2023
Design-Builder Selection/Award of Contract (tentative)	September 2023

1.5 PRE-PROPOSAL CONFERENCE

A mandatory pre-proposal conference will be held on **Monday, August 14, 2023** from **10:00 a.m.** HST at the Hawaii Convention Center. The time and date of the mandatory pre-proposal conference is subject to change. The purpose of the conference is to review HCC's requirements; answer questions pertaining to the RFP; and, provide additional information that may assist in the preparation of proposals. Additionally, floor plans, if necessary, of the Hawaii Convention Center will be provided during the conference as well as an escorted "familiarization tour" of the Hawaii Convention Center for interested Offerors.

Pre-Proposal Conference proceedings will not be formally documented unless changes in the RFP are required. RFP changes will be implemented by issuing an Addendum (to the RFP). Addenda will be provided to all Offerors registered to receive the RFP. The proceedings, at HCC's option, may be audio and/or videotaped by HCC. Attendees cannot audio and/or videotape the proceeding.

Offerors interested in attending the conference should contact the PM/CM. Attendees are to check-in at the HCC Lobby, street level of HCC and await further direction. Costs relating to attendance at the Pre-Proposal Conference/Site Visit shall be the responsibility of the attendee and shall not be reimbursed by HCC.

The conference shall be cancelled at the election of HCC if no or little interest in conference participation is received.

1.6 SUBMISSION OF QUESTIONS

Offerors are encouraged to submit written questions pertaining to the RFP. Impromptu (unwritten questions) are permitted and verbal answers will be provided at the pre-proposal conference and other occasions but are only intended as general direction and will not represent official HCC position.

Questions must be submitted in writing via email to PM/CM, with a copy to the Contracting Officer. All written questions will receive an official written response from HCC and become addendums to the RFP. The only official position of HCC is that which is stated in writing and issued in the RFP as addenda thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response/statement, and may not be relied upon.

1.7 SOLICITATION REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter must be made in writing and should be received by the Contracting Officer no later than **4:00 p.m. HST on Thursday, August 24, 2023**. This will allow issuance of any necessary amendments to the RFP. It will also assist in preventing the opening of proposals upon which award may not be made due to a defective solicitation package.

Offerors may not raise any issues with the contents of the RFP after Proposals have been submitted.

1.8 RFP AMENDMENTS and ADDENDA

HCC reserves the right to amend the RFP any time prior to the ending date for proposal review/evaluation period. Such changes shall come in the form of amendments or Addenda.

1.9 CANCELLATION OF RFP

The RFP may be unilaterally canceled by HCC at any time if such cancellation is determined by HCC in its sole discretion to be in the best interests of HCC.

1.10 CONDITIONS AND LIMITATIONS

The proposal and any information made a part of the proposal will become part of HCC's official files without obligation on HCC's part to return them to the original Offerors.

This RFP and the selected Offeror's response will, by reference, become part of the formal Contract between HCC and the selected Offeror resulting from this solicitation.

Offerors shall not offer any gratuities, favors, or anything of monetary value to any official or employee of HCC or the State for the purpose of influencing consideration of a proposal.

1.11 RULES OF CONTACT AND COMMUNICATIONS

Offerors may not contact HCC officials, employees, or representatives (including the PM/CM) concerning this RFP while the solicitation process is in progress, except as expressly required or permitted by these General Instructions, the RFP Documents, or other instruction from HCC or its PM/CM. The solicitation process begins when the RFP is issued and will be completed with the award of the Contract. Any contact determined to be improper, at the sole discretion of HCC, may result in disqualification.

SECTION 2 – SCOPE OF WORK/SPECIFICATIONS

2.1 INTRODUCTION

HCC is seeking to re-paint the exterior surfaces of the Hawaii Convention Center.

2.2 PROJECT BACKGROUND

The HCC exterior painting project was prompted by the necessity to preserve its welcoming atmosphere. Over time, the original paint had faded and deteriorated due to Hawaii's challenging climate. Recognizing the importance of revitalizing the center's façade, the management took the initiative to carefully choose durable paint materials. The aim is to elevate the center's visual appeal, ensuring visitors have a memorable and delightful experience.

2.3 OVERVIEW OF SCOPE

The project's main objective is to repaint the exterior surfaces of the Hawaii Convention Center, with a primary focus on the Exterior Insulation and Finish systems (EFS), which accounts for approximately 90% of the total exterior painting surfaces. The remaining areas to be painted are small sections containing exterior doors and metal steelwork, which will be identified in site photos and during the mandatory pre-proposal conference.

The contractor's responsibilities include, but are not limited to, preparing and cleaning all exterior surfaces through power washing and applying two (2) coats of the specified paint to the surfaces mentioned above. To achieve this, the project will be divided into four phases: Ala Wai, Kalakaua, Kapi'olani/Atkinson, and Kahakai streets. The order of these phases will be contingent on the Convention Center's specific event schedule.

2.4 SCOPE OF WORK

This is a turn-key project. All aspects of design and build, project management, supervision, procurement of materials and equipment, labor, all job-related incidental work, and the securing of all required permits, notifications, and/or inspections, including fees for such permits, notifications, and/or inspections, shall be the sole responsibility of the Design-Builder.

The Design-Builder shall provide all engineering and design services necessary for the execution of this project. Design-Builder shall, during the pre-proposal job walk, inspect the work site, and identify existing conditions that may affect the execution of this scope of work.

2.4.1 Design-Builder will provide the following equipment and personnel:

- a. An On-Site lead person who will be present during the entire project to coordinate with work crews and to report to Cumming and HCC Engineering Management.
- b. All necessary labor, equipment, ladders, tools, products, and materials to complete services.
- c. Clean up of work area and removal of all debris at end of each working day and completion of project.

2.4.2 All PPE and safety equipment required to complete services.

2.4.3 Certifications

- a. Copies of certifications for staff that may be utilizing equipment requiring specialized certifications per Federal Occupational Safety and Health (OSHA) and Hawaii Occupational Safety and Health (HIOSH) regulations.

2.4.4 Preconstruction and Replacement Plan

- a. Provide all Pre-Construction Services as required to perform on-site investigations to inform the design, confirm constructability approach, planning and logistics of the project.
- b. Provide and present to HCC a Replacement Plan, which includes but is not limited to replacement concepts, laydown plan, logistic plan, including material and waste handling, and construction phasing schedule.
- c. Provide a construction phasing plan that properly plans the exterior limits of work, to ensure coordination, and to expedite the work.
- d. Upon HCC approval of Replacement Plan prepare, submit, and expedite Construction Documents for Building Permit Approval.
- e. Provide and coordinate all Construction Phasing to minimize HCC's operation impacts and shutdowns periods. Notify and coordinate with HCC all shutdown periods and make-safe all utility shutdowns as required for HCC's approval.
- f. Collaborate with HCC to develop a Construction Phasing Plan that seamlessly aligns the exterior scope of work with existing HCC plans and scheduled events.

2.4.5 Scope of Work Detail – General

- a. Design-Builder is required to issue a repair plan for the EIFS repairs. The plan must contain a descriptive narrative of the repair, engineered drawings, and incorporate project specifications, reference Appendix G – Project Documents:
 - i. Painting, section: 099100
 - ii. Polymer-Based Exterior Insulation and Finish System, section: 072400
 - iii. Joint Sealants, section: 079200
- b. Design-Builder is required to provide (2) forms of pricing in bid proposal.
 - i. Price #1: Work to be completed sequentially in order of approved work-plan by HCC.
 - ii. Price #2: Phased work to be completed in sequential order by (1) phase per year. HCC to determine schedule of work at Design-Builder's award.
- c. Provide construction scaffolding, platforms, man-lifts and all other equipment and material as required to access the work in accordance with the Design-Builder's Safety Plan, during the construction period for each construction phase.
- d. Prepare and clean all exterior surfaces with water and light detergent by means of power washing from the top down.

- e. Upon completion of power washing, all expansion joints to be replaced with new backer rod and new joint sealant.
 - i. All damaged EIFS to be addressed prior to start of the first coat of painting.
- f. Design-Builder to provide a square foot spot repair allowance on the rate card.
- g. Once all prepped areas have been inspected and approved by the owner's representative (Cumming), the Design-Builder can start to apply the first coat of exterior paint. Upon completion of the first coat of exterior paint, the Design-Builder must invite the owner's representative (Cumming) for a visual inspection. Once the Design-Builder has the owner's representative's approval, the Design-Builder can continue the application of exterior paint to create the uniformed finish.
- h. Protective enclosure tents on scaffold and staging to avoid overspray on public, windows, and other surfaces.
- i. Design-Builder to be responsible for all overspray damage(s) over the course of the project.
- j. Once the Design-Builder has completed the final coat of paint, a final inspection will take place with the owner and the owner's representative. During the inspection punch items will be noted and the Design-Builder will then have (7) business days to repair any and all punch items. Once the Design-Builder declares that all punch items have been completed, the owner's representative will re-inspect the final overall finish.
- k. The above sequence noted in item a - e shall apply and take place for all painting sections throughout the project's life cycle
- l. On some sections of the exterior EIFS surface and the Tapa decorative panels, bird mesh protection has been installed. To assist in the painting of these surfaces behind the bird mesh areas, the Design-Builder should engage the services of a fully qualified bird mesh installer. The qualified bird mesh installer will remove and replace all of the bird mesh screens.
- m. Once the painting Design-Builder has received the final approval from the owner's representative, the Design-Builder shall instruct the bird mesh Design-Builder to install new bird mesh screens. Once the screens are installed, the Design-Builder shall call the owner's representative to inspect the installation before any scaffolding is removed.
- n. Provide all temporary utilities as required to continuously support and maintain all existing utilities during the execution of the work.
- o. The Design-Builder must provide all permits and fees associated with any requirements to close a street or sidewalk or to use or gain access via mobile working platform or boom lifts.
- p. All exterior work must be coordinated with the owner's representative and the HCC team before it takes place. Notice must also be given three weeks in advance at the weekly OAC meeting.

- q. The project will be completed in five phases: Ala Wai Canal, Kalakaua Avenue, Atkinson Drive, Kahakai Drive, and Kapiolani Boulevard. The order of the phasing will be determined at time of contract execution by HCC.
 - a. Bid proposal to include painting work to occur concurrently or one phase per year.

2.4.6 Project Locations

- a. The exterior planter locations include, but are not limited to the following:
 - i. Kalakaua Ave. – Street level planters
 - ii. Kalakaua Ave. – Parking garage ramp planters
 - iii. Kalakaua Ave. – 3rd floor planters
 - iv. Ala Wai Promenade – 3rd floor planters
- b. HCC's interactive map. Plan to be used as a reference only. Not to scale.
 - i. Exterior Map Link:
<https://map.concept3d.com/?id=1107#!ct/25427,24748,24747,24709,24708,22261?s/>
- c. Design-Builder to confirm locations in need of repairs during the pre-investigation phase.

2.4.7 Project Location Plans and Images

Exterior Photo Samples – Ala Wai



PHOTO 001



PHOTO 002



PHOTO 003



PHOTO 004



PHOTO 005



PHOTO 006



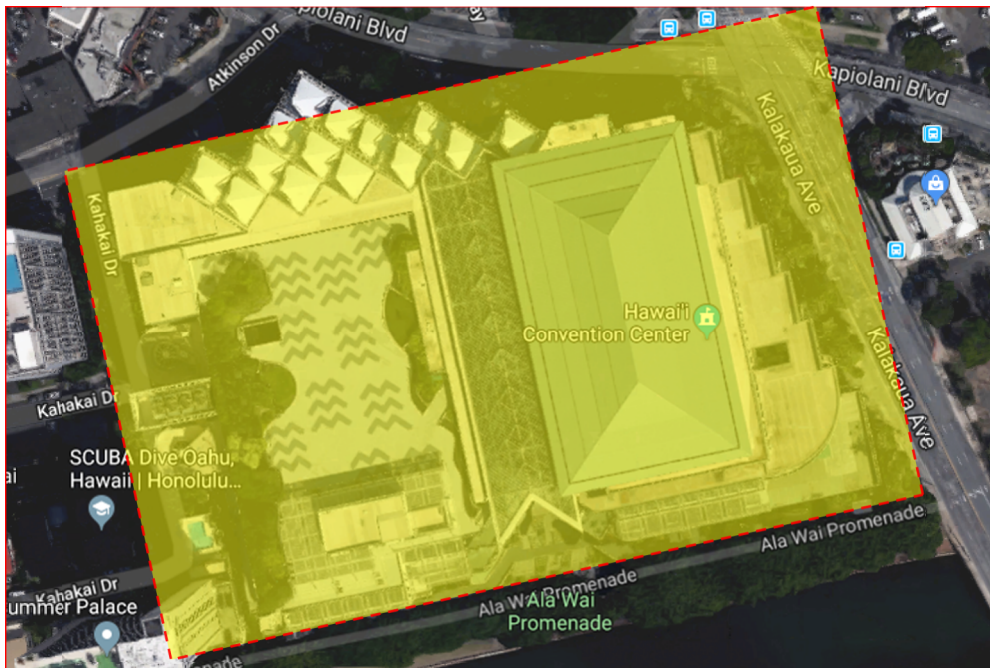
PHOTO 007



PHOTO 008



SITE VICINITY MAP Painting Project Only
NOT TO SCALE



2.5 General Requirements

- A. Drawings and general provisions of Contract.
- B. The Design-Builder shall be responsible for providing the exact function described herein and will be held to the operational criteria. All Offerors must include in his or her response to this Specification any design limitations or constraints in the performance of its system as proposal.
- C. All exceptions to these Specifications and drawings must be made with the proposal submission. In the absence of exceptions, these Specifications and drawings shall be binding on the successful Offerors. Further, in the absence of exceptions, the Design-Builder is stating that the design and specifications for the system have been examined in detail and the Design-Builder is prepared to take full responsibility for the performance of the complete installation as specified.
- D. The project will include the exterior power washing and exterior painting for the Hawaii Convention Center ("HCC").
- E. All work shall be scheduled and performed in a manner that will not have a negative impact on events in the facility. Negative impacts include, but are not limited to, noise, odors, dust, vibration, visual impacts, power outages or disruptions, and intrusion of personnel or equipment. Access to certain spaces will not be allowed if such access causes a negative impact on event related operations. As such, work may need to be scheduled around the events in progress. Design-Builder may work days, evenings, and/or weekends to schedule the work around event operations, and no overtime will be allowed, offeror shall provide an initial schedule / timeline from pre-con to post con and close out with the proposal.
- F. Dust control – The Design-Builder must prevent dust from becoming airborne at all times, including non-working hours, weekends, and holidays in conformance with State Department of Health, administrative rules title 11, chapter 60.1 – Air pollution control. The Design-Builder is responsible for and shall determine the method of dust control, subject to the Design-Builder's choice. The use of water or environmentally friendly chemicals may be used over surfaces that contain dust.
- G. Noise control – The Design-Builder must keep noise within acceptable levels at all times in conformance with State Department of Health administration rules title 11-chapter 46 community noise control. The Design-Builder must obtain and pay for a community noise permit when construction equipment or other devices emit noise at levels exceeding the allowable limits.

- H. Erosion control – In areas where landscaping and grading is within the work area, the Design-Builder must use best management practices (BMP) ESCP (Erosion and sediment control plan) to control water and chemicals that would otherwise have a detrimental effect to the landscaped area
- I. Storm Water Protection Plan – Within zones encompassing storm drains and in close proximity to construction operations, it is incumbent upon the Contractor to implement precautions aimed at reducing the potential for stormwater pollution.
- J. Care should be exercised when performing work in the facility. Any damage to building structure, systems, equipment, and/or furnishings caused by the Design-Builder and its subcontractors shall be repaired and/or remedied to the satisfaction of HCC representative by the Design-Builder without any cost or impact to HCC and/or the project schedule.
- K. Work site shall be maintained in broom-clean condition at the end of each shift. All construction debris, old equipment and/or parts awaiting disposal, and/or tools and equipment shall be stowed in a manner so as not to pose a safety hazard to employees and the public; and as to not impact HCC event activity.
- L. Design-Builder shall be responsible for any demolition work that might be necessary to accomplish the work.
- M. Design-Builder shall properly recycle and dispose of the construction demolition materials. The quantity/weight of all recycled materials shall be tracked and submitted to HCC and the City representative monthly and a complete summary at the end of the project.
- N. Final job walk shall be conducted with Cumming and HCC representative and punch list items, if any, shall be completed and all closed out documents received before final payment is made. Refer to section Scope of Work Detail - General A-H.
- O. Along with the proposals, the Design-Builder shall submit a Project Outline and schedule that includes, but is not limited to, project milestones (design work, major project tasks, testing/commissioning), along with estimated duration time frames for those milestones, and total project duration for the work required to complete this project.
- P. The Design-Builder shall be responsible for providing the exact function described herein and will be held to the operational criteria.

2.5.1 Principal Work in This Section

- A. The Work includes the supply and installation of all components, specified or not, to successfully execute to a good standard the exterior painting.

- B. The Work also includes, all work as defined in the Overview of Scope above, and includes but is not limited to:
- Upon Contractor's investigation, due diligence, and identification of existing reusable parts, provide design-build concepts.
 - Provide construction services to provide a complete turn-key project to replace .
 - Address all remedial work if applicable.
 - Provide all temporary utilities as required to continuously support and maintain all existing utilities during the execution of the work.
 - Remove and reinstall all building appurtenances as required to execute the work.
 - Provide complete O&M Manuals.
 - Licensing and certificate's and permits as applicable.
 - Client training for HCC staff, with Video records as applicable.
 - Client maintenance training.

2.5.2 Quality Assurance

- A. All equipment provided by Contractor should meet specifications listed herein.
- B. Contractor shall obtain instructions and training for installation from manufacturer of each product

2.5.3 Submittal

- A. General
- Do not commence work that requires review of any submittals until receipt of returned submittals with appropriate final action.
 - Do not submit substitute items that have not been approved.
 - Do not include requests for substitution (either direct or indirect) on submittals.
 - Submittals which deviate from the procedures outlined herein will be rejected in total without review. No allowance or extension of project time will be considered due to lost time associated with procedural deviation.
- B. Coordination of Submittals
- Coordinate preparation and processing of submittals with performance of the work. Coordinate each separate submittal with other submittals and related activities that require sequential performance.
 - Coordinate the submittal of different units of interrelated work so that no submittal will be delayed by the Construction Manager's/Project Manager's, and HCC's review of a related submittal.

C. Pre-Construction

- Provide field investigation of all existing conditions and provide a report that identifies areas that the contractor would consider to not be power washed or painted due to damage or any other reason. This report must be issued one month before any on site work takes place.
- Incorporate and coordinate field investigations with CM/PM/HCC to properly inform the repair plan and constructability of the project.
- Report findings and recommendations based on field investigations and surveys.
- Product cut sheets for all products and materials.
- Recommended application and installation methods.
- Operating instructions.

D. Post Construction

- Record Documents including As-Built Documents.
- All preconstruction shop drawings updated to as-build condition.
- Product cut sheets for all equipment used.
- Operating manuals.
- Warranty information, all materials should carry the full manufacturers lifetime warranty, and all labor should carry a 3-year warranty. The overall end product (the exterior painted finish) should carry a minimum 15 year warranty for materials and labor.

2.6 APPROVALS

2.6.1 Obtain all necessary approvals and permits from local authorities for all materials to be supplied, methods of installation and system operations, as required herein and by local authorities, it is noted that the Owner will pay for all permit fees, but Design-Builder is required to process permit applications.

2.6.2 The entire installation, including materials and equipment shall meet or exceed the minimum standards and requirements of the following:

- A. All applicable codes and editions as identified by the Architect/Engineer of Record on the approved City and County of Honolulu, Department of Planning and Permitting (DPP), Building Permit Set.
- B. Underwriters' Laboratories, Inc. listing service.
- C. NFPA 72 and National Fire Codes.

- D. NSPC – National standard plumbing code.
- E. Codes as accepted and/or modified by the local Authorities:
 - 1. National Electrical Code.
 - 2. American Disabilities Act (ADA).
 - 3. Underwriters' laboratories, UL 1971 for Hearing Impaired
 - 4. The HCC supplied specification Section 07240 and Section 09900 attached in Appendix C

2.7 EXECUTION SCOPE OF WORK

2.7.1 Installation

- A. Design-Builder shall execute the work in accordance with the approved Contract Documents, including the Drawings and Technical Specifications and in compliance with all the Standards listed therein.
- B. Design-Builder must schedule work according to available dates outlined in HCC Event Schedule in Appendix A. Upon award, Appendix A to be updated and provided.
- C. Coordinate the review and approval of all outstanding Punchlist Items with design professional and the HCC.

2.7.2 Demonstration and Training

- A. In-house maintenance. Provide competent, factory authorized personnel to instruct and train HCC maintenance personnel concerning the location, operation and troubleshooting of the installed systems. The instruction shall be scheduled in coordination with HCC's Representative after submission and approval of formal training plans.
- B. Also provide cost for annual maintenance by manufacturer if required by the warranty.
- C. Vendor shall supply two (2) printed sets and two (2) electronic copies of an Operations Manual and plans for the system.

2.7.3 Certification

- A. Design-Builder shall include a letter of certification from the manufacturer with its submittal.

2.7.4 Testing

- A. After work is completed, Design-Builder shall conduct a final inspection. Design-Builder shall correct any deficiencies discovered as the result of the inspection and pre-test.
- B. Design-Builder shall submit a request for the Owner's final inspection and walk through to HCC using an approved "Request for Security Systems Acceptance Test" form, a copy of which will be provided.
 - 1. This request shall be submitted to HCC no less than 7 days prior to the requested test date.
 - 2. The request for Owner's inspection shall constitute a certification from Design-Builder that all work is complete and in compliance with the Contract Documents, Manufacturer installation specifications, that all systems have been tested, and all corrections have been made.
 - 3. Owner's final inspection shall be scheduled based on HCC's availability.
 - 4. Contractor shall provide all ladders, tools, test equipment, and other facilities needed to accomplish the Owner's inspection.
 - 5. During Acceptance Test, Design-Builder shall demonstrate all equipment and system features to HCC.
 - a. Contractor shall fully cooperate with the HCC and provide assistance with the inspection.

2.8 WAGE RATES AND OTHER FEES

- 2.8.1 Design-Builder shall pay prevailing wage rates as required by Hawaii State law for all personnel working on State Public Works Projects and who perform work on this project. Fully loaded rates will include all wages, benefits, and other overhead loadings.
- 2.8.2 Design-Builder shall provide information on mark-up percentages on parts and materials, subcontracts, etc. as required by this RFP or if requested.
- 2.8.3 Design-Builder shall include all taxes and fees in the pricing proposal.

2.9 INSURANCE

The successful Offeror shall be required to obtain and maintain in force at all times during the term of the agreement insurance coverage as provided in the anticipated Contract document, which is provided as Exhibit B to Appendix C. The successful Offeror shall be solely responsible for the cost of insurance. Such coverage shall be obtained from an insurance company licensed and authorized to do business in the State of Hawaii. Evidence of coverage shall be provided to HCC before any contract for this project is executed.

2.10 BONDING

The successful Offeror shall be required to obtain and maintain in force at all times during the term of the project performance and payment bonds as provided in the anticipated Contract, which is provided as Exhibit B to Appendix C. The successful Offeror shall be solely responsible for the cost of bonds. The bonds shall be obtained from an approved bonding company that is licensed and authorized to do business in the State of Hawaii. Evidence of both the performance and payment bonds shall be provided to HCC before any contract for this project is executed.

2.11 MISCELLANEOUS REQUIREMENTS

- 2.11.1 Design-Builder shall keep and maintain all of its work areas at the Project site in a neat and orderly fashion and free from obstacles and debris. Design-Builder shall be responsible for removing all debris from the property.
- 2.11.2 Design-Builder shall comply with all federal, state, and local laws, regulations, and ordinances, including occupational safety and health standards applicable to the performance of the service specified.
- 2.11.3 Design-Builder shall be afforded reasonable access to all necessary systems, equipment and areas when required to perform the services specified, subject to reasonable security restrictions as directed by HCC or its PM/CM. Design-Builder shall not be responsible for any equipment malfunction, injuries, or damages of any nature due to an unreasonable prevention or denial of access to perform services.
- 2.11.4 Design-Builder shall pass on to HCC the benefit of any warranties or guarantees of all manufacturers, suppliers and subcontractor providing labor and/or materials in connection with the services.
- 2.11.5 Design-Builder shall maintain competent and sufficient staff assigned to the Project to perform the services specified. All Design-Builder employees assigned to the Project shall maintain a neat and professional appearance at all times while performing the services. If possible, Design-Builder's employees shall wear properly identified company uniforms at all times consisting of shirts with sleeves, long pants, and appropriate shoes. Design-Builder's employees shall be fully and properly clothed at all times while performing the duties set forth.
- 2.11.6 Design-Builder shall cooperate with HCC in obtaining and maintaining appropriate and necessary security clearances, if needed, for its employees in connection with the performance of the services.
- 2.11.7 The Design-Builder is not permitted to store materials and/or equipment on HCC's property during non-working days. The Design-Builder will be required to have their own workplace not located on HCC's property. Upon award, HCC may grant the Design-Builder with a workplace. The Design-Builder shall be solely responsible for the satisfactory completion and quality of all work performed as determined by HCC.

- 2.11.8 ALL work, services, or products developed must comply with ALL applicable City and County, State, and Federal rules, regulations, codes, and guidelines.
- 2.11.9 HCC shall hold the Design-Builder liable for all the acts of its employees.
- 2.11.10 Design-Builder shall ensure compliance with the “Policies and Procedures for Design-Builder Employees on Premises” provided as Appendix E.
- 2.11.11 Design-Builder agrees to remove any of its employees from the premises upon written request by HCC.
- 2.11.12 Once the contract is awarded, the Design-Builder shall communicate directly with HCC’s PM/CM regarding to performing the Scope of Work, and Design-Builder shall cooperate fully with the PM/CM in every way.
- 2.11.13 Should a disagreement arise between the Design-Builder and HCC or the PM/CM in regard to work performance of specific service requirements within the contract specifications, the directives of HCC and the PM/CM shall prevail. Design-Builder’s failure to comply with HCC’s or the PM/CM’s directives shall be deemed cause for corrective action and subject to contractual remedies.
- 2.11.14 Should the Design-Builder discover any discrepancy in the specifications, the Design-Builder shall immediately notify the PM/CM before proceeding any further with the work, otherwise, the Design-Builder will be held responsible for any cost involved in correction of work placed due to such discrepancy.
- 2.11.15 If any work is not in full compliance with these Specifications, the Design-Builder shall make all necessary corrections to the full satisfaction of HCC and/or the PM/CM and at no additional cost to HCC. The Design-Builder shall perform corrective work within the period allowed by the Contract Documents or the PM/CM.
- 2.11.16 The Design-Builder shall immediately remedy any defects caused by negligence of the Design-Builder or its employees. The Design-Builder shall exercise care and shall provide all necessary protection to prevent injury and/or damage.
- 2.11.17 The Design-Builder shall be required to protect the occupants and the general public from any unsafe conditions during the performance of services and/or as a result of the services.
- 2.11.18 The Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, effective May 16, 1972, as amended, is applicable and made a part of this solicitation by reference. The Design-Builder shall carefully read and strictly comply with its requirements.
- 2.11.19 All employees will be required to carry a Design-Builder issued, picture ID which will be required to be worn at all times while working at the Hawaii Convention Center. Design-Builder is to provide each employee with a plastic sleeve with clip to hold the ID.

2.12 MANDATORY CLEARANCES

All Design-Builder's employees providing service on this Project shall pass drug tests and security background checks completed before they are allowed to work on the property.

2.13 INSPECTIONS

HCC and/or its PM/CM shall be allowed to monitor the Design-Builder's job performance at any time. HCC and/or its PM/CM may require the Design-Builder to accompany its designated representative in conducting evaluations.

2.14 REMOVAL OF EMPLOYEES

HCC reserves the right to ask the Design-Builder to remove and replace any employee who conducts himself or herself in a manner detrimental to the operation of the Hawaii Convention Center. Such conduct would include, but is not limited to, inappropriate behavior toward clients or staff of HCC, consuming alcoholic beverages on the premises, and unauthorized or illegal activity.

2.15 FORM OF CONTRACT and PRECEDENCE OF DOCUMENTS

A sample form of the Contract for this project is provided as Appendix B. The order of precedence for the Contract Documents shall be as follows: (1) Contract, (2) Contract Appendix A: Design-Build Amendment and Appendix B: Insurance and Bonds, (3) Special Conditions, (4) General Conditions, (4) this RFP, including all addenda, attachments, appendices, and amendments, and (5) the Design-Builder's Proposal, including the BAFO if required and/or submitted.

2.16 GENERAL TERMS AND CONDITIONS

At all times, the Design-Builder shall comply with the General Terms and Conditions provided herein as Exhibit C to Appendix C.

2.17 SPECIAL CONDITIONS

At all times, the Design-Builder shall comply with the Special Conditions provided herein as Exhibit D to Appendix C. Note that the Special Conditions amend, replace, and add to the terms within the Contract and the General Conditions.

2.18 HCC HEALTH AND SAFETY PROCEDURES

The Design-Builder is responsible for providing adequate orientation, supervision and training of all employees working at the Hawaii Convention Center. All Design-Builder's employees must be familiar with the layout of the Hawaii Convention Center and comply with Appendix E – Hawaii Convention Center Health and Safety Procedures.

Please reference HCC's Health and Safety Protocols and Guidelines for the latest COVID-19 updates and requirements for entry, <https://blog.hawaiiconvention.com/reopening-protocols-and-guidelines/>

2.19 RENTAL EQUIPMENT

HCC rents certain equipment that its Design-Builder may utilize in the Design-Builder's services. In such instances, the Agreement for Rental of Equipment (Without Operator) form, provided herein as Appendix F, will be utilized.

SECTION 3 – PROPOSAL SUBMITTAL REQUIREMENTS

3.1 INTRODUCTION

One of the objectives of the RFP is to make proposal preparation easy and efficient, while giving Offerors ample opportunity to highlight their proposal. When an Offeror submits a proposal, it shall be considered a complete plan for accomplishing the requirements described in this RFP.

3.2 PROPOSAL PREPARATION

Each Proposal must include a completed Rate Card found in Appendix D (the "Proposal Form and Rate Card"). Offerors shall submit all data and information specified/requested in this SECTION to qualify its proposal for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of the Proposal.

3.3 DISQUALIFICATION OF PROPOSALS

HCC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP and which demonstrate an understanding of the scope of services. **Any proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice.** HCC reserves the right to ask for clarification of any item in the proposal.

An Offeror will be disqualified, and the proposal automatically rejected for anyone or more of the following reasons:

Proof of collusion among Offerors, in which case all proposals involved in the collusive action will be rejected.

The Offeror's lack of responsibility and cooperation as shown by past work or services.

The proposal shows any noncompliance with applicable law.

The proposal is conditional, incomplete, or irregular in such a way as to make the proposal incomplete, indefinite, or ambiguous as to its meaning.

The proposal has any provision reserving the right to accept or reject award, or to enter into a contract pursuant to an award, or provisions contrary to those required in the solicitation.

3.4 SUBMISSION OF PROPOSALS

Each Offeror may submit only one (1) written proposal, addressed to the Contracting Officer via email to the PM/CM with copy to the Contracting Officer no later than **4:00 p.m. HST on Thursday, September 7, 2023**, the "Proposal Due Date", identified in paragraph 1.4 of SECTION 1. **Proposals received after this time/date may be rejected.**

3.5 PUBLIC INSPECTION

Proposals shall not be opened publicly but shall be opened in the presence of two or more HCC officials. The register of proposals and Offeror's proposals shall only be provided to the public pursuant to a valid request made pursuant to the Hawaii Uniform Information Practices Act, chapter 92F of the Hawaii Revised Statutes ("UIPA") to the Hawaii Tourism Authority. Such requests can only be made after an awarded contract has been executed by HCC and the selected Offeror.

Offerors shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. HCC cannot guarantee that designated data will be kept confidential. The proposals are subject to disclosure rules set forth in the UIPA and as indicated above. The Offeror bears the burden of establishing that the designated data is exempted from the disclosure requirements set forth in the UIPA.

All proposals and other material submitted by Offerors become the property of HCC and may be returned only at HCC's option.

3.6 THE EXTERIOR PAINT PROJECT PROPOSAL

The Exterior Paint proposal shall include the following categories:

COVER LETTER

SUMMARY OF PROPOSAL

BACKGROUND, QUALIFICATIONS AND EXPERIENCE

PERSONNEL ORGANIZATION AND STAFFING

LIST OF SUBCONTRACTORS AND SUPPLIERS

INSTALLATION AND LOGISTICS PLAN

PRICE SUBMITTAL FORM – RATE CARD

OFFEROR'S CERTIFICATE OF VENDOR COMPLIANCE via Hawai'i Compliance Express (<http://endors.ehawaii.gov>)

3.6.1 PROPOSAL COVER LETTER

The proposal cover letter must be on the Offeror's official business letterhead; signed by an individual authorized to legally bind the Offeror. If the Offeror is a corporation, the cover letter must be signed by an authorized officer of the corporation. Authorized representatives must show proof of their authority to bind the Offeror.

3.6.2 SUMMARY OF PROPOSAL

Clearly, concisely and briefly summarize and highlight the contents of the proposal in such a way to provide HCC with a broad understanding and aspects of the proposal.

3.6.3 BACKGROUND, QUALIFICATIONS AND EXPERIENCE

Provide explicit details on Design-Builder's background, qualifications and experience relative to performing requirements set forth in the "Scope of Services", including but not limited to:

- A. Background of the Design-Builder, i.e. services offered, size, resources, years in business, location, State of Hawaii presence, State of incorporation, etc.
- B. Brief description of Design-Builder's qualifications to perform "Scope of Services" requirements.
- C. List relevant similar installations undertaken within the past five (5) years, indicating at a minimum: manager, manager's representative, project name, and type of operations and equipment installed.
- D. Describe your safety record over the past five (5) years.
- E. A reference from a financial institution (name, title and telephone number).
- F. Three (3) references who can be contacted and provide name, title, organization, phone number, e-mail address.

3.6.4 PERSONNEL ORGANIZATION AND STAFFING

Provide explicit details on the Design-Builder's personnel organization and staffing relative to performing requirements set forth in the "Scope of Services", including but not limited to:

- A. Design-Builder's Managerial organizational chart and resumes of key positions and their respective role for this project if any.
- B. List key personnel who will be assigned to this project and indicate their role and their operations and maintenance experience for the past five (5) years.

3.6.5 LIST OF SUBCONTRACTOR AND SUPPLIERS

Offeror must submit a list of all subcontractor and suppliers that it will utilize for the project. For each subcontractor list, Offeror must indicate the scope of work to be performed by the listed subcontractor and whether a license is needed for the work. If a license is required, the Offeror must indicate that the subcontractor possesses the requisite license and is in good standing. For each supplier of key equipment, the Offeror must provide the name and address for the supplier and the equipment the supplier is providing for the project.

3.6.6 INSTALLATION LOGISTICS PLAN

Offeror must submit a proposed Installation and Logistics Plan for the Hawaii Convention Center which includes, at a minimum, a comprehensive description of the plan which will be utilized to comply with the Scope of Services required by the RFP.

3.6.7 COST PROPOSAL

Offeror must prepare and submit an all-inclusive cost proposal for the proposed equipment, the installation of the equipment and completion of the Scope of Work required by the RFP. A summary of all costs shall be in a form, referenced in Appendix D.

3.6.8 OFFEROR'S COVC

Provide a current Certificate of Vendor Compliance via Hawai'i Compliance Express (<http://vendors.ehawaii.gov>) issued by the State of Hawai'i.

3.7 DESIGN-BUILDER'S LICENSE

If a Hawai'i Contractor's license or any other license is required by law for the performance of the work which is called for in this RFP, the Offeror and all subcontractors **MUST** have the required license, and the license shall be in good standing, before commencement of work on this contract.

3.8 CERTIFICATION OF INDEPENDENT COST DETERMINATION

By submission of a proposal in response to this RFP, the Offeror certifies as follows:

- F. The costs in this RFP have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such costs with any other Offeror.
- G. Unless otherwise required by law, the costs which have been quoted in this RFP have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
- H. No other attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

3.9 MODIFICATION OR WITHDRAWAL OF PROPOSALS

A modification of a proposal already received will be accepted by HCC only if the modification is received prior to the proposal due date. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

An Offeror may withdraw a proposal already received prior to the due date by submitting to HCC a written request for withdrawal executed by the Offeror's authorized representative. The withdrawal of a proposal does not prejudice the right of an Offeror to submit another proposal within the time set for receipt of proposals.

SECTION 4 – EVALUATIONS

4.1 INTRODUCTION

Evaluation of proposals will be conducted comprehensively, fairly, and impartially. A quantitative scoring system will be utilized to maximize the objectivity of the evaluation.

4.2 PROPOSAL EVALUATION COMMITTEE

An evaluation committee will be selected by HCC to perform all evaluation requirements. The committee will be composed of individuals with knowledge of the requirements identified in the RFP. HCC reserves the right to request information (from Offerors) to clarify Offeror's proposal.

4.3 EVALUATION PHASES

Evaluation phases will be conducted as follows:

Phase 1 Initial Proposal Evaluation
Phase 2 Establishment of Priority-List of Offerors **(optional)**
Phase 3 Discussions with Offerors/Presentations **(optional)**
Phase 4 Best and Final Offers **(optional)**
Phase 5 BAFO Evaluation, if necessary
Phase 6 Recommendation for Contract Award

4.3.1 INITIAL PROPOSAL EVALUATION

HCC and the PM/CM shall conduct an initial review of Offeror's proposal. The review will determine if Offeror adequately addressed the "Scope of Services" requirements, and if the proposal contains all the requirements of this RFP. The initial review will also determine if discussions with the Offerors is necessary. Evaluation of the proposals will be conducted using the evaluation criteria and weight percentages in paragraph 4.4 and, the scoring system in paragraph 4.5.

4.3.2 ESTABLISHMENT OF PRIORITY-LIST OF OFFERORS **(optional)**

The evaluation committee shall rank order Offerors by evaluating and scoring the proposals using the value weight percentages and the evaluation criteria and scoring system in paragraphs 4.4 and 4.5. A priority-list of acceptable Offerors shall be established and limited to no more than the three (3) Offerors, who received the highest scores for their proposals.

4.3.3 DISCUSSIONS WITH OFFERORS **(optional)**

HCC and the PM/CM may require presentations and/or conduct discussions with Offerors regarding the Offeror's proposals. Offeror's proposal may be accepted without discussions.

4.3.4 BEST AND FINAL OFFERS (optional)

Offerors may be requested to submit a "Best and Final" offer ("BAFO"). The BAFO's shall be evaluated and Offeror's proposal "ranking" adjusted, accordingly. If a BAFO offer is requested but not submitted, the previous submittal shall be construed as the Offeror's BAFO.

4.3.5 EVALUATION OF BEST AND FINAL OFFERS (if necessary)

If Offerors are requested to submit a BAFO, the BAFO offers shall be evaluated pursuant to the evaluation criteria and scoring system in paragraph 4.4.

HCC may schedule and conduct interviews with individual Offerors to better understand and evaluate the Offeror's proposal. HCC reserves the right that all offerors submitting a proposal may not be interviewed.

4.3.6 RECOMMENDATION FOR CONTRACT AWARD

The Evaluation Committee shall prepare a report summarizing proposal evaluation findings/rankings and provide recommendation for award of contract.

4.4 EVALUATION CRITERIA AND VALUE WEIGHT PERCENTAGES

<u>Evaluation Criteria</u>	<u>Value/Weight</u>
Offeror's Company Information Background, Qualification, Experience, and References, Personnel Organization and Staffing	10%
Offeror's Installation Plan Specific material, labor, equipment and planned to be utilized	30%
Offeror's Logistics Plan Phasing plan, material laydown, etc.	30%
Offeror's Cost Proposal	20%

4.5 EVALUATION SCORING SYSTEM

The evaluation categories are assigned a value weight percentage, as determined by HCC, totaling 100%. Each category will be rated between one (1) and five (5), with five (5) being the highest (the best rating) by each member of the evaluation committee. The Offeror's total score (see **note** below) will be determined by: a) multiplying the assigned weight value of each category by the numerical rating provided by the evaluation committee member to determine the score for each category; b) totaling the score for all categories of each evaluation committee member; and c) totaling the score of all evaluators.

Note: In determining the total score, the Offeror's cost proposal will be based on total cost and overall value. The lowest costs will receive the highest available rating allocated to costs where the services, products and materials are of equal value. However, scoring may be affected where the value of the offerings vary among the respective proposals.

SECTION 5 – AWARD OF CONTRACT

5.1 AWARD OF CONTRACT

Award of the contract shall be made to the most responsible and responsive Offeror whose proposal is judged/determined, by the Evaluation Committee, to be the most advantageous to the Hawaii Convention Center, considering all evaluation reviews and results.

5.2 CONTRACT AWARD NOTIFICATION

The Contracting Officer will inform the successful Offeror of contract award selection within 48 hours of confirmation. Additionally, an official "contract award notification letter" will be executed by HCC and provided at the earliest date.

5.3 CONTRACT EXECUTION REQUIREMENTS

5.3.1 AGREEMENT (CONTRACT) DOCUMENTS

The Contract shall be executed by HCC and the successful Offeror ("Design-Builder"). This document will serve as the official and legal contractual instrument between both parties. This document will incorporate (by attachments or reference) the RFP, with any and all addendums; the General Conditions and Special Conditions; and the Offeror's accepted proposal, with any and all addendums/changes/negotiated agreements/etc.; all of which together will constitute the "Contract Documents".

A sample of the anticipated Contract is attached hereto as Appendices B and C. **Do not complete or execute the "sample" contract.**

5.3.2 PROOF OF REQUIRED PERMITS

If permits are required for completion of the subject Project, the successful Offeror must obtain and submit to HCC's Contracting Officer Proof of all required permits ("Proof of Required Permits"). The Proof of Required Permits shall be submitted to HCC's Contracting Officer as soon as possible after the successful Offeror is notified of selection. In any event, no work that requires a permit may be started until Proof of Required Permits is submitted to HCC.

5.3.3 GENERAL CONDITIONS

The General Conditions are attached hereto as Exhibit C to Appendix C and shall be part of the Contract Documents.

5.3.4 SPECIAL CONDITIONS

The Special Conditions are attached as Exhibit D to Appendix C and shall be part of the Contract Documents.

5.3.5 CERTIFICATES REQUIRED BY HRS § 103D-310(c)

Pursuant to HRS § 201B, this RFP is subject to Part III of Chapter 103D of the Hawaii Public Procurement Code, Hawaii Revised Statutes. Accordingly, the successful Offeror shall, within three (3) business days of notification of contract award, furnish proof of compliance with the requirements of HRS § 103D-310(c) including the following:

- A. Chapter 237, tax clearance;
- B. Chapter 383, unemployment insurance;
- C. Chapter 386, workers' compensation;
- D. Chapter 392, temporary disability insurance;
- E. Chapter 393, prepaid health care; and
- F. One of the following:
 - a. Registered and incorporated or organized under the laws of the State, hereinafter referred to as a "Hawaii business"; or
 - b. Registered to do business in the State, hereinafter referred to as a "compliant non-Hawaii business".

Offerors may choose to use the Hawaii Compliance Express ("HCE"), which allows businesses to register online (<http://vendors.ehawaii.gov>) to acquire a single, printable electronic "Certificate of Vendor Compliance." The HCE provides current compliance status as of the certificate issuance date. The "Certificate of Vendor Compliance," indicating that the Offeror's status is compliant with the requirements of HRS Section 103D-310(c), will be accepted for both contracting purposes and final payment.

5.3.6 CONTRACT EXECUTION

Subsequent to contract award, HCC will present the contract to the successful Offeror for execution. The successful Offeror shall return the signed contract within ten (10) calendar days from the date upon which the contract was presented for signature by HCC, or within such time as HCC shall otherwise allow. The signed contract shall be returned to the Contracting Officer.

The successful Offeror shall provide evidence of the required insurance coverages and bonds when returning the signed contract to HCC.

5.4 CONTRACT COMMENCEMENT DATE

Upon completion of contract execution, a **"Notice to Proceed"** letter will be provided the Design-Builder specifying the "Commencement" (start work) date of the contract. No work is to be undertaken by the Design-Builder prior to the commencement date specified in the Notice to Proceed letter. HCC is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Design-Builder prior to the official, notice to proceed "Commencement" date.

5.5 PROTESTS

Proposal protests, as described in Chapter 7 of HRS 103D, will not be considered by HCC. Offeror(s) may object to an award to another Offeror by sending the Contracting Officer a written objection letter which contains the basis of the objection. The written objection letter must be received by the Contracting Officer within Five (5) business days after the notice of award is sent to all Offerors. The objection will be reviewed by the Chief Procurement Officer ("CPO") for the HCC, and a written decision will be issued in response to the written objection letter within ten (10) business days. The decision of the CPO is final and binding on the Offeror objecting to the award.

5.6 ACCEPTANCE OF TERMS AND CONDITIONS

By submitting a proposal, an Offeror expressly agrees to all of the terms, conditions, provisions, and requirements set forth in this RFP, the contract, the General Conditions, and the Special Conditions.

APPENDIX A

HCC EVENT SCHEDULE TEMPLATE

Exterior Painting Project
for Hawai'i Convention Center
Appendix A

HCC Event Schedule - Subject to Change

# CALENDAR DAYS	DAY OF WEEK	DATE			AM	AM-PM	PM	NOTES
					8:00am	8:00am	4:00pm	
					4:00pm	8:00pm	8:00pm	
1	Saturday	1	July	2023				
2	Sunday	2	July	2023				
3	Monday	3	July	2023				
4	Tuesday	4	July	2023				
5	Wednesday	5	July	2023				
6	Thursday	6	July	2023				
7	Friday	7	July	2023				
8	Saturday	8	July	2023				
9	Sunday	9	July	2023				
10	Monday	10	July	2023				
11	Tuesday	11	July	2023				
12	Wednesday	12	July	2023				
13	Thursday	13	July	2023				
14	Friday	14	July	2023				
15	Saturday	15	July	2023				
16	Sunday	16	July	2023				
17	Monday	17	July	2023				
18	Tuesday	18	July	2023				
19	Wednesday	19	July	2023				
20	Thursday	20	July	2023				
21	Friday	21	July	2023				
22	Saturday	22	July	2023				
23	Sunday	23	July	2023				
24	Monday	24	July	2023				
25	Tuesday	25	July	2023				
26	Wednesday	26	July	2023				
27	Thursday	27	July	2023				
28	Friday	28	July	2023				
29	Saturday	29	July	2023				
30	Sunday	30	July	2023				
31	Monday	31	July	2023				
32	Tuesday	1	August	2023				
33	Wednesday	2	August	2023				
34	Thursday	3	August	2023				
35	Friday	4	August	2023				
36	Saturday	5	August	2023				
37	Sunday	6	August	2023				
38	Monday	7	August	2023				
39	Tuesday	8	August	2023				
40	Wednesday	9	August	2023				
41	Thursday	10	August	2023				
42	Friday	11	August	2023				
43	Saturday	12	August	2023				

44	Sunday	13	August	2023				
45	Monday	14	August	2023				
46	Tuesday	15	August	2023				
47	Wednesday	16	August	2023				
48	Thursday	17	August	2023				
49	Friday	18	August	2023	X	X	X	Statehood Day
50	Saturday	19	August	2023				
51	Sunday	20	August	2023				
52	Monday	21	August	2023				
53	Tuesday	22	August	2023				
54	Wednesday	23	August	2023				
55	Thursday	24	August	2023				
56	Friday	25	August	2023				
57	Saturday	26	August	2023				
58	Sunday	27	August	2023				
59	Monday	28	August	2023				
60	Tuesday	29	August	2023				

APPENDIX B

**AIA DOCUMENT A105 – 2014 PROJECT DRAFT SAMPLE
STANDARD SHORT FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

DO NOT EXECUTE

DRAFT AIA® Document A105® – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the «TBD» day of «TBD» in the year «2023»
(In words, indicate day, month and year.)

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

«AEG Management HCC, LLC »«a Delaware Limited Liability Company»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»
« »

and ~~the Contractor:~~ the Design-Builder, hereinafter referred to as the ("Contractor"):
(Name, legal status, address and other information)

«TBD»
«TBD»
«TBD»
« »

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

«Exterior Painting»
«Hawaii Convention Center ("HCC")»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»

The ~~Architect:~~ Project and Construction Manager:
(Name, legal status, address and other information)

«Cumming Management Group, Inc.»
«841 Bishop Street, Suite 725»
«Honolulu, HI 96813»

The Owner/Manager and Contractor agree as follows.

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

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

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1	THE CONTRACT DOCUMENTS
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ARTICLE 1 THE CONTRACT DOCUMENTS

~~The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of:~~ § 1.1 The Contractor shall complete the Work described in the Contract Documents for the Project. In the case of a conflict or ambiguity between the terms of the Contract Documents, the Contractor shall resolve such ambiguity or conflict in the order set forth below, with 1.1.1 taking precedence, and 1.1.6 lower in order. Notwithstanding anything to the contrary within this Section, in the event that a conflict or ambiguity exists within the Contract Documents, the Contractor shall resolve said ambiguity to include the highest quality and largest quantity. The Contract Documents consist of:

.1 Written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement;

.2 Special Conditions;

.3 General Conditions;

~~.4 this Agreement signed by the Owner and Contractor;~~ .4 This Agreement signed by the Manager and Contractor, and Appendix D - Proposal Form and Rate Card;

~~.2 the drawings and specifications prepared by the Architect, dated [REDACTED], and enumerated .5 Request for Proposals for Design and Build Project for the Exterior Painting for Hawaii Convention Center (the "RFP"), including all addenda, attachments, amendments; and~~

.6 Any other documents, if any, identified as follows:

Drawings: « »

Number	Title	Date

Specifications: § 1.2 Design-Build Work:

Section	Title	Pages

~~3~~ addenda prepared by the Architect as follows:

Number	Date	Pages

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

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

Contractor shall be responsible for designing and constructing portions of the Project as designated by Manager or as otherwise set forth in the Contract Documents ("Design-Build Work"). Contractor hereby warrants and represents to Manager that (a) all Design-Build Work shall be designed by licensed professionals; (b) the designs for all Design-Build Work shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of any public authority having jurisdiction over the Project; (c) the Design-Build Work shall comply with any outline and performance specifications prepared by the Manager's design professionals, if any; (d) such systems shall adequately perform the functions for which they are intended and properly function together; and (e) the Design-Builder will carry the requisite insurance minimums as required under the Contract Documents. If and to the extent that Manager's design professionals do not provide outline and performance specifications for any of such systems, Contractor shall, prior to designing such systems, provide for Manager's review and written approval, outline and performance specifications for the systems. If Contractor fails to obtain Manager's applicable prior written approval of such outline and performance specifications prior to such systems being designed, Contractor shall be responsible, at its sole cost and expense, for redesigning and for reconstructing such systems so that they meet Manager's criteria. Contractor shall deliver to Manager all plans and specifications prepared by Contractor or its subcontractors for such systems, and all rights, title and interest in and to such plans and specifications shall belong to Manager.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

§ 2.2 Date of Commencement:

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

The date of commencement shall be set forth in a written "Notice to Proceed" letter.

§ 2.3 Substantial Completion:

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

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

[« »] By the following date: « »

§ 2.4 Liquidated Damages:

The Contractor's failure to substantially complete the Work within the time period set forth in Section 2.3 shall result in liquidated damages in the amount of TBD dollars and TBD cents (\$TBD) per calendar day.

ARTICLE 3 CONTRACT SUM

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

~~(\$—)«TBD» (\$ «TBD»)~~

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

Portion of the Work	Value
<u>N/A</u>	<u>N/A</u>

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the ~~Owner~~Manager:
(Identify the accepted alternates. If the bidding or proposal documents permit the ~~Owner~~Manager to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

«N/A»

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
<u>N/A</u>	

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

Item	Units and Limitations	Price per Unit (\$0.00)
<u>Request to Stop Work; where initially Manager accept work on a particular day, but have to stop on the day, due to unforeseen circumstances.</u>	<u>1 Day</u>	

ARTICLE 4 PAYMENTS

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

«1 The period covered for each payment application shall cover one (1) calendar month, ending on the last calendar month.
2 The Manager will pay the Contractor in full minus five percent (5%) retainage for each calendar month payment application, certified by the CM/PM, until such a time that the contract is past fifty percent (50%) complete, and progress is satisfactory, no additional sum may be withheld from any payments to the Contractor.
3 Application for payment shall show the percentage of completion of each portion of the Work, as of the end of the period covered by the application for payment.
4 Section 103-32.1(d)(3), Hawaii Revised Statutes (HRS) allows the Contractor to withhold from amounts due its subcontractors, only the same percentage of retainage as that of the Contractor, and only if its subcontractors have provided valid performance and payment bonds or other bond or collateral acceptable to the Contractor. Section 103-32.1E, HRS, allows the Contractor or subcontractor to negotiate with, and retain from its respective subcontractors, a different retainage percentage which cannot exceed ten percent (10%). All amounts retained shall be held by the procurement officer. Therefore no additional amounts are to be retained by the State unless: (1) the Contractor's progress is not satisfactory, in which case the State may continue to withhold up to five percent (5%) of the amount due the Contract, after fifty percent (50%) of the

Contract is completed; or (2) there is a subcontract in which the Contractor or subcontractor has negotiated a retainage in excess of the five percent (5%), but no more than ten percent (10%).»

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

«N/A» % «N/A»

ARTICLE 5 INSURANCE & BONDS

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

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than ~~(\$) each occurrence, (\$) general aggregate, and (\$) aggregate for products completed operations hazard.~~ «two million dollars» (\$ «2,000,000.00») each occurrence, «four million dollars» (\$ «4,000,000.00») general aggregate, including products completed operations and personal and advertising injury. Commercial General Liability insurance on a per occurrence basis, shall include: (i) Broad form property damage; (ii) Contractual liability insurance, as part of the commercial general liability policy, insuring the Contractor's liabilities assumed under this Contract, including indemnification obligations under Section 8.12; and (iii) follow a form of umbrella or excess liability with a limit of \$4,000,000.00 per occurrence in excess of \$1,000,000.00.

Products and Completed Operations with policy limits of not less than two million dollars (\$2,000,000.00) for each occurrence and five million dollars (\$5,000,000.00) in the aggregate for products and completed operations.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than ~~(\$) «one million dollars» (\$ «1,000,000.00»)~~ per accident, for bodily injury, death of any person, and property damage arising out of the ~~ownership, Manager, maintenance, and use of those motor vehicles~~ along with any other statutorily required automobile coverage. Automobile Liability insurance shall include coverage for automobile contractual liability.

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

§ 5.1.4 Workers' Compensation at ~~statutory limits applicable statutory requirements and requirements of the State where the Project is located.~~

§ 5.1.5 Employers' Liability with policy limits not less than ~~(\$) each accident, (\$) each employee, and (\$) policy limit.~~ «one million dollars» (\$ «1,000,000.00») each accident and each employee, and two million dollars (\$2,000,000.00) policy limit. Employers' Liability insurance shall also include a Waiver of Subrogation in favor of Manager, the CM/PM, the Hawai'i Convention Center, the Hawai'i Tourism Authority, ASM Global Parent, Inc., AEG Facilities, LLC, AEG Venue Management Holdings, LLC, Anschutz Entertainment Group, Inc. and the State of Hawai'i, and each of its and their respective boards, commissions, agents, Manager, members, shareholders, directors, officers, servants, employees, subsidiaries, and affiliates (hereinafter referred to as "Company Indemnitees"), unless not permitted by applicable law. The Workers' Compensation and Employer's Liability policy shall provide a waiver of subrogation in favor of Manager and any other entity or individual required by the Contract. Contractor waives all rights against Manager, and their respective affiliates, agents, officers, directors and employees to the extent of any damages covered by such policy obtained by Contractor pursuant to this paragraph.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost ~~basis-basis, including a Waiver of Subrogation in favor of Manager.~~

§ 5.1.7 Other Insurance Provided by the Contractor

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

Coverage	Limits
Professional Liability/Errors and Omissions Insurance	Two million dollars (\$2,000,000.00) per claim and two million (\$2,000,000) in the aggregate.
Personal Property Insurance	Value of Contractor's personal property, tools, equipment and other property.
Pollution Liability Insurance	One million dollars (\$1,000,000) per claim occurrence and one million (\$1,000,000) in the aggregate with coverage for loss caused by pollution conditions that arise from the operations of the Contractor, including Completed Operations and a Waiver of Subrogation in favor of the Manager.

[The Professional Liability/Errors & Omissions Insurance shall be for protection of claims arising out of negligent acts, professional services/errors, and omissions by or for the Contractor. The Personal Property insurance shall include a Waiver of Subrogation in favor of the Manager Indemnitees.](#)

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

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

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

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

[§ 5.6 All of the insurance in Article 5 shall be subject to the following terms, conditions and endorsements.](#)

[§ 5.6.1 Insurer.](#) The insurance shall be purchased from a company with an "A-:IX" or better rating from A.M. Best Manager, where said insurance company is both lawfully able to provide insurance in the State of Hawai'i and that is satisfactory to the Manager.

[§ 5.6.2 Additional Insureds Endorsements.](#) All insurance, except the workers compensation and professional liability insurance, shall include the Manager Indemnitees as additional insureds under ISO Form CG 2010 and Form CG 2037 or their equivalents. These endorsements shall apply without regard to other provisions of this Agreement.

[§ 5.6.3 Primary Insurance.](#) The commercial general liability insurance under Section 5.1.1, the automobile liability insurance under Section 5.1.2 shall apply as primary insurance, without any right of contribution by any other insurance that may be carried by the Manager regarding the Work under this Agreement. Any general liability or automobile liability insurance purchased by the Indemnitees is, or has been, specifically purchased as excess over any general liability or automobile liability purchased by the Contractor.

[§ 5.6.4 Severability of Interest.](#) The insurance shall include a severability of interest clause for all named insureds and additional insureds.

§ 5.6.5 Duration. Coverage shall be maintained, without interruption, from the date of commencement of the Contractor's Services under this Agreement and shall continue for a period of three (3) years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies. The insurance obligations shall survive the expiration or termination of this Agreement.

§ 5.6.6 Notice of Cancellation, Etc. The Contractor's insurer shall give the Manager immediate written notice of any cancellation in accordance with the policy terms but shall provide at least ten (10) days' written notice for non-payment of premium. The Contractor shall be required to immediately notify Manager of any termination, of coverage or if its coverage no longer meets the requirements of this Agreement by registered or certified mail, return receipt requested.

§ 5.6.7 Defense. The insurance obtained by the Contractor, except for professional liability and workers compensation insurance, shall provide that the insurer shall defend any suit against the additional insureds, even if such suit is allegedly or actually frivolous or fraudulent. Defense costs shall apply in excess of any per occurrence limit of liability and shall not reduce any aggregate limits of liability applying under the policies.

§ 5.6.8 Delivery of Certificates and Policies. Original certificates of insurance and all requested endorsements, in a form acceptable to the Manager, must be filed with the Manager prior to commencement of the Contractor's Services. The Contractor's certificate of insurance shall be endorsed as follows: "The Manager Indemnitees (as defined in Section 5.1.5) are named as additional insureds for all insurance except the workers compensation and the professional liability insurance. This insurance is primary to and non-contributing with any and all insurance of the Manager Indemnitees." The Certificate Holder box shall identify the name and address of the Manager listed on the first page of this Agreement. With respect to insurance coverage required to remain in force after final payment, the Contractor shall annually submit certificates of insurance evidencing continuation of such coverage. The Contractor shall submit copies of the policies within seven (7) days following a request from the Manager.

§ 5.6.9 Lapse in Insurance. Failure to maintain insurance shall constitute a material breach of this Agreement. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Manager receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Manager may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

§ 5.6.10 Subcontractors. If the Contractor subcontracts a third-party sub-consultant to complete any portion of this Agreement, the Contractor shall ensure that the sub-consultant shall provide all necessary insurance and shall name the Manager Indemnities and the Contractor listed as additional insureds. The Contractor shall provide such insurance documents to the Manager on behalf of sub-consultant.

§ 5.6.11 Non-Waiver

PERMITTING THE CONTRACTOR TO START WORK OR RELEASING ANY PAYMENT PRIOR TO COMPLIANCE WITH THESE REQUIREMENTS SHALL NOT CONSTITUTE A WAIVER THEREOF.

§ 5.7 Waivers of Subrogation

The Contractor waives all rights of recovery against each other and the Manager Indemnitees for any losses covered by insurance with the exception of the Professional Liability policy. The Contractor agrees to defend and indemnify the Manager Indemnitees from all such subrogation claims.

§ 5.8 Payment and Performance Bonds

The Manager shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents on the date of execution of the Contract.

The Contractor shall provide surety bonds as follows:

Performance and Payment Bond. The Contractor shall obtain and maintain, in advance and subject to approval by the Manager, a payment and performance bond in the amount of the Contract Sum. The Manager shall be named as obligees on all bonds. Bonds to be provided by the Contractor, subcontractors, and sub-subcontractor(s) must be conditioned (1) that prompt payment shall be made for all amounts lawfully due to all contractors, subcontractors, and persons or entities furnishing labor or materials used in the prosecution of the Work on any phase of the Project; and (2) as

guarantee of the obligation to complete the Project as provided in this Agreement. The dollar amount of such bonds shall be modified, as needed, to reflect any approved change orders that modify the total value of the Project or part of the Project. Failure to comply with the requirements of this section shall be legal grounds under this Agreement for Work to be ordered to cease or to be restricted, as deemed appropriate by the Manager, until compliance is achieved, and any unpaid claims are resolved to the reasonable satisfaction of the Manager.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

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

§ 6.2 The Work

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

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4

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

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

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

«To Manager:

Contracting Officer – Ms. Mari Tait
AEG/Hawaii Convention Center
1801 Kalakaua Avenue
Honolulu, Hawaii 96815
Email: hccrfp@hccasm.com

With a copy to:

Project and Construction Manager for AEG / HCC (PM/CM) - Mr. Andrew Tanton
Cumming Management Group, Inc.
841 Bishop Street – Suite 725
Honolulu, Hawaii 96813
Email: atanton@cumming-group.com

To Contractor:

TBD
TBD
Email: TBD»

ARTICLE 7 — OWNER

ARTICLE 7 MANAGER

~~§ 7.1 Information and Services Required of the Owner~~Information and Services Required of the Manager

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

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

~~§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.~~Intentionally deleted.

~~§ 7.2 Owner's Right to Stop the Work~~Manager's Right to Stop the Work

~~§ 7.2.1~~ If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Manager may direct the Contractor in writing to stop the Work until the correction is made.

~~If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.~~~~§ 7.2.2~~ Manager shall, at its convenience, have the right to stop Work due to an event or any other circumstance. If Contractor believes that it has been impacted by the stop work order, Contractor may submit the reasons it believes it has been impacted via a change order.

~~§ 7.3 Owner's Right to Carry Out the Work~~Manager's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven ~~day (7)-day~~ period after receipt of written notice from the ~~Owner-Manager~~ to commence and continue correction of such default or neglect with diligence and promptness, the ~~Owner-Manager~~ may, without prejudice to other remedies, correct such deficiencies. In such case, the ~~Architect-CM/PM~~ may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the ~~Owner-Manager~~ for the cost of correction, provided the actions of the ~~Owner-Manager~~ and amounts charged to the Contractor were approved by the ~~Architect-CM/PM~~.

§ 7.4

~~Owner's Right to Perform Construction and to Award Separate Contracts~~Manager's Right to Perform Construction and to Award Separate Contracts

~~§ 7.4.1~~ The ~~Owner-Manager~~ reserves the right to perform construction or operations related to the Project with the ~~Owner's-Manager's~~ own forces, and to award separate contracts in connection with other portions of the Project.

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

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

~~§ 8.1.1~~ Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

~~§ 8.1.2~~ The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the ~~Owner-Manager~~. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the ~~Architect-CM/PM~~.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall ~~prepare-prepare~~, and submit for the ~~Owner's and Architect's-Manager's and CM/PM's~~ information a Contractor's construction schedule for the Work. ~~Said~~

Contractor's construction schedule shall comply with Manager's proposed installment schedule, which was attached as part of Appendix A to the RFP, and any subsequent amendments thereto, if any.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

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

§ 8.4 Labor and Materials

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

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

§ 8.5 Warranty

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

§ 8.5.1 Manufacturer's warranties and subcontractor's warranties shall not relieve the Contractor of any of its warranty obligations under the Contract Documents. All such manufacturers and subcontractor's warranties shall be assigned by Contractor to Manager at final payment of the Contract Sum.

§ 8.5.2 As Work required on warranty is the complete, rework, repair or replacement of Work not properly performed, or the result of defective material or workmanship, the Manager will not compensate the Contractor or subcontractors and material and equipment suppliers for the warranty Work.

§ 8.5.3 All warranty items are the responsibility of the Contractor. When warranty items occur, the Manager will notify the Contractor or appropriate subcontractor. The Contractor shall cause Work to commence on any warranty items within seven (7) days. If the warranty item(s) are impacting safety or rendering the Project or a portion of the Project unfit for its intended use, the Contractor shall take any and all measures to resolve the warranty item(s) immediately and in no event more than twenty-four (24) hours after notification to Contractor of the same. This shall include the acceleration of labor, material and equipment, all to implement the resolution, regardless of cost. All costs associated with the resolution of the warranty issue(s) shall remain the responsibility of the Contractor.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

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

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and

shall bear the attributable costs. The Contractor shall promptly notify the ~~Architect~~ CM/PM in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the ~~Architect~~ CM/PM shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the ~~Owner/Manager. Contractor and all Contractor's employees on the Manager's premises shall also conform to Manager's Health & Safety Procedures which was attached as part of Appendix E to the RFP.~~

§ 8.10 Cutting and Patching

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

§ 8.11 Cleaning Up

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

§ 8.12 Indemnification

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

ARTICLE 9 — ARCHITECT

§ 8.12 Indemnification

§ 8.12.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Manager Indemnitees, from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its sub-consultants or contractors), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise directly or indirectly, in whole or in part, from (a) the Services under this Agreement, or any part of such Services, and (b) any negligent, reckless, or willful act or omission of the Contractor, any sub-consultant or contractor, anyone directly or indirectly employed by them, or anyone that they control, unless due to the negligence or willful misconduct of the Manager Indemnitees. 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 paragraph.

§ 8.12.2 The Contractor shall defend the Manager Indemnitees using counsel selected by the Contractor and approved by the Manager. The Contractor's obligations shall include the obligation to pay reasonable attorneys' fees and costs in connection with such defense.

§ 8.12.3 The Contractor shall also indemnify, defend and hold harmless all Manager Indemnitees from all suits or claims by a third party for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the Manager Indemnitees of articles or services to be supplied in the performance of the Contractor's Services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of the Agreement.

ARTICLE 9 CM/PM

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

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

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

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

§ 9.5 The Architect-CM/PM has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect-CM/PM will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner-Manager or Contractor, the Architect-CM/PM will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

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

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

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner-Manager, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner-Manager and Contractor cannot agree to a change in the Contract Sum, the Owner-Manager shall pay the Contractor its actual cost-plus-cost-plus reasonable overhead and profit.

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

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

ARTICLE 11 TIME

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

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

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

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

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

§ 12.2 Applications for Payment

§ 12.2.1 At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Architect-CM/PM an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect-Manager or CM/PM may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner-Manager, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner-Manager no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner-Manager shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's-Manager's interests.

§ 12.3 Certificates for Payment

The Architect-CM/PM will, within seven (7) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner-Manager a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner-Manager a Certificate for Payment for such amount as the Architect-CM/PM determines is properly due, and notify the Contractor and Owner-Manager in writing of the Architect's-CM/PM's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner-Manager of the Architect's-CM/PM's reason for withholding certification in whole. If certification or notification is not made within such seven (7)-day period, the Contractor may, upon seven (7) additional days' written notice to the Owner and Architect-Manager and CM/PM, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect-CM/PM has issued a Certificate for Payment, the Owner-Manager shall make payment in the manner provided in the Contract Documents.

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

§ 12.4.3 Neither the Owner-Manager nor the Architect-CM/PM shall have responsibility for payments to a subcontractor or supplier.

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

§ 12.5 Substantial Completion

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

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the [Architect-CM/PM](#) and the [Architect-CM/PM](#) will make an inspection to determine whether the Work is substantially complete. When the [Architect-CM/PM](#) determines that the Work is substantially complete, the [Architect-CM/PM](#) shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the [Owner-Manager](#) and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the [Architect-CM/PM](#) will inspect the Work. When the [Architect-CM/PM](#) finds the Work acceptable and the Contract fully performed, the [Architect-CM/PM](#) will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the [Architect-CM/PM](#) releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

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

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

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

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the [Architect-CM/PM](#) as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one (1) year after Substantial Completion, correct [work-Work](#) not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the [Owner-Manager](#) may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

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

§ 15.2 Tests and Inspections

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

§ 15.2.2 If the [Architect-CM/PM](#) requires additional testing, the Contractor shall perform those tests.

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

§ 15.3 Governing Law

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

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of ~~14~~fourteen (14) days through no fault of the Contractor, the Contractor may, upon seven (7) additional days' written notice to the ~~Owner and Architect, Manager and CM/PM,~~ terminate the Contract and recover from the ~~Owner-Manager~~ payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 ~~Termination by the Owner for Cause~~Termination by the Manager for Cause

§ 16.2.1 The ~~Owner-Manager~~ may terminate the Contract if the Contractor

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

§ 16.2.2 When any of the above reasons exist, the ~~Owner-Manager,~~ after consultation with the ~~Architect, CM/PM,~~ may without prejudice to any other rights or remedies of the ~~Owner-Manager~~ and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate employment of the Contractor and may

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

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

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

§ 16.3 ~~Termination by the Owner for Convenience~~Termination by the Manager for Convenience

The ~~Owner-Manager~~ may, at any time, terminate the Contract for the ~~Owner's-Manager's~~ convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

N/A

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

<< >>

OWNER-MANAGER (Signature)

<< >> >>

(Printed name and ~~title~~-title)

CONTRACTOR (Signature)

<< >> >>

(Printed name and ~~title~~-title)

LICENSE NO.:

JURISDICTION:

DRAFT AIA® Document A105® – 2017

Standard Short Form of Agreement Between Owner and Contractor

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

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

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APPENDIX C

Exhibit A: AIA Document A312 – 2010, Exhibit A: Payment Bond
Exhibit B: AIA Document A312 – 2010, 2014, Exhibit B: Performance Bond
Exhibit C: General Conditions
Exhibit D: Special Conditions

DO NOT EXECUTE

DRAFT AIA® Document A312® – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

«TBD»
«TBD»
«TBD»

SURETY:

(Name, legal status and principal place of business)

«TBD»
«TBD»
«TBD»

OWNER/MANAGER:

(Name, legal status and address)

«AEG Management HCC, LLC» «a Delaware Limited Liability Company»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»

CONSTRUCTION CONTRACT

Date: «TBD, 2023»

Amount: \$ «TBD»

Description:

(Name and location)

«Exterior Painting»
«Hawaii Convention Center ("HCC")»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»

BOND

Date:

(Not earlier than Construction Contract Date)

«TBD»

Amount: \$ «Contract Sum»

Modifications to this Bond:



None



See Section 18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: « »

Title:

(Any additional signatures appear on the last page of this Payment Bond.)

Signature:

Name and Title: « »

Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

«TBD»
«TBD»
«TBD»

OWNER'S/MANAGER'S

REPRESENTATIVE:

(Architect, Engineer or other party:)

«Contracting Officer – Ms. Mari Tait»
«AEG/Hawaii Convention Center»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»
«Email: hccrfp@hccasm.com»
« »

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner-Manager to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner-Manager from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner-Manager Default under the Construction Contract, the Surety's obligation to the Owner-Manager under this Bond shall arise after the Owner-Manager has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner-Manager or the Owner's Manager's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner-Manager has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner-Manager against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner-Manager to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner-Manager, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner-Manager to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner-Manager accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's-Manager's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner-Manager. Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner-Manager shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner-Manager or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner-Manager shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner-Manager and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner-Manager Default.** Failure of the Owner-Manager, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner-Manager and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner-Manager shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

<< >>

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and Title: «TBD»«TBD»

Address: «TBD»

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: «TBD»«TBD»

Address: «TBD»

DRAFT AIA® Document A312® – 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

«TBD»
«TBD»
«TBD»

SURETY:

(Name, legal status and principal place of business)

«TBD»
«TBD»
«TBD»

OWNER/MANAGER:

(Name, legal status and address)

«AEG Management HCC, LLC» «a Delaware Limited Liability Company»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»

CONSTRUCTION CONTRACT

Date: «TBD, 2023»

Amount: \$ «TBD»

Description:

(Name and location)

«Exterior Painting»
«Hawaii Convention Center ("HCC")»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»

BOND

Date:

(Not earlier than Construction Contract Date)

«TBD»

Amount: \$ «Contract Sum»

Modifications to this Bond: ☒ None ☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and « »

Title:

(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company: (Corporate Seal)

Signature:

Name and « »

Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

«TBD»
«TBD»
«TBD»

OWNER'S/MANAGER'S

REPRESENTATIVE:

(Architect, Engineer or other party:)

«Contracting Officer – Ms. Mari Tait»
«AEG/Hawaii Convention Center»
«1801 Kalakaua Avenue»
«Honolulu, Hawaii 96815»
«Email: hccrfp@hccasm.com»
« »

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§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner-Manager for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner-Manager Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner-Manager first provides notice to the Contractor and the Surety that the Owner-Manager is considering declaring a Contractor Default. Such notice shall indicate whether the Owner-Manager is requesting a conference among the Owner-Manager, Contractor and Surety to discuss the Contractor's performance. If the Owner-Manager does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's-Manager's notice, request such a conference. If the Surety timely requests a conference, the Owner-Manager shall attend. Unless the Owner-Manager agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's-Manager's notice. If the Owner-Manager, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's-Manager's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner-Manager declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner-Manager has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner-Manager to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner-Manager has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner-Manager, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner-Manager for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner-Manager and a contractor selected with the Owner's-Manager's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner-Manager the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner-Manager as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner-Manager and, as soon as practicable after the amount is determined, make payment to the Owner-Manager; or
- .2 Deny liability in whole or in part and notify the Owner-Manager, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner-Manager to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner-Manager shall be entitled to enforce any remedy available to the Owner-Manager. If the Surety proceeds as provided in Section 5.4, and the Owner-Manager refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner-Manager shall be entitled to enforce any remedy available to the Owner-Manager.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner-Manager shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner-Manager to the Surety shall not be greater than those of the Owner-Manager under the Construction Contract. Subject to the commitment by the Owner-Manager to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner-Manager or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner-Manager or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner-Manager or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner-Manager to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner-Manager in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner-Manager and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner-Manager Default.** Failure of the Owner-Manager, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner-Manager and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, Subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner-Manager shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

« »

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: «TBD»«TBD»

Address: «TBD»

Signature:

Name and Title: «TBD»«TBD»

Address: «TBD»

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
 - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
 - (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
- b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
 - (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
 - (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
 - b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

c. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

SPECIAL CONDITIONS

The following Special Conditions modify, change, delete from, and add to, the State of Hawaii's General Conditions which are included as part of the Contract Documents as Appendix E.

1. Changes to Terminology: Except as provided herein, the Terms throughout the entire document shall be changed and interpreted as follows:

“STATE” shall mean either the State of Hawaii or AEG Management HCC, LLC (“AEG”) as a contractor for the state.

“HOPA” shall mean the “Contracting Officer” as defined in the Request for Proposals (“RFP”).

“CPO” shall mean the “Contracting Officer” as defined in the RFP.

“Agency procurement officer” shall mean the “Contracting Officer” as defined in the RFP.

2. Delete Paragraph 6.d. in its entirety.
3. The first sentence of Paragraph 7 shall be changed to read: “The CONTRACTOR shall defend, indemnify, and hold harmless AEG Management Hawaii HCC, LLC, the Hawaii Tourism Authority (“HTA”), the State of Hawaii, and their respective officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including attorneys’ fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR’s employees, officers, agents, suppliers, or subcontractors under this Contract.”
4. Delete Paragraph 10 in its entirety.
5. Delete Paragraph 11 in its entirety.
6. The second sentence of Paragraph 13.c. shall be changed to read as follows: “If the parties fail to agree, the Contracting Officer shall set an amount subject to the CONTRACTOR’s legal rights.”
7. The first sentence of Paragraph 14.a. shall be changed to read as follows: “The Contracting Officer may, when the interests of AEG, HTA, and/or the State of Hawaii so require, terminate this Contract in whole or in part, for the convenience of the STATE.”
8. Delete Paragraph 17.b. in its entirety.
9. Add the following language to the beginning of Paragraph 17.d.: “Notwithstanding final payment requirements set forth elsewhere in the Contract, final payment under this contract . . . “
10. Delete Paragraph 18 in its entirety.
11. Delete Paragraphs 19.g., 19.h., and 19.i. in their entirety.
12. Delete the phrase “and applicable sections of chapters 3-123 and 3-126, HAR.” at the end of Paragraph 21.a.(5).
13. Delete Paragraph 23 in its entirety.

14. The first sentence of Paragraph 25 shall be changed to read as follows: “The CONTRACTOR shall not refer to AEG, HTA, the State of Hawaii, or the Hawaii Convention Center, or any officer thereof, or any employees of the foregoing, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR’s brochures, advertisements, or other publicity of the CONTRACTOR.
15. The term “STATE” in Paragraph 33 shall mean “AEG, HTA, and the State of Hawaii” as those terms are defined herein.
16. The body of Paragraph 36, which is entitled “Conflict Between General Conditions and Procurement Rules” shall be changed to read as follows: “In the event of a conflict between the General Conditions and the STATE procurement rules (as set forth in Part III of chapter 103D, including the Hawaii Administrative Rules relating thereto), the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.”
17. The first sentence of Paragraph 37 shall be changed to read as follows: “The Contract documents identified and set forth in the Contract itself comprise all of the agreements, conditions, understandings, promises, warranties, and representations between AEG, HTA, the State of Hawaii and the CONTRACTOR relative to this Contract.

APPENDIX D

RATE CARD / PROPOSAL FORM

DUE WITH PROPOSAL SUBMISSION

APPENDIX E

HAWAII CONVENTION CENTER – HEALTH AND SAFETY PROCEDURES

HAWAII CONVENTION CENTER
HEALTH & SAFETY PROCEDURES - CONTRACTOR POLICY

OVERVIEW:

Provide contractors of the Hawaii Convention Center ("HCC" or Facility) with the HCC/AEG Management HCC, LLC ("AEG") rules, regulations and requirements when working at the Facility.

POLICY:

The policy of HCC/AEG is to provide a safe and secure environment for our clients, guests, visitors, contractors and employees.

PROCEDURE:

All contractors and sub-contractors are expected to abide to all HCC/AEG policies as listed:

- I. Health, Safety and Environment
- II. Access to Facility
- III. Fire, Health, and Safety - General Rules
- IV. Equipment Safety
- V. Hazardous Works and Materials
- VI. Special Requirements
- VII. General Do's and Don'ts

I. HEALTH, SAFETY AND ENVIRONMENT

A. Compliance

The Contractor, their employees and agents will comply with all relevant statutory and HCC/AEG's regulations pertaining to health, safety and environmental protection.

The Contractor shall ensure that all materials and equipment used in the project, regardless of the owner, comply with all relevant regulations and statutory requirements of HCC/AEG, the Government, local and other authorities with jurisdiction for occupational safety and health. All equipment requiring certification by authorizing agencies will be certified before brought onto Facility premises.

The Contractor is required to present license/certification of specific individuals who will operate any of HCC's lift equipment, in accordance with applicable state and federal OSHA regulations and HCC Safety Policies.

The Contractor is required to ensure proper license/certification is current, lawful and held by any individual operating lift equipment not owned by HCC.

B. **Responsibilities**

The Contractor is wholly responsible for the safety and safe working practices of its employees and agents. The Contractor will ensure their staff is trained and certified, as applicable, on the equipment required for the job, safety precautions and safe working practices before the job commences. HCC/AEG has the right to request the Contractor to provide certification, licensing or credentialing that is required by government regulation.

The Contractor shall report to HCC/AEG (Security Department) any incident or accident occurring, which involves any employee or agent of the Contractor. In cases of injuries or non-injuries incidents judged to be serious by HCC/AEG, the Contractor will carry out a full investigation without additional cost to HCC/AEG. A detailed report is submitted to HCC/AEG within three (3) working days, stating events relating to the incident or accident: the primary and contributory causes, conclusions, and recommendations to prevent reoccurrence.

The Contractor affirms that it has a written safety policy which is comparable to the HCC/AEG Safety Policy. The written safety policy is acknowledged, supported, and endorsed by HCC/AEG management. The Contractor further affirms that its safety policy has been disseminated and Contractor Employees and agents have been trained and signed off as completed.

The Contractor's safety policy will include a description of the Contractor's safety organization, procedures, and methods of communication to and from its employees and agents.

Contractors, their subcontractors, suppliers, and delivery vendors to all have appropriate and active Insurance Certificates and personal Medical Coverage for all employees or representatives.

C. **Health and Safety Site Control**

The Contractor will permit HCC/AEG access to any equipment, personnel, materials, and records involved in any job on the work site at HCC/AEG to enable HCC/AEG to:

1. Ensure the Contractor complies with all provisions presented herewith.
2. Ensure the Contractor is carrying out its responsibility under its Safety Policy.
3. Ensure the Safety Policy of the Contractor complies with all provisions presented.
4. Conduct, if required, independent investigations into an incident arising out of/or in connection with the job performance.

D. **Violation of Health and Safety Regulation**

If the Contractor is performing the job in an unsafe manner, or if its equipment requires modification to meet statutory or HCC/AEG safety standards, **HCC/AEG reserves the right to immediately suspend all or part of the job.**

The suspension notice shall include reasons for HCC/AEG issuing such notice and will outline the steps required to be taken by the Contractor to rectify the hazard.

The Contractor shall be considered inoperable of its obligations under this situation until the unsafe working condition hazard is remedied to the satisfaction of HCC/AEG.

The refusal or inability of the Contractor to remedy any hazardous working practice or to perform the required modification to its equipment within seven (7) days shall constitute a breach of Contract. HCC/AEG may, in addition to and without prejudice to any other rights the Contractor may have, terminate the Contract in accordance with the Contract.

E. **Personal Protective Clothing and Equipment**

The Contractor, at its own expense, supplies all its employees or agents, adequate personal protective clothing and equipment that will satisfy accepted industry standards as advised by HCC/AEG. Such protective equipment is supplied and always maintained in good condition at the Contractor's expense. The equipment must be worn on all relevant occasions as required by law, notice, instruction and in good sense.

F. **Security Checks**

HCC/AEG reserves the right to require the Contractor and their employees or agents to produce acceptable evidence of identification, such as a driver's license or identification card or badge, to HCC/AEG for the purpose of entering any premises of HCC/AEG. The Contractor and their employees and agents shall consent to the searching of any package, toolbox, or suitcase in their possession.

Contractors and their staff unwilling to comply with such requirement will not be permitted entry into any premises of HCC/AEG and, consequently, HCC/AEG will not be liable for any cost arising directly or un-directly out of such circumstances. The Contractor and their employees or agents shall also comply with such request prior to leaving the premises of HCC/AEG.

II. **ACCESS TO THE FACILITY**

A. **Access Control**

The Contractor must issue a list of all workers who will enter the Facility's premises by a company official. The list is provided to the Security Department prior to an employee or agent being authorized access to the premises.

Workers must identify themselves at the Security checkpoint entrance to the Facility. Verification will be by the submitted name list. Contractors should provide their workers with a nametag with the following information:

Name of company
Name and surname of worker
Position
Photograph of worker
Number of tag

Workers will be issued a colored wristband to verify they have checked in with HCC Security and are authorized to be on property.

The Facility, at its discretion, can object and require the Contractor to remove any person(s) employed by the Contractor or agent from the site who, in the opinion of the Facility is incompetent or negligent in the proper performance of their duties or whose employment or behavior is otherwise considered by the Facility as undesirable. Such persons are not employable or can continue work at the Facility.

B. **Means of Access**

Workers must only enter and exit the Facility through the Security Check-In on the Intermediate Level. It is accessible by walking along the Ala Wai Terrace Promenade past the Grand Staircase. When entering through the parking level, take service elevators 4 and 5 located in Section F, to the Intermediate Level "2" to Security Check-in. Contractors are not allowed to use guest elevators.

On the first day of work, all workers are to meet at the designated entrance for the identified management personnel to direct them to the work site.

C. **Daily Responsibility**

A responsible person designated by the Contractor will report their daily scope of work to the designated management in charge before commencing work. The Chief Engineer is the main point of contact should it be necessary to isolate or shut down any of the Facility plant equipment or systems.

D. **Event Contractor Use of Wristbands**

Should a contractor doing business on HCC decide to use a wristband system to ensure security within their area of operation, The Event Manager will be responsible for informing HCC Security of the use of wristbands and the color the contractor will be using. This will enable Security to select a different color than the contractor so there is no confusion.

E. **Before/After Shift**

Contractors are only allowed to be on site ½ hour prior and ½ hour after a scheduled shift. Contractors are not allowed on site when not scheduled.

III. **FIRE, HEALTH AND SAFETY - GENERAL RULES**

SMOKING IS STRICTLY PROHIBITED IN ALL AREAS OF THE FACILITY EXCEPT IN THE DESIGNATED SMOKING AREA.

Contractors and contractor's employees must abide by the Facility current COVID-19 protocols and procedures.

The contractor MUST appoint a responsible person to coordinate and ensure all safety measures and MUST be present at the project site at all times.

HCC/AEG designated management personnel will brief the contractor on the facility's firefighting system, fire detection system and evacuation routes and the Facility work safety guidelines.

All working areas must be cleaned, and debris removed from the Facility premises on a daily basis at the end of each day.

All work areas are to be properly secured prior to departure at the end of a day.

A fully supplied first aid kit must be provided by the Contractor and kept at the work site.

All workers are to be properly dressed based on the safety guidelines with proper shoes or boots.

All electrical equipment is to be properly wired, grounded with correct fitting plugs. Items inoperable or hazardous must be handled under the lockout tag out guidelines.

IV. **EQUIPMENT SAFETY**

Any moving vehicle (electric carts, scooters, bicycles, tricycles, etc.) must be pre-approved in writing for use by the Facility Director of Operations prior to use in the Facility. Use of approved vehicles is restricted to work areas only.

Approved personnel using a scissor or boom lift must wear a hardhat and eye protection. A safety harness is required when using lifts at all times.

Workers operating equipment, such as forklifts and aerial lifts must be certified in the use of such equipment and carry proof of such current certification while operating equipment. Operators must present current certification at Security Check-in and obtain a wristband authorizing use of lifts owned by HCC.

Transporting lifts to another level, through the Facility freight elevators require pre-approval and scheduling of an elevator operator through the Facility.

No vehicles or pallet jacks are allowed to be operated on the green, slate tile floor areas without pre-approval. Necessary preparations are required.

V. **HAZARDOUS WORK AND MATERIALS**

A special Work Permit must be filed with the Chief Engineer or designated department prior to commencement of hazardous work for:

- Welding
- Cutting
- Scaffolding work
- Spray painting or varnishing
- High suspension cleaning

Note: A separate fire extinguisher must be provided at location of all welding or cutting work.

All hazardous materials e.g. solvents, pressurized canisters, gasoline, oils, fuels, paints, varnishes etc. shall be stored in approved designated areas and in OSHA approved storage containers. All containers will be metallic and properly sealed. All containers will be properly labeled. Proper respiratory masks must be used. NO SMOKING must be enforced. All materials are identified in the MSDS sheets available in each department and Security Base. Contractors are responsible for disposing of any hazard chemical brought onto HCC property.

VI. **SPECIAL REQUIREMENTS**

A. **Noise Control**

The Contractor shall note that no noisy Work will be allowed to be carried out before 8 a.m. and after 5 p.m.

Due to "business as usual" factor for the Facility, it is further required that noise levels be maintained at a low level to minimize the disturbance/noise nuisance to the Facility occupants. This will include cutting of holes, drilling/fixing to structures, alterations and demolition, grinding of steel, removal of existing elements, finishes, fittings, fixtures, hacking/hammering etc. This type of work should be effectively reduced to an absolute

minimum by adoption of alternative methods/fixings and containment on the carrying out of all such noisy operations within limited periods daily.

Should noise levels in the opinion of the Facility become excessive and unacceptable under the above conditions, the Contractor will be requested to take immediate action to cease all operations giving rise to the unacceptable noise levels and to amend his methodology to allow him to continue within the acceptable noise limits.

B. Construction Barricades

The Contractor may be required to provide a section of boarding or construction barricades to match the surrounding area to separate the work areas from the Facility public areas and to prevent all unauthorized public access to all work areas. This boarding will require adaptation and relocation to suit the phasing/staging of the project work.

Before erection/ alteration of boarding, the Contractor will submit a detailed plan showing the proposed form/ location of boarding for approval by the Facility.

C. Quarterly Meeting

The Contractor is required to attend HCC Quarterly Contractor's meeting, held at the Facility. A minimum of one company representative must sign-in for attendance. Notification of the meeting schedule will be sent via email to the designated contact. It is the Contractor's responsibility to ensure that the most current email address and contact information is provided to the Facility.

VII. GENERAL DO'S AND DON'T'S

1. Only authorized subcontractors and their employees are permitted to operate and conduct business within the Facility. The Director of Operations will determine authorized contractors.
2. Children under eighteen (18) years of age are not permitted in work areas.
3. This is a State-owned building and therefore it is a NO SMOKING facility. Smoking is prohibited in all areas of the Facility except in the designated smoking areas. The designated smoking area is located in the ma uka/Waikīkī corner of the parking garage. Contract employees are prohibited from using the Porte Cochere or Kahakai Drive as a smoking or break area.
4. Contractor must stay in designated job site areas only and must not stray to any other areas of the Facility under any circumstances. At the end of the shift, contractors are not allowed to remain on property or at their vehicles.
5. No Contractor is allowed, at any time, in the client, guest/public areas of the Facility nor be allowed to use any guest elevator or restroom in the Facility.
6. ALL contractor workers are required to sign in and out of the building at Security Check-In located on the intermediate level. Workers are required to sign in and obtain an identification wristband while on Facility property. Workers are required to return to Security Control and sign out at the end of their work shift.
7. All signs and traffic markings must be obeyed in the parking garage.

8. There is no overnight parking allowed unless prior arrangements have been made with the Director of Security. If authorization is given, an overnight permit will be issued and must be displayed on the dashboard of the vehicle it is issued to. Parking cost will be charged for each day the vehicle is parked. Vehicles left overnight without authorization will be towed at owner's expense.
9. Contract workers who are dropped off and picked up at the start and end of their shift need to arrange these pick-ups and drop offs on Kalakaua Avenue ONLY. Kahakai Drive is not to be used as a waiting area for pick up.
10. Contractor will maintain complete separation of construction areas for existing functions for airborne contaminants, dust control, noise, waste and all OSHA safety standards.
11. Contractor is responsible for the protection of his work and adjoining areas.
12. Contractor will maintain clear egress in corridors at all times during construction until completed or approved alternative route is established.
13. Under no circumstances may any exterior door be blocked open
14. Contractor shall use designated loading dock area only for the receiving of goods. Loading docks will be used for active unloading and loading only. Dock reservations are required and can be made through docres@hccasm.com. No vehicles will be parked in the loading dock. No deliveries through the front entrance are allowed.
15. Contractor must park in the area designated by the Facility.
16. There will be no alcohol, beer, wine or drugs consumed on the job site or during the workday whatsoever.
17. Meals are to be consumed only in the Lunch Room located on the Parking Level to the rear of Elevators 4 & 5.
18. All bags or boxes are subject to security check upon entering or leaving the building. Any refusals will cause the person to be barred from the Facility premises.
19. Contractor is to furnish their own tools. Under no conditions will a non-Facility employee be allowed to use a Facility tool. By the same token, Facility employees are not to use Contractor's tools.
20. The Facility is not responsible for the Contractor's property.
21. All work areas must be kept clean at all times. Contractor is responsible for the removal of all debris and excess material during and at the completion of the project. Contractor is not to use Facility telephones at any time for any reason.
22. Contractor must wear clothing, which is in good taste. Any attire which causes unwarranted distractions is unauthorized. Lack of a shirt or wearing muscle, fishnet, sleeveless shirts, cut-offs, shorts or sandals are not permitted. Clothing with offensive wording is prohibited.
23. Proper protective safety equipment shall be worn at all times. (No open toe shoes, slippers, etc.)
24. Contractors must conduct themselves in a professional manner and are subject to the same rules as Facility Employees. No shouting, profanity, "cat calling" or confrontation with Facility guests or with Facility employees will be tolerated.

25. Contractors are not permitted to fraternize with Facility employees, clients, guests or patrons.
26. The use of portable radios, stereos is strictly prohibited.
27. Violation of these policies will be documented and reported to Facility management for appropriate action

Revised: 2/2023.

APPENDIX F

AGREEMENT FOR RENTAL OF EQUIPMENT (WITHOUT OPERATOR)

Exhibit C

AGREEMENT FOR RENTAL OF EQUIPMENT (Without Operator)

This Agreement is entered into effective _____ between the Hawaii'i Convention Center ("HCC"), State of Hawaii'i, through AEG Management HCC, LLC. and its General Manager, and _____ ("Renter"), whose business address, phone, fax and email are as follows:

1. AEG Management HCC, LLC. manages the Hawaii'i Convention Center ("the HCC") under a management contract with the State of Hawaii ("State"). The State has purchased certain equipment for use by AEG Management HCC, LLC. in performance of its contract. The equipment rented hereunder is State property, being rented by AEG Management HCC, LLC. on behalf of the State and for the convenience and use of the Renter.

2. The Renter is a licensee or a sub-contractor of a licensee that has been granted a license to conduct an event or vendor performing procured services at the Hawaii'i Convention Center.

3. Equipment Rented.

HCC agrees to permit the Renter to utilize within the confines of the HCC the following equipment at the following rates:

	Equipment Description	Hourly	Daily	Weekly
a.	36' Articulated Boom Lift	\$90.00	\$320.00	\$900.00
b.	30' Scissor Lift	\$90.00	\$320.00	\$900.00
c.	18' Work Platform Lift	\$90.00	\$320.00	\$900.00
d.	Forklift	\$75.00	\$275.00	\$750.00
e.	ReachMaster Compact Lift, 56' height, 38' reach	\$100.00	\$350.00	\$1,000.00
f.	ReachMaster Compact Lift, 121' height, 50' reach	\$125.00	\$450.00	\$1,250.00

Fractions of an hour shall be charged at the hourly rate.

Rental fees may be waived upon pre-approval of the Director of Operations or the Director of Finance.

4. Rental Period.

This Rental Agreement shall be for a period from _____ (start date/time) to _____ (end date/time).

5. Renter's Responsibilities.

The Renter shall:

- a. Operate the equipment only within the Hawaii'i Convention Center and its immediate surroundings within the area(s) pre-approved by HCC for this specific rental.
- b. Ensure that only fully qualified and certified personnel operate the equipment.
- c. Provide proof of certification to operate the equipment prior to use which must be presented in advance of

the rental operation to the Maintenance Manager or their designee.

- d. Check-in at Security Base. Ensure that the equipment is fully operational upon acceptance of the equipment and submit the related HCC form with the Maintenance Manager or their designee.
- e. Immediately halt use of any equipment and bring to the attention of the Maintenance Manager any equipment operating deficiencies or problems.
- f. Ensure that equipment is under positive control of the Renter at all times and that no unauthorized individuals are permitted to utilize the equipment.
- g. Ensure that all safety and operating rules are strictly followed. This includes, but is not limited to, the use of a hard hat and close-toed shoes by any and all parties while using equipment items 3a, 3b, 3c, 3e, or 3f above. All related items must be supplied by the Renter.
- h. Be fully responsible for any damage to or loss of the equipment.
- i. Be fully responsible for any and all damages caused by operation of the equipment.

6. Statement of Waiver.

The Renter waives any and all claims against the State of Hawaii, the Hawaii Tourism Authority (HTA), the HCC, AEG Management HCC, LLC., their officers and assigns from any and all claims including consequential damages arising from the use and/or operation of subject equipment by _____ (Renter), its employees, agents, and/or assigns.

7. Indemnification.

The Renter shall defend, indemnify, and hold harmless the State of Hawaii, the HTA, the HCC, AEG Management HCC, LLC. and all of their members, officers directors, employees, and agents from and against all costs, liability, loss, damage, and expense, including all attorney's fees, and all claims, suits, and demands therefor, arising out of or resulting from the acts or omissions of _____ (Renter) or _____ (Renter's) employees, officers, agents or subcontractors as it pertains to the operation of subject equipment.

8. Liability Insurance.

The Renter shall provide proof of insurance to AEG Management HCC, LLC. that its operation of the equipment provided hereunder is covered under its Comprehensive General Liability and Property Damage Liability Insurance. Such liability shall be with limits of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any variance or waiver of this requirement must be pre-approved by the General Manager.

Such insurance shall name the State of Hawaii, the Hawaii Tourism Authority, AEG Management HCC, LLC., and all of the members, officers, agents, and employees of each of them as additional insured with respect to claims arising out of or directly or indirectly relating to performance under the Agreement and shall provide for thirty (30) days advance notice of cancellation, reduction of coverage or non-renewal to the State of Hawaii, the HTA, HCC, and AEG Management HCC, LLC. and shall be endorsed to stipulate that the insurance afforded the State of Hawaii and HCC boards, officers, agents, and employees shall be primary insurance and not contributing with any other insurance of the State of Hawaii and HCC.

9. Compliance with Laws.

The Renter shall operate the equipment in strict compliance with all laws of the United States, the State of Hawaii, the City & County of Honolulu, and all rules and regulations issued pursuant to such laws.

Renter shall comply with all lawful directives issued by the General Manager of HCC or their representative in enforcing of the terms of this Agreement.

10. Entire Agreement.

This document contains the complete and exclusive agreement between the parties, and it is intended to be a final expression of their agreement. No promise, representation, warranty, or covenant not included in this document has been or is relied upon by any party. Each party has relied upon its own examination of the full Agreement and the provisions thereof and the counsel of its own advisors, and the warranties, representations and covenants expressly contained in this Agreement itself. No modification or amendment of this Agreement shall be of any force or effect unless in writing executed by all parties herein.

11. Assignment.

The Renter shall not transfer, convey, assign, or permit the use of any of the rights or privileges granted under this Agreement in whole or in part to any other person, firm, or corporation without the prior written authorization of HCC. Such rights and privileges are not assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceedings in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any assignee approved by HCC must accept and assume all the terms and conditions of this Agreement to be kept and performed by Renter, and such assignment shall not in any manner discharge or release Renter from any of the obligations under the terms of this Agreement.

12. Severability.

The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision herein.

IN WITNESS WHEREOF, the parties execute this Agreement on the dates below, to be effective as of the date first above written.

HAWAII CONVENTION CENTER (AEG Management HCC, LLC.)

BY: _____ Date _____
General Manager

Renter

BY: _____ Date _____
Signature

Title

APPENDIX G

- Exhibit A: Original Spec Section 07240 EIFS, dated 12/15/1995**
- Exhibit B: Original Spec Section 09900 Painting, dated 12/15/1995**
- Exhibit C: Construction Zone 3D Model**
- Exhibit D: HCC Updated Exterior Painting Specifications**

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

PART 1 - GENERAL

SUMMARY

Section Includes:

EFS finish applied over proprietary gypsum board base substrate.

EFS finish applied over concrete and concrete masonry substrates.

Related Sections:

Division 1 Sections, general.

Division 1 - Alternates.

Division 3 - Cast-In-Place Concrete.

Division 4 - Concrete Masonry Unit.

Division 6 - Rough Carpentry.

Division 7 - Fluid Applied Waterproofing.

Division 9 - Metal Support Systems.

SYSTEM DESCRIPTION

Design Requirements: Unless otherwise acceptable to Design Team, comply with following:

Texture: Match Design Team's "Floated" texture sample.

Color: Custom tint to match Ameritone Paint Company's CM/B6199 "Soft Beige" color, and any other color, if selected by Design Team.

Performance Requirements: Materials furnished for this Project to be capable of complying with following tested criteria when applied over EFS Manufacturer's standard rigid plastic foam insulation board.

Fire Related Performances:

Surface Burning Characteristics: ASTM E 84, flame spread 25, smoke developed 10, fuel contribution 0.

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Structural Performances:

Abrasion Resistance: ASTM D 968 or FS 141A-6191, sand, 500 liters minimum, with no effect.

Impact Resistance: ASTM E 72 with/or ASTM E 695, 1' to 6' drop, no cracking, some indentation or other applicable impact tests acceptable to Design Team.

Wind Performance: ASTM E 330, data will be evaluated based upon required 20 PSF minimum basic wind load at grade.

Weather Performance:

Mildew Resistance: MIL 810B, no growth.

Moisture Resistance: ASTM D 2247 or FS 141A-6201, 14 day exposure, no effect.

Rain Resistance, Wind Driven: FS TT-C-555B preferred, passing test requirements. ASTM E 5272 will be reviewed.

Salt Spray Resistance: ASTM B 117 or FS 141A-6091, 5% solution, 3000 hour exposure minimum, with no effect.

Water Vapor Transmission: ASTM E 96 or ASTM C 355, data will be evaluated based upon specified EFS Manufacturers as acceptable criteria.

Weathering Accelerated: ASTM G 23 (FS 141C-6151) (Carbon Arc) or ASTM G 53 (QUV), 2000 hour minimum, with no effect.

SUBMITTALS

Product Data: Submit EFS Manufacturer's standard Project related technical data, tested performance data, details, and installation instructions.

Shop Drawings: Submit drawings showing details of all terminations and joints in Work. Key details to plans, sections, and elevations. If any expansion joints required in field of work, show layout. Show mesh/gypsum board reinforcing methods at outside/inside corners and at openings.

Samples:

EFS Samples: For each color/texture required, comply with following:

Format:

Construction: Apply full coating system over 4' x 8' Project required gypsum board substrate.

Data: Record formulations and methods for attaining each color/texture on each sample.

Samples for Initial Design Team Review: Submit single samples replicating each custom color and texture matching Design Team's specified requirements. Adjust color/texture, if required, and resubmit single samples until satisfactory representative samples attained.

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Final Samples: Submit final samples replicating successfully reviewed initial sample in accordance with Division 1 requirements.

Sealant: Submit 1/2" wide x 6" long beads set in channels matched to each coating color required.

Quality Assurance Submittals: Submit in conformance with "Quality Assurance" paragraphs herein.

Closeout Submittals: Refer to "Quality Assurance" and "Warranty" paragraphs herein.

QUALITY ASSURANCE

EFS Manufacturer's Qualifications: Not less than 10 (10) years experience in production of EFS products similar to types required for Project.

EFS Installer's Qualifications: Submit written documentation of following:

Company Qualifications:

Experience: Not less than five (5) years current experience in installing EFS in projects of similar scope and kind. Include with documentation not less than three current and comparable installations utilizing EFS assembly types required for Project.

Certification: Company to be certified or approved applicators of EFS systems of kind to be provided for Project.

Project Supervisor Qualifications:

Experience: Not less than three (3) years current experience in installing EFS systems on projects of similar scope and kind.

Certification: Supervisor to be certified or approved applicator of EFS systems of kind to be provided for Project.

Single Source Responsibility: Obtain primary materials from a single EFS Manufacturer. Related products to be approved by EFS Manufacturer specifically for each EFS required.

EFS Manufacturer's Technical Representative:

Qualifications: EFS Manufacturer to make available a Technical Representative who can legally certify each Project EFS installation for the EFS Manufacturer.

Certification of Contract Requirements:

Review: Review Contract Documents, including for all details at terminations.

Certification: Prior to purchase of any materials, submit written certification from EFS Manufacturer indicating Technical Representative's approval that indicated requirements in contract Documents are in conformance with EFS Manufacturer's Project specific requirements.

Specific Certification: Certify that EFS can properly bond to Project waterproofing membrane in manner indicated.

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Certification of Installation:

Review: Technical Representative to review workmanship during course of Contract. Review to include, but not be limited to, review of each prepared substrate, review of EFS workmanship applied to each substrate at start of each work, continued review during course of installation, and final review of each completed installation.

Certification: As part of closeout submittals, submit written certification from EFS Manufacturer signed by Technical Representative and officer of EFS Manufacturer certifying compliance of finished installations in conformance with EFS Manufacturer's project specific requirements.

Coordination: Coordinate base substrate tolerances and preparation with other Trades over which EFS are to be installed to ensure proper installation. Inform Trades in timely manner.

Tolerances: EFS Manufacturer's requirements but not less than following:

Framing: 1/8" in 10'-0".

Concrete: Not less than required by Division 3 - Cast-In-Place Concrete Section.

Concrete Masonry Units: Not less than required by Division 4 - Concrete Masonry Units Section.

Additives: Do not add any materials to modify EFS products, unless otherwise published in written product data that is specific to Project conditions. Where published data is not available, submit written acceptance from EFS Manufacturer that considered additives are acceptable to them for Project.

Staining: Institute necessary precautions to protect the finished installation from any permanent staining, including "red dirt" which is prevalent at site and surrounding area. Precautions to be maintained until date certified for Substantial Completion. Precautions are to include, but not be limited to, following:

Coordination: Coordinate work conditions to minimize stain causing conditions. Refer to Division 1 requirements.

Soil Wetting: If required, implement wetting of grade areas directly adjacent to ongoing installations where windblown contaminants would otherwise cause staining. Method of wetting to be only as necessary to prevent contaminants from becoming airborne and should not cause excessive water accumulation, cause flooding of area, or itself cause staining conditions. Wetting operations are in addition to any wetting required of Design/Build Team.

Screens: If required, erect screens to prevent wind blown contaminants from staining installations.

WARRANTY

Manufacturer's Warranties:

Standard: Submit EFS Manufacturer's standard five (5) year warranty against any defects in materials supplied for Project. Warranty to specifically warrant sealer against yellowing which is to be considered a defect of the material.

Sealer Certification: Submit EFS Manufacturer's written certification that sealer is non-yellowing for life of sealer.

Installer's Guarantee: Submit guarantee against defects in workmanship of installed Project products for period of two (2) years from date established for Substantial Completion.

PART 2 - PRODUCTS

MANUFACTURERS

Available Manufacturers: Refer to Division 1 requirements.

Acceptable Manufacturers: Subject to compliance with requirements, systems of one following EFS Manufacturers may be incorporated into the Work.

Specified Systems: Design is based upon following Manufacturer's systems.

Dryvit System, Inc.

Sto Industries.

Thoro System Products.

Other Manufacturers: Comparable systems may be incorporated when acceptable to Design Team.

Parex, Inc.

Pleko Products, Inc.

Senergy.

EFS FINISH MATERIALS

Base Coat:

Over Gypsum Board Base Substrate:

Cementitious acrylic modified base coat product requiring 1:1 by weight mix of polymer product with portland cement, ASTM C 150, Type I.

Thoro system Products "Thorowall primer/Base Adhesive".

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Noncementitious: Standard 100% acrylic, glass fiber reinforced, noncementitious base coat product.

Dryvit System, Inc. "Primus/Adhesive NCB".

Sto Industries "Sto RFP-B".

Over Concrete/Masonry: Cementitious acrylic modified, glass fiber reinforced base coat product requiring 1:1 by weight mix of polymer product with ASTM C 150, Type I, portland cement or other formulation acceptable to Design Team.

Dryvit system, Inc. "Genesis".

Sto Industries "Sto Leveler".

Thoro System Products "Thorowall PBA".

Reinforcing Fabric: ASTM D 578/579 or EIMA 101.86, alkali resistant, open grid weave, fiber glass fabric products as follows:

Standard Weight: 4.3 oz/sy minimum, 165 lbs/in tensile strength minimum in warp or fill direction.

Dryvit System, Inc. "Detail Mesh".

Sto Industries "Sto Detail Mesh".

Thoro System Products "Standard 423".

Intermediate Weight: 9.5 oz/sy minimum, 345 lbs/in tensile strength minimum in warp or fill direction.

Dryvit System, Inc. "Intermediate Mesh".

Sto Industries "Sto Intermediate Mesh".

Thoro System Products "Intermediate 512".

Finish Coat: Factory-mixed formulation of 100% acrylic polymer emulsion admixture, color-fast mineral pigments, sound aggregate particles, and fillers. Texture and color to match approved mockups.

Dryvit System, Inc. "Dryvit Finish".

Sto Industries "Stolit Finish".

Thoro System Products "Thorowall Acrylic Finish".

1 GYPSUM BOARD BASE SUBSTRATE MATERIALS

2
3 Gypsum Board:

4
5 Primary Sheathing: Proprietary 5/8" thick, Type X, gypsum board product with silicone treated
6 gypsum core and nonorganic facer mats of fiberglass. Georgia-Pacific "Dens-Glass Gold Plus Fire-
7 Stop" product. No substitutions ~~permitted~~ except where soffit board sheathing approved.
8

9
10 Soffit Board Sheathing: Where indicated for Architect selected soffit conditions and approved by
11 EIFS Manufacturer in writing for specific Project applications. U.S. Gypsum Co. 5/8" thick,
12 "Exterior Gypsum Ceiling Board" (when approved) or other comparable EIFS Manufacturer
13 approved product; acceptable to Design Team.
14

15 Mechanical Fasteners: Gypsum Board Manufacturer's recommended corrosion resistant screw or nail
16 fasteners acceptable to EFS Manufacturer.
17

18 Moisture Barrier: ASTM D 226, Type I, No. 15 asphalt saturated (perforated) organic felt.
19
20

21 RELATED MATERIALS

22
23 Joint Sealer Materials: EFS Manufacturer's approved materials as follows:
24

25 Joint Filler: Backer rod.
26

27 Joint Sealant: Custom colorable two component urethane elastomeric sealant complying with
28 standards specified for similar sealants in Division 7 - Joint Sealers, or other elastomeric sealant
29 products approved by EFS Manufacturer for each specific Project use and which are acceptable to
30 Design Team.
31

32 Trims: ASTM D 3678, PVC trims as required for termination and control joints in EFS assemblies. Provide
33 Plastic Components, Inc. "VinylTech" trims for terminations and control joints or comparable products
34 approved by EFS Manufacturer and acceptable to Design Team. Products include, but are not necessarily
35 limited to following.
36

37 Corner beads: No. 4.
38

39 Casing Beads, L-Type: No. 221.
40

41 Expansion Joint: No. 2025.
42

43 Surface Mounted Casing, J-Type: No. 1025.
44

45 Drip Screed: No. 2025, expansion joint used as surface mounted drip screed.
46

47 Water: Potable and nondeleterious to materials being used with it.
48

49 Primers: If required by EFS Manufacturer for specific Project assembly conditions, provide additional
50 recommended substrate and intermediary primers to ensure proper bonding of each coating component.
51

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Framing: Same type and size as adjacent framing and as follows:

Wood: Treated Douglas Fir dimension lumber complying with Division 6 - Rough Carpentry Section.

Metal Studs: 18 gauge minimum, complying with Division 9 - Metal Support Systems Section.

PART 3 - EXECUTION

EXAMINATION

Verification of Conditions: Examine framing, concrete, masonry, and other substrates to which EFS assemblies are to be installed for tolerances and proper preparation by other Trades. Do not proceed where EFS assemblies cannot be installed properly or where conditions can affect warranty requirements. Beginning of installation means acceptance of existing conditions.

PREPARATION

Gypsum Board Base Substrate:

General: Install in accordance with Gypsum Board Manufacturer's requirements for EFS type systems and which are acceptable to EFS Manufacturer.

Framing: Install framing where any end joints and edge joints would not otherwise have any framing for anchorage.

Moisture Barrier: Apply asphalt saturated felt with long dimension horizontal to all metal framing prior to installation of gypsum board base with 2" end laps and 4" side laps.

Board Orientation: Install edge joints parallel with length of framing, except install edge joints perpendicular to framing if required for compliance with a specific fire rated assembly and at narrow width areas such as soffits where end joints would be minimized by a perpendicular orientation. Stagger end joints in adjacent parallel rows.

End Joints: Minimize end joints to greatest extent possible.

Fit:

Adjacent Abutting Boards: Butt joints for snug fit. Minimize end joints.

Adjacent Abutting Construction: Hold away in manner so installed trim provides a 1/4" finish joint.

Anchorage: Locate fasteners 3/8" away from edge. Fasten 8" o.c. at edge and end joint perimeters and 8" o.c. in field to framing in field of board. Flush fasten; do not countersink.

Openings: No joints are allowed within 8" of corners of openings. Cut each gypsum board panel to form an L-shape and install around each corner of an opening.

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

Trim Installation: Install at following locations.

Corner Beads: Outside corners.

Casing Beads: At joint edges abutting adjacent construction. Leave 1/4" finished joint gap for joint sealers.

Expansion Joints: If required, work with Design Team in locating joint, prior to start of gypsum board work. Provide where following occurs.

Panel Size: 10' x 20' minimum.

Area: 200 sf maximum.

Surface Mounted Casing, J-Type: Surface mounted to masonry; for terminations in direct applied coatings.

Drip Screed, Framed Installations: Drip for metal or wood framed installations.

Drip Screed, Surface Mounted Installations: Drip for masonry installations or where required to be surface mounted in field of a substrate.

EFS COATINGS INSTALLATION

General: Comply with EFS Manufacturer's project specific instructions.

Base Coat: Apply base coat materials and reinforcing mesh as follows.

Profile Texture: Where a pronounced profile texture is required, utilize this coating to create the initial texture.

Each Coat Thickness: 1/16" minimum or as required to level surface and as required to prevent telegraphing of surface conditions through exposed to view finish coats, e.g. telegraphing of concrete masonry unit mortar joints.

Base Coat Layer with Reinforcement: Fully embed required weight reinforcement in center of base coat. Lap in accordance with EFS Manufacturer's requirements but not less than 2-1/2". Lap reinforcement at outside and inside corners or provide additional reinforcement. Corners to have not less than two layers of reinforcement. Provide additional reinforcements at openings as required by EFS Manufacturer.

At Trim: Apply color coat over portions of trim that would otherwise be left exposed to view after final work completed.

Finish Coat: Apply 1/16" minimum thickness finish coat over fully cured base coat layer(s).

Sealer: Apply sealer to clean and fully cured finish coat at EFS Manufacturer's recommended rates.

SECTION 07240 - EXTERIOR INSULATION & FINISH SYSTEMS

JOINT SEALERS

General: Install backer rod and EFS Manufacturer's approved sealants in joints abutting adjacent construction in strict conformance with Division 7 - Joint Sealers and recommendations of compatibility tests. Custom colored sealants where exposed to view in each EFS installation. Sealants concealed behind coating systems may be any standard color.

ASSEMBLY TYPES

Assembly:

First Coat Layer: Base coat with reinforcement.

Second Coat Layer: Finish coat.

Transition: Where standard and intermediate reinforced assemblies occur in same plane with each other, feather in manner that thickness is not apparent.

POST INSTALLATION

Damages, Cleaning, Protection: Refer to Division 1 Sections.

SCHEDULE

General: Unless otherwise indicated, EFS-1 and EFS-2 are required in general at following locations.

EFS-1: Assemblies with standard reinforcement are required where EFS-2 not required.

EFS-2: Assemblies with intermediate reinforcement are at gypsum board substrates that are metal framed adjacent to exterior walkways, corridors, and lobbies. Reinforce an area extending in height from edge closest to slab up to a height of 72" minimum.

END OF SECTION 07240

SECTION 09900 - PAINTING

PART 1 - GENERAL

Section Includes:

Exterior painting.

Interior painting.

Related Sections:

Division I Sections.

Sections with substrates requiring painting.

DEFINITIONS

Paint: A Paint Manufacturer's system of related paint coating materials which are recommended for specific substrates and conditions of installation and when in accordance with the Manufacturer's requirements achieves a composite coating of specific color, sheen, and texture which has characteristics consistent with the Paint Manufacturer's tested performances of the system.

Unpainted: Surfaces over which new coatings are required, this includes those surfaces which have no previous paint coatings, surfaces which have primer paint coatings which have been applied by someone other than the Paint Installer, and surfaces which have an existing paint coating over which additional new coats are required.

Exposed: Surfaces which are exposed to view from any vantage point, which are not concealed from view due to permanent nonaccessible construction or earth, and which is not defined as semi-exposed.

Semi-Exposed: Surfaces not readily visible but are accessible and viewable from selected vantage points. These surfaces include those hidden by and hidden on removeable or openable doors, panels, and drawers, and surfaces of undersides of shelves, counters, desks, and toe spaces, surfaces which are hidden by moveable equipment/furnishings, and other similar surfaces.

Concealed: Surfaces not exposed to view from any vantage point and which are concealed by permanent nonaccessible construction, earth, and equipment/furnishings. Such concealed surfaces include those surfaces permanently concealed within walls, above ceilings, within floor construction, within shafts, and those buried underground in earth. Include within this definition, surfaces above otherwise semi-exposed accessible suspended acoustical ceilings and the interior portions (except ferrous metal components) of the elevator shaft which are to be considered as concealed spaces.

Exterior Surfaces: Surfaces exposed on the outside envelope of a structure or surfaces of other constructed elements and equipment which are exposed to the "outside air". Covered or protected areas "open to the outside air" and not fully enclosed by walls, floors, roofs, windows, and doors, are to be considered as part of the exterior and surfaces occurring in such spaces are to be considered exterior surfaces.

Interior Surfaces: Surfaces interior to the fully enclosed envelope of a structure or within the fully enclosed envelope of other constructed elements and equipment. These surfaces are not exposed to the "outside air".

SECTION 09900 - PAINTING

Impact Substrates: Surfaces exposed to the human hand, moving body/foot contact, mechanical abrasion, or other similar wearing or impact actions. Such surfaces include, but are not necessarily limited to, hand/guardrails, walking surfaces, metal doors and frames, coiling doors and frames, ladders, roof hatches, and metal corner guards or other protective metal at service areas.

Nonimpact Substrates: Those surfaces not defined as an impact substrate.

SUBMITTALS

Product Data: Submit, including MSDS data sheets.

Samples: Submit.

Quality Assurance Submittals: Refer to "Quality Assurance" paragraphs herein.

QUALITY ASSURANCE

Standard: Comply with Paint Handbook, edited by Guy E. Weismantel, current edition.

Specified Requirements and Other Treatments: Surface preparation, priming, and coats of paint specified are in addition to shop-priming and surface treatments specified under other sections of work and in addition to any existing surface coatings.

Paint Compatibility: Verify compatibility of scheduled systems with prime coats or other finishes provided on work by other Installers (including those under separate prime contracts) and with existing paint coatings of previously painted substrates. Where any system is not compatible, provide appropriate barrier coats necessary to ensure bonding of paint coatings to the required substrate.

Primer Certification: For each substrate primed by other Installers, submit Paint Installer's certification that primers are compatible with paint systems to be provided for each primed substrate. Where primers are not compatible, indicate barrier/prime coats to be provided.

Light Reflectance: Drawings schedule minimum light reflectance values for painted surfaces. Do not provide paint that cannot meet these LR values.

Environmental Impact: Where painting to take place under environmental and substrate conditions that do not fall within the recommendations in publications of Paint Manufacturer required to be submitted to Design Team, submit additional data indicating methods approved by Manufacturer necessary to accomplish work under different conditions.

Coordination:

Submittals of Other Installers: Finish unfinished samples furnished by other Installers representing work that is to be painted by Installer of this Section.

Finish Painting by Other Installers: Coordinate matching of finishes required under other Sections with similar finishes to be provided under this Section.

Removal/Reinstallation Work: Coordinate requirements with Contractor and with other Installers to ensure that products not requiring painting are removed to extent necessary to assure proper painting of substrates on which products are installed. Removal work to occur prior to when painting work begins and with reinstallation of the removed work after completed coating systems have thoroughly cured.

Mock-Ups:

Final Acceptance: Final acceptance for each color, sheen, and texture will be from mock-ups provided, except as otherwise approved by the Design Team. Do not purchase any paint materials, until final successful review is accomplished by Design Team.

Lighting Conditions: For interior painting, simulate lighting conditions for review of each mock-up.

PART 2 - PRODUCTS**MANUFACTURERS**

Acceptable Manufacturers: Subject to compliance with requirements, design is based upon products of scheduled Manufacturers.

Comparable products of following and other Paint Manufacturers will be considered for incorporation when acceptable to Design Team.

Pittsburgh Paints, PPG Industries, Inc.

Pratt & Lambert.

Sinclair Paint Company.

MATERIALS, GENERAL

Paint Coatings: As scheduled herein for type, sheen, and texture. Standard and custom colors to be selected by Design Team.

Mildewcide: For paint coatings not produced with a mildewcide designed for Hawaii's climate, provide a formulation containing 1% mildewcide of type recommended by Paint Manufacturer. If amount specified herein is deleterious to coating integrity or other quantity is recommended, notify Design Team in writing and include recommendations for review.

PART 3 - EXECUTION**PREPARATION**

Removal of Installed Work: Remove door hardware, escutcheons, trim, plates, frames, and other similar items.

Protections: Construct and erect protections to prevent contamination and damage of substrates not required to be painted. Tape off adjacent surfaces for clean terminations of painting work at intersection with adjacent surfaces.

SECTION 09900 - PAINTING

Substrate Preparation: General: Perform in accordance with Paint Manufacturer's Project specific requirements. Do not use methods and materials that are destructive to substrate and existing finishes, but is capable of fully removing deleterious products from surfaces requiring painting. Apply effective barrier coatings, if required.

PAINT MATERIALS PREPARATION

Manufacturer's Instructions: Mix and prepare painting materials in accordance with Paint Manufacturer's Project specific instructions.

QUALITY ASSURANCE, CONDITIONS PRIOR TO APPLICATION

Environmental Conditions:

Wet/Humid Conditions: Do not apply paint in rain, in fog or mist, or when relative humidity exceeds 85%, or to damp/wet surfaces.

Air Temperatures: Except as otherwise permitted by the Paint Manufacturer's printed instructions, comply with following.

Water Base Paints: Apply only when temperature of substrates and surrounding air temperatures are between 50° F and 90° F.

Solvent Thinned Paints: Apply only when temperature of substrates and surrounding air temperatures are between 45° F and 95° F.

Substrate Conditions:

Curing Period: As required to ensure performance of paint coatings, but not less than following.

Concrete: 60 days minimum.

Plaster: 30 days minimum.

Alkaline Conditions: Test alkalinity of substrates. Correct conditions where substrates are sufficiently alkaline to cause blistering and burning of coatings.

Moisture Content: Do not paint over surfaces where moisture content exceeds that permitted in Paint Manufacturer's printed directions. Test surfaces with appropriate moisture meter. For wood, do not paint when moisture content exceeds $\pm 3\%$ above or below 12% moisture content. For plaster do not exceed 15% moisture content.

APPLICATION

Manufacturer's Instructions: Apply paint products in accordance with Paint Manufacturer's directions. Alter formulations only in accordance with those directions.

Coating Thickness and Number of Coats: Apply each required coat for each system at not less than Paint Manufacturer's recommended spreading rates to establish the WFT/DFT required. However, where undesirable subsurface or undercoating conditions show through the final coat of paint, which is the result of the paint coating materials or their method of application, apply additional coats until the paint film is of uniform finish, color, and appearance as acceptable to Design Team; regardless of number of coats and whether or not such coatings comply with the Manufacturer's WFT/DFT recommended.

Color: Where finish color coats are required, tint undercoats the same shade as final coat; with each undercoat slightly lighter in shade than the coat above.

Backpainting and Priming of Moisture Sensitive Products: Immediately upon arrival at job site of indicated products, accomplish following.

Wood: Backpaint and prime unpainted, unprimed, or unsealed surfaces of wood products scheduled for finish paint coatings including, but not necessarily limited to, door frames, window frames, and standing and running trim. Apply one coating of first paint coat scheduled for surface.

Metals: For unprimed ferrous and galvanized metal, apply primer scheduled for surface after proper substrate preparation. Prior to painting work, touch-up abraded or damaged shop primed work.

Opaque Finishes: Completely cover to provide an opaque finish that is uniform in color, appearance, and coverage. Cloudiness, spotting, holidays, laps, brush marks, runs, sags, ropiness, telegraphing, or other surface imperfections are not acceptable.

Transparent Finishes: It is intended that similar work with similar finishes match throughout Project; coordinate work with other Installers to provide methods and materials necessary to ensure matching.

Completed Work: Match approved mock-ups for finish appearance, including for uniformity, opaqueness, color, sheen, texture, and coverage. Remove, refinish, or repaint noncomplying work to the specified requirements as acceptable to the Design Team.

Impact Substrate: When painting is required for an impact substrate which is a part of a related unit of Work, provide same finish coatings for the related unit of Work. For instance, for a steel stair assembly where railings are a part of the work, for frames where steel doors are hung, etc..

PAINT SCHEDULE, GENERAL

Surfaces Requiring Painting: Except where specifically not indicated to be painted, paint all previously existing painted substrates, all new exposed substrate surfaces of types for which paint systems are specified herein, and other substrates indicated on Contract Drawings.

Surfaces Not Requiring Painting: Except as otherwise indicated as follows.

Concealed surfaces.

Prepainted work of other Installers, except as otherwise indicated. Shop primed work not included.

Anodized aluminum, bronze, brass, copper, and stainless steel.

Natural stone and cast stone made to look like natural stone.

Ceramic tile.

Chrome plated finishes.

SECTION 09900 - PAINTING

Operating parts of equipment.

Identification labels and plates with product's description, code required information, performance rating, nomenclature, model number, and similar information.

Semi-Exposed Surfaces: Except as otherwise indicated or acceptable to Design Team, paint any semi-exposed surfaces where the exposed surfaces of the specific related work is required to be painted.

Galvanized and Ferrous Metal: Paint exposed and semi-exposed, unpainted or shop primed surfaces.

Mechanical/Electrical Work:

Division 15/16 Requirements: Refer to Sections in each Division for further requirements.

Components:

Unpainted Work: Paint exposed unpainted surfaces of bare and covered conduit, pipes, ducts, hangers, related steel and iron work. Provide safety colors when required by Authorities and as otherwise indicated.

Painted Work: Paint pre-painted mechanical grilles, diffusers, trim, and other similar finished components that are a different color or sheen than adjacent painted construction.

Equipment: Paint unpainted or primed, exposed, ferrous and galvanized metal surfaces of equipment, including mechanical ductwork, motor or other equipment housing, enclosures, cabinets, and supporting equipment.

Interior of Mechanical Ducts: Paint interior of ducts directly above supply and return air duct grilles with a flat, nonspecular, black paint.

Equipment/Furnishings: Paint surfaces behind moveable equipment and furnishings same as similar adjacent surfaces. Paint surfaces behind permanently fixed equipment and furnishings with prime coat only before final installation of equipment.

Release Coat: Apply to substrates scheduled to receive wallcovering.

Traffic Marking Paint: Where required, painting requires application of standard parking stall markings, designations for "Compact" vehicles, and ADA handicap complying designations and other markings. Where not indicated verify requirements from Design Team.

PAINT SCHEDULE, NUMBER OF COATS

General: In accordance with "Application" paragraphs herein, base coatings as follows, unless otherwise acceptable to Design Team.

Primer: One coat.

Finish Coats: Two coats.

PAINT SCHEDULE, SUBSTRATE/SHEEN

General: Comply with following and as otherwise indicated and directed by Design Team. Where sheen type not indicated, verify requirements from Design Team, prior to purchase and production of paint system materials.

All: Eggshell, except for metals and woods.

Metals:

Public Areas: Semi-gloss.

Nonpublic Areas: Gloss.

Woods:

Painted: Where indicated.

Stained, Only: Trellis and as otherwise indicated.

Catalyzed Varnish Systems: For hardwoods similar to those required by Division 6 - Finish Carpentry and Division 6 - Architectural Woodwork Sections.

PAINT SCHEDULE - EXTERIOR

General: For each system, subject to compliance with requirements, one of the listed systems of Painting Manufacturers may be incorporated into the Work. Comparable systems may be incorporated when acceptable to Design Team. Unless otherwise indicated, provide one primer coat and two finish coats.

EP-1: Opaque.

Sheen: Eggshell.

Substrate: Concrete.

Paint Systems: One of following.

Ameritone/Devoc:

Primer:	129	Epoxy Ester
Finish Coats:	16XX	Wondershield Stn

Benjamin Moore:

Primer:	169	Moorcraft Latex/Ext
Finish Coats:	103	Moorgard

EP-2: Opaque.

Sheen: Eggshell.

Substrate: Conc Masonry Units (Concrete Block).

Paint Systems: One of following.

Ameritone/Devoc:

Primer:	W2147	Bari-Kaid P/F
Finish Coats:	16XX	Wondershield Stn

SECTION 09900 - PAINTING

1 Benjamin Moore:
2
3 Primer: 173 Moorcraft Blk Filler
4 Finish Coats: 103 Moorgard
5
6 EP-3: Opaque.
7
8 Sheen: Semi-Gloss.
9
10 Substrate: Metals, Ferrous.
11
12 Paint Systems: One of following.
13
14 Ameritone/Devoc:
15
16 Primer: 13101 Multi-Pigmented Primer
17 Finish Coats: W25XX Enmlz Hse Pnt
18
19 Benjamin Moore:
20
21 Primer: 168-20 Iron Clad Quick Dry
22 Finish Coats: 096 Moorglo
23
24 EP-4: Opaque.
25
26 Sheen: Gloss.
27
28 Substrate: Metals, Ferrous.
29
30 Paint Systems: One of following.
31
32 Ameritone/Devoc:
33
34 Primer: 13101 Multi-Pigmented Primer
35 Finish Coats: 70XX Mirrolac
36
37 Benjamin Moore:
38
39 Primer: 168-20 Iron Clad Quick Dry
40 Finish Coats: 133 Impervo High Gloss
41

1 EP-5: Opaque.

2
3 Sheen: Semi-Gloss.

4
5 Substrate: Metals, Galvanized.

6
7 Paint Systems: One of following.

8
9 Ameritone/Devoc:

10
11 Primer: 13201 Galv Mtl Prm
12 Finish Coats: W25XX Enmlz Hse Pnt

13
14 Benjamin Moore:

15
16 Primer: 162-20 Ironclad Latex
17 Finish Coats: 096 Moorglo

18
19 EP-6: Opaque.

20
21 Sheen: Gloss.

22
23 Substrate: Metals, Galvanized.

24
25 Paint Systems: One of following.

26
27 Ameritone/Devoc:

28
29 Primer: 13201 Galv Mtl Prm
30 Finish Coats: 70XX Mirrolac

31
32 Benjamin Moore:

33
34 Primer: 162-20 Ironclad Latex
35 Finish Coats: 133 Impervo High Gloss

36
37 EP-7: Opaque.

38
39 Type: Traffic Marking Paint.

40
41 Substrate: Asphalt and Concrete.

42
43 Paint Systems: One of following.

44
45 Ameritone/Devoc:

46
47 Finish Coats 442XX Traffic Line

48
49 Benjamin Moore:

50
51 Finish Coats: 192 Ironclad Safety Zone Paint

SECTION 09900 - PAINTING

EP-8: Opaque

Sheen: Eggshell.

Substrate: Wood.

Paint Systems: One of following.

Ameritone/Devoe:

Primer:	1252	Alkyd Busan Prm
Finish Coats:	16XX	Wondershield Stn

Benjamin Moore:

Primer:	217	Moore's Alkyd Enml
Finish Coats:	096	Moorglo

EP-9: Transparent

Type: Semi-Transparent.

Substrate: Wood.

Paint Systems: One of following.

Ameritone/Devoe:

90XX All Wthr Ext S-T

Benjamin Moore:

B 081 Moorwood Semi-Trnsprnt Stain

EP-10: Transparent, same as IP-12, Catalyzed Polyurethane Varnish System.

EP-11: Opaque.

Sheen: Flat.

Substrate: Exterior gypsum board (ceilings and soffits).

Paint Systems: Following.

Pittsburgh Paint Company:

Primer:	6-603 Seedhide Alkalai Resistant Primer.
Finish Coats:	72 Line Sunproof Latex House Paint.

PAINT SCHEDULE, INTERIOR

IP-1: Opaque.

Sheen: Eggshell.

Substrate: Concrete.

Paint Systems: One of following.

Ameritone/Devoc:

Primer:	129	Epoxy Ester
Finish Coats:	W92XX	Acr Eggshl Enml

Benjamin Moore:

Primer:	059	Int/Ext Enml Undrbdy
Finish Coats:	274	Moorcraft Latex

IP-2: Opaque.

Sheen: Semi-gloss.

Substrate: Concrete.

Paint Systems: One of following.

Ameritone/Devoc:

Primer:	129	Epoxy Ester
Finish Coats:	W22XX	Wonder Tones SG

Benjamin Moore:

Primer:	059	Int/Ext Enml Undrbdy
Finish Coats:	333	Aquaglo

IP-3: Opaque.

Sheen: Eggshell.

Substrate: Gypsum Board.

Paint Systems: One of following.

Ameritone/Devoc:

Primer:	W100	Int Pgmt Scaler
Finish Coats:	W92XX	Acr Eggshl Enml

Benjamin Moore:

Primer:	273	Moorcraft Ltx Prm/Slr
Finish Coats:	274	Moorcraft Latex

SECTION 09900 - PAINTING

1 IP-3A: Opaque.

2
3 Sheen: Flat.

4
5 Substrate: Gypsum board.

6
7 Paint Systems: Following.

8
9 Pittsburgh Paint Company:

10
11 Primer: 5-2 Speedcraft Latex Primer-Sealer.

12 Finish Coats: 80 Wallhide Latex Flat Wall Paint.

13
14 IP-4: Opaque.

15
16 Sheen: Semi-Gloss.

17
18 Substrate: Gypsum Board.

19
20 Paint Systems:

21
22 Ameritone/Devoc:

23
24 Primer: W100 Int Pgmt Sealer
25 Finish Coats: W22XX Wonder Tones SG

26
27 Benjamin Moore:

28
29 Primer: 273 Moorcraft Ltx Prm/Slr
30 Finish Coats: 333 Aquaglo

31
32 IP-5: Opaque.

33
34 Sheen: Eggshell.

35
36 Substrate: Conc Masonry Units (Concrete Block).

37
38 Paint Systems: One of following.

39
40 Ameritone/Devoc:

41
42 Primer: PA0101 Latex Blk Filler
43 Finish Coats: W92XX Acr Eggshl Enml

44
45 Benjamin Moore:

46
47 Primer: 173 Moorcraft Blk Filler
48 Finish Coats: 274 Moorcraft Latex

1 IP-6: Opaque.

2
3 Sheen: Semi-gloss

4
5 Substrate: Conc Masonry Units (Concrete Block).

6
7 Paint Systems: One of following.

8
9 Ameritone/Devoe:

10
11 Primer: PA0101 Latex Blk Filler
12 Finish Coats: W22XX Wonder Tones SG

13
14 Benjamin Moore:

15
16 Primer: 173 Moorcraft Blk Filler
17 Finish Coats: 333 Aquaglo

18
19 IP-7: Opaque.

20
21 Sheen: Semi-gloss.

22
23 Substrate: Metals, Ferrous.

24
25 Paint Systems: One of following.

26
27 Ameritone/Devoe:

28
29 Primer: 13101 Multi-Pgmt Prm
30 Finish Coats: W22XX Wonder Tones SG

31
32 Benjamin Moore:

33
34 Primer: 168 Ironclad Quickdry
35 Finish Coats: 333 Aquaglo

36
37 IP-8: Opaque.

38
39 Sheen: Gloss.

40
41 Substrate: Metals, Ferrous.

42
43 Paint Systems: One of following.

44
45 Ameritone/Devoe:

46
47 Primer: 13101 Multi-Pgmt Prm
48 Finish Coats: 8XX Industrial High Gloss

49
50 Benjamin Moore:

51
52 Primer: 168 Ironclad Quickdry
53 Finish Coats: 133 Impervo High Gloss

SECTION 09900 - PAINTING

1 IP-9: Opaque.

2
3 Sheen: Semi-gloss.

4
5 Substrate: Metals, Galvanized.

6
7 Paint Systems: One of following.

8
9 Ameritone/Devco:

10
11 Primer: 13201 Galv Mtl Prm
12 Finish Coats: W22XX Wonder Tones SG

13
14 Benjamin Moore:

15
16 Primer: 162-20 Ironclad Latex
17 Finish Coats: 333 Aquaglo

18
19 IP-10: Opaque.

20
21 Sheen: Gloss.

22
23 Substrate: Metals, Galvanized.

24
25 Paint Systems: One of following.

26
27 Ameritone/Devco:

28
29 Primer: 13201 Galv Mtl Prm
30 Finish Coats: 8XX Industrial High Gloss

31
32 Benjamin Moore:

33
34 Primer: 162-20 Ironclad Latex
35 Finish Coats: 133 Impervo High Gloss

36
37 IP-11: Opaque.

38
39 Sheen: Eggshell.

40
41 Substrate: Wood.

42
43 Paint Systems: One of following.

44
45 Ameritone/Devco:

46
47 Primer: 85 Alkyd Enml Undret
48 Finish Coats: W92XX Acr Eggshl Enml

49
50 Benjamin Moore:

51
52 Primer: 217 Moore's Int Alkyd
53 Finish Coats: 274 Moorecraft Latex
54

IP-12: Transparent

Type: Catalyzed Varnish System.

Wood:

System: AWI Section 1500, System #5, Catalyzed Polyurethane Varnish:

Grade: Premium.

Stain: Match appearance of Design Team's samples.

Sheen: Medium gloss, rubbed effect.

Effect: Closed grain.

IP-13 Opaque.

Type: Sealer.

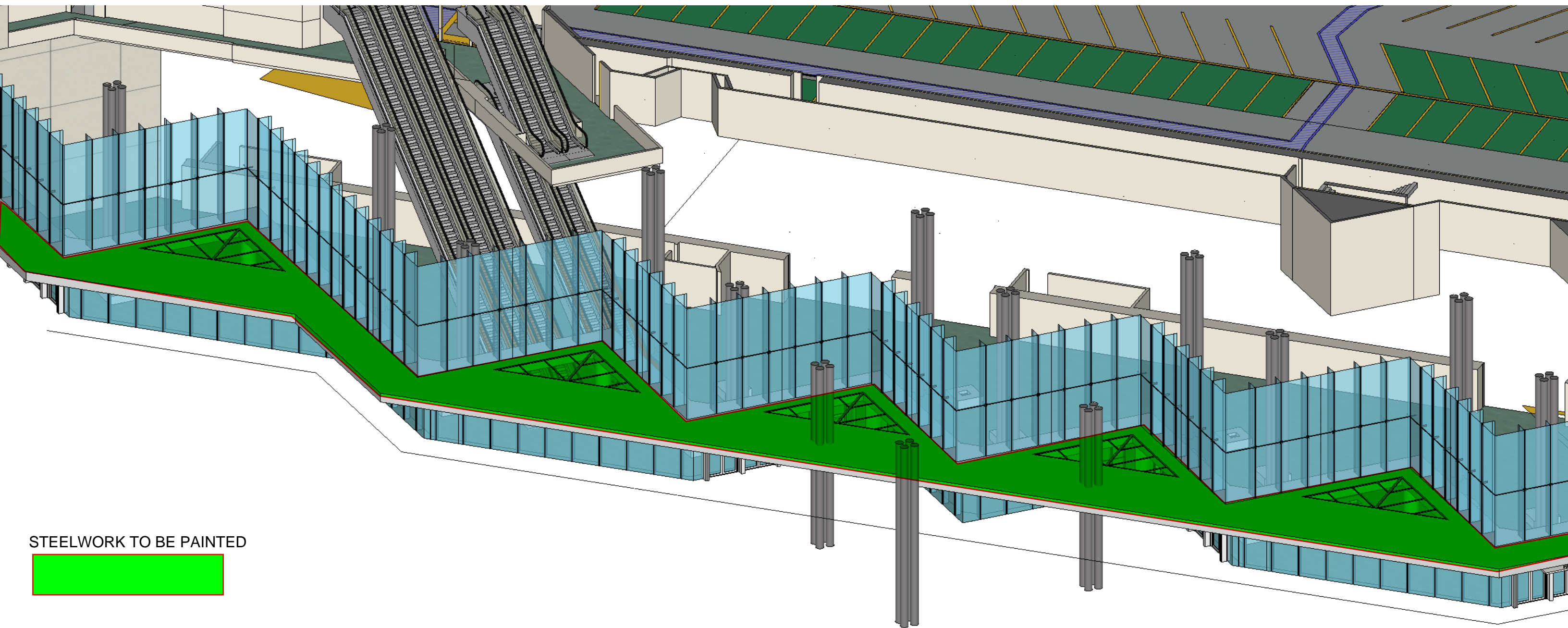
Substrate: Substrate under wallcovering.

Paint Systems: Following or comparable product acceptable to Design Team.

Ameritone/Devoe:

Finish Coats: 4799 Smoke Damage Primer.

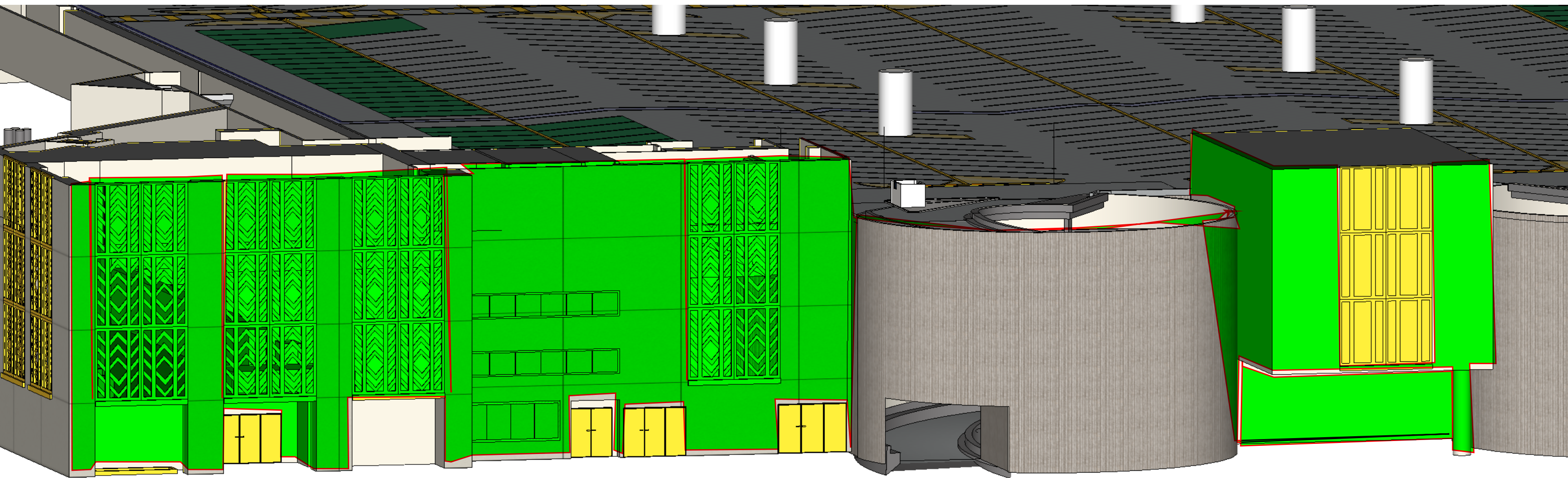
END OF SECTION 09900



STEELWORK TO BE PAINTED



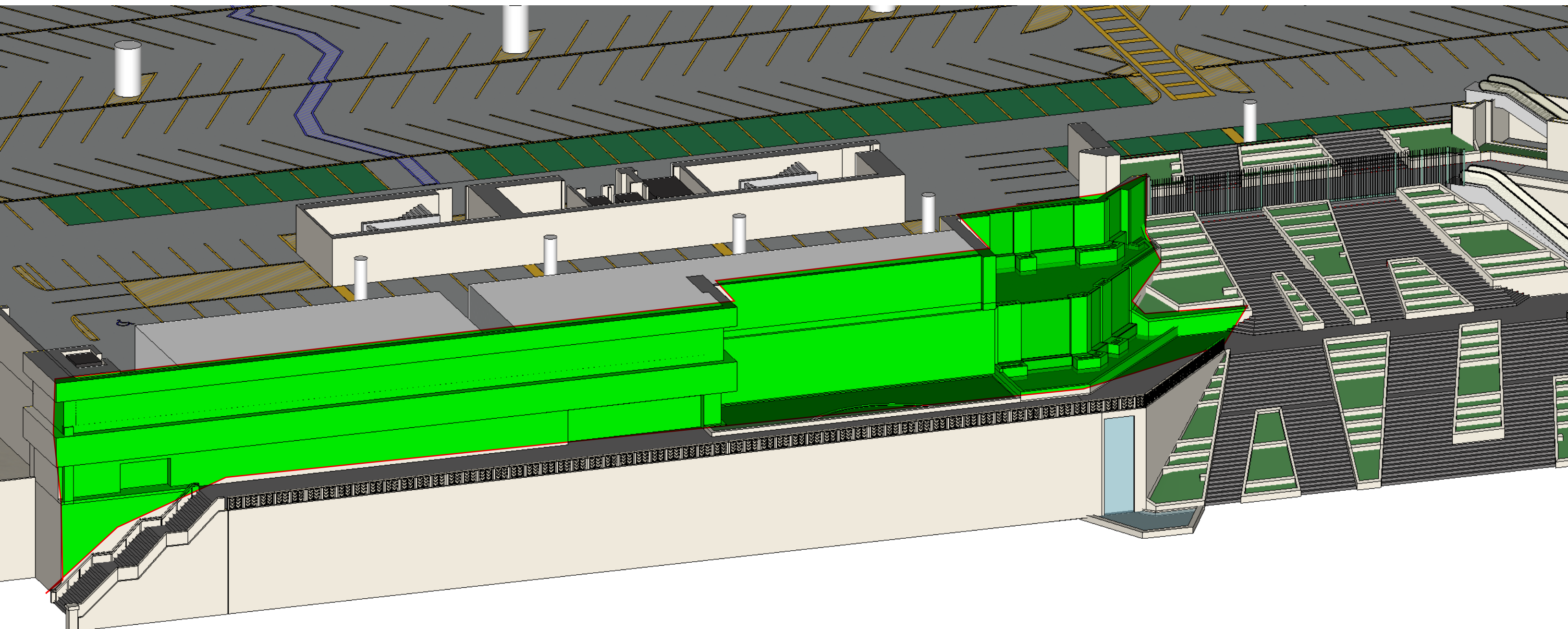
FRONT MIDDLE GLASS / STEEL



EFIS IS PAINTED / INSIDE DOOR
ALCOVE



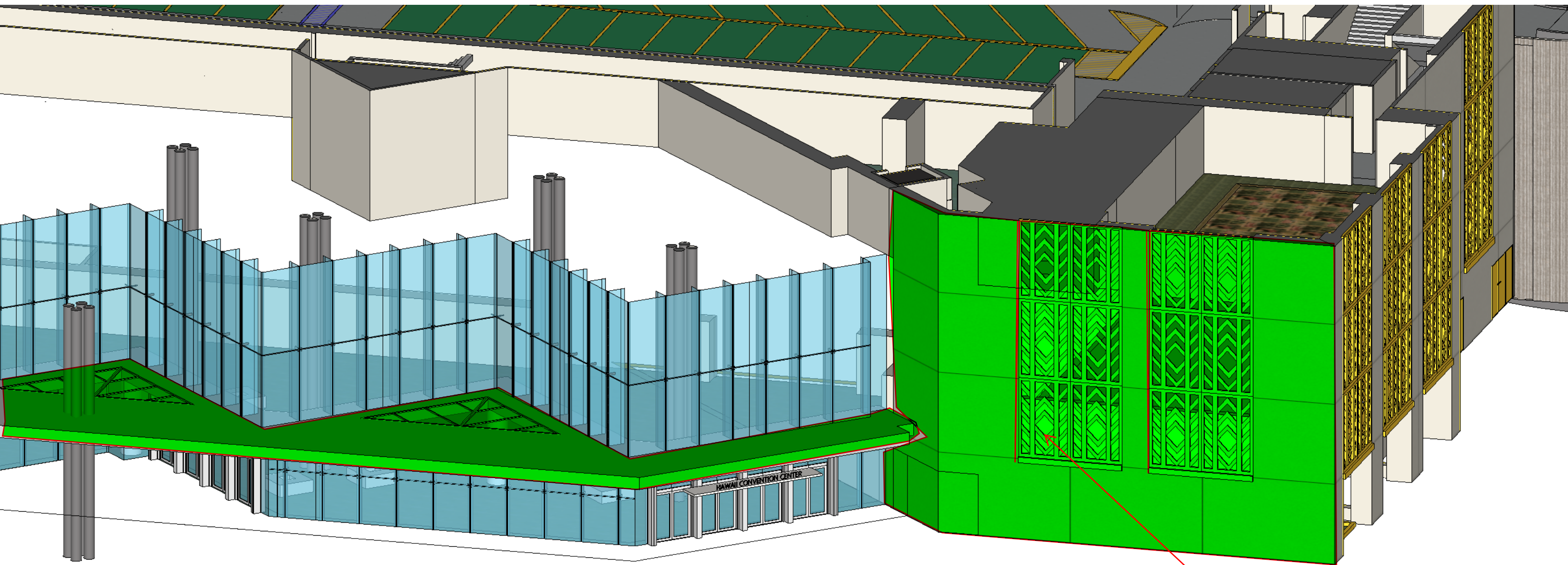
LEFT SIDE KAHAKAI DRIVE



EFIS TO BE PAINTED



LEFT SIDE ALA WAI

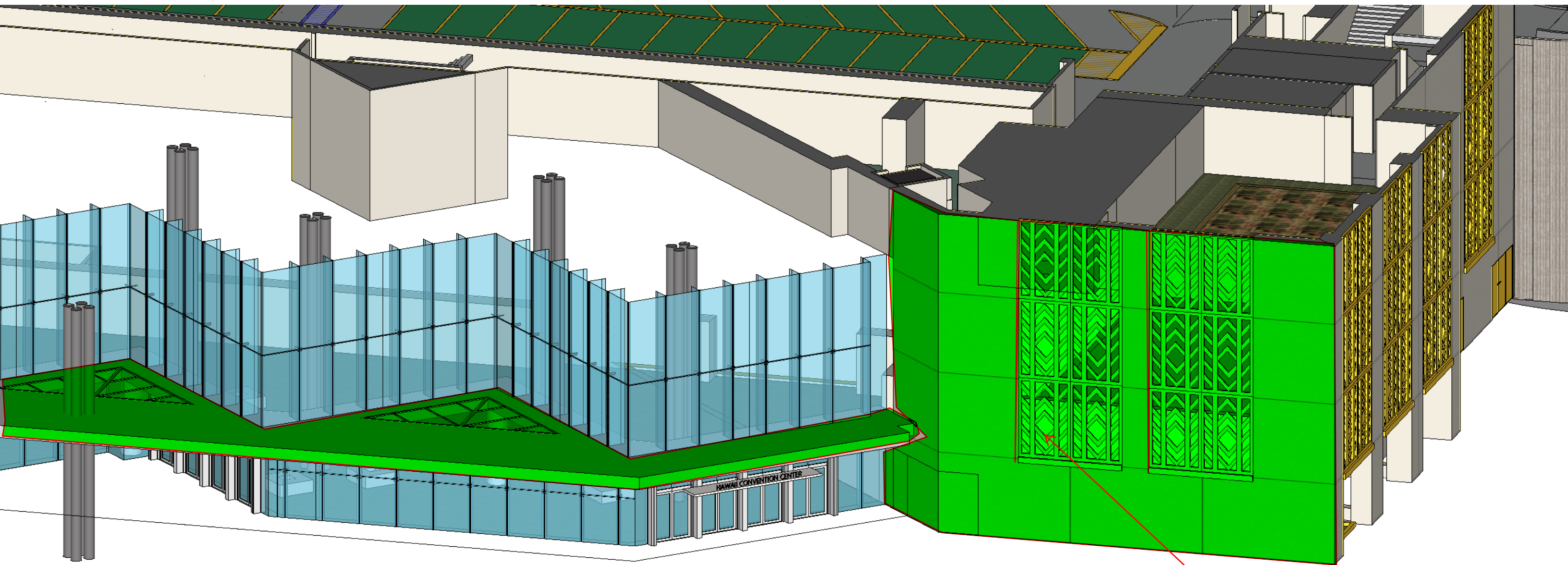


EFIS PAINTED



REMOVE NETTING
AND REPLACE
ONCE PAINTED

RIGHT SIDE ATKINS FRONT

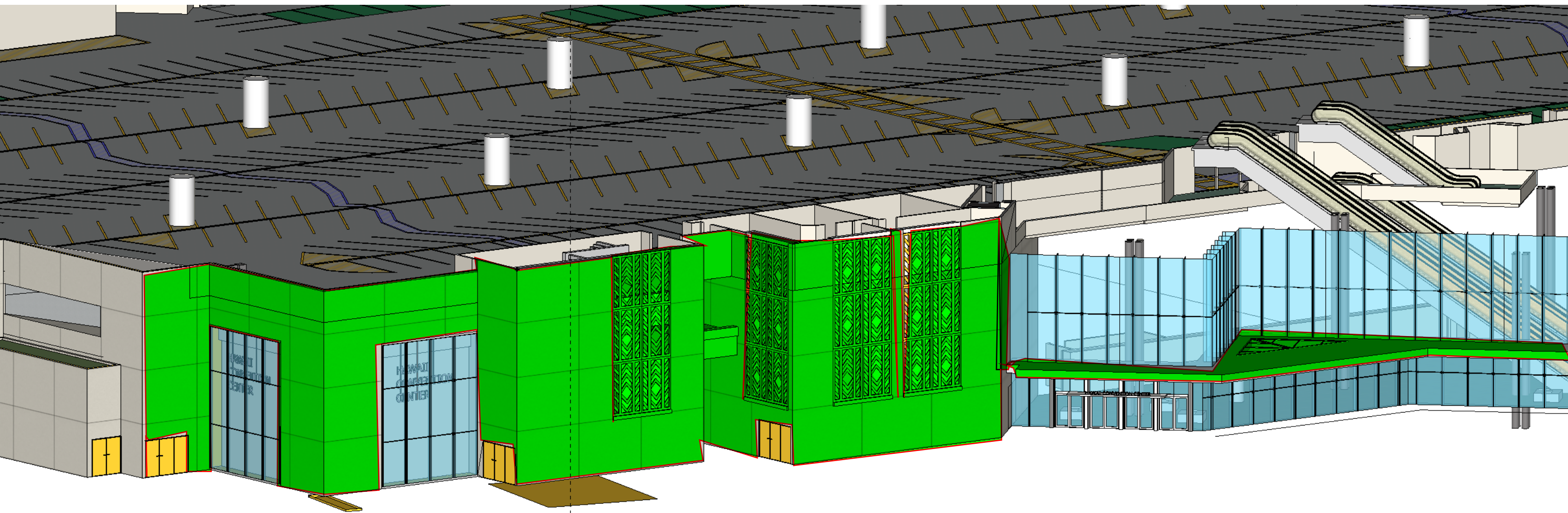


EFIS PAINTED

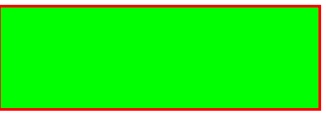


REMOVE NETTING
AND REPLACE
ONCE PAINTED

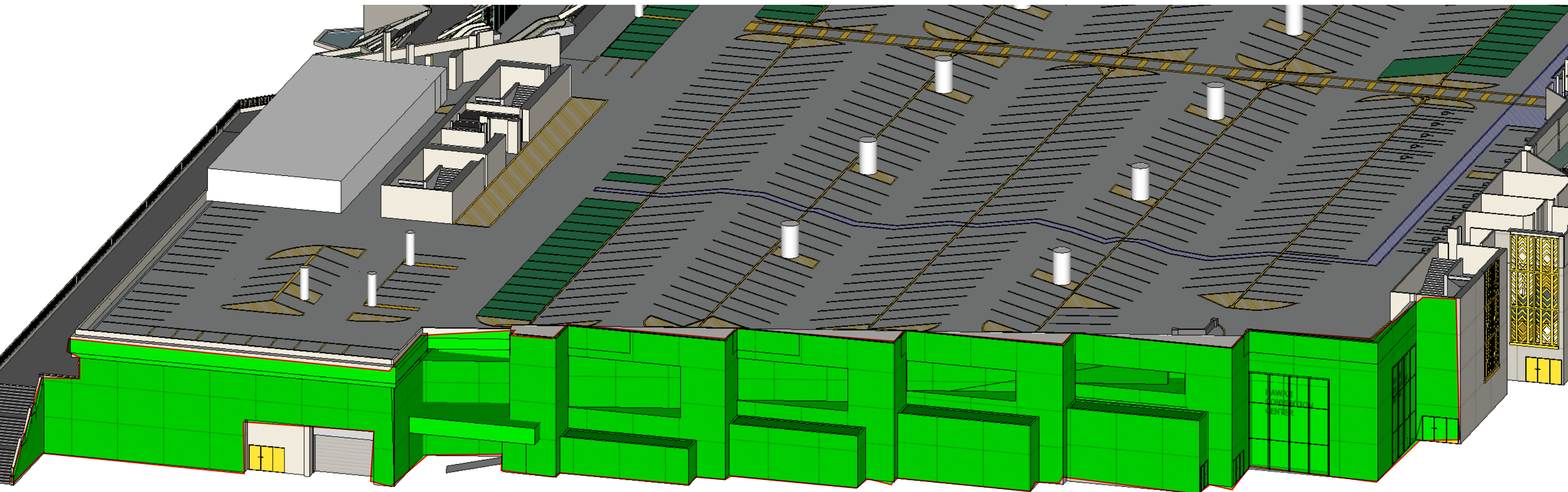
RIGHT SIDE ATKINS FRONT



EFIS TO BE PAINTED &
STEELWORK



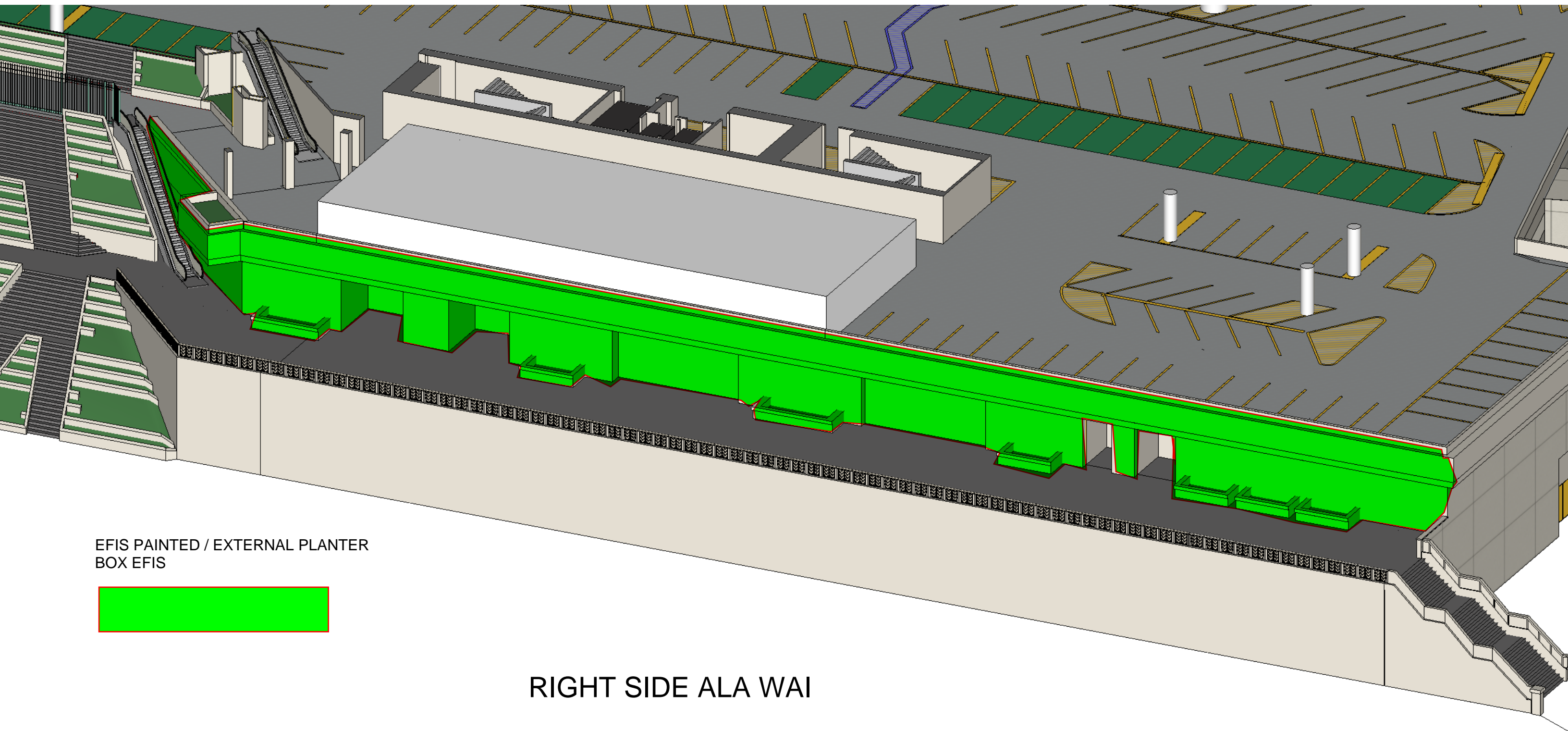
LEFT SIDE ATKINS



EFIS TO BE PAINTED



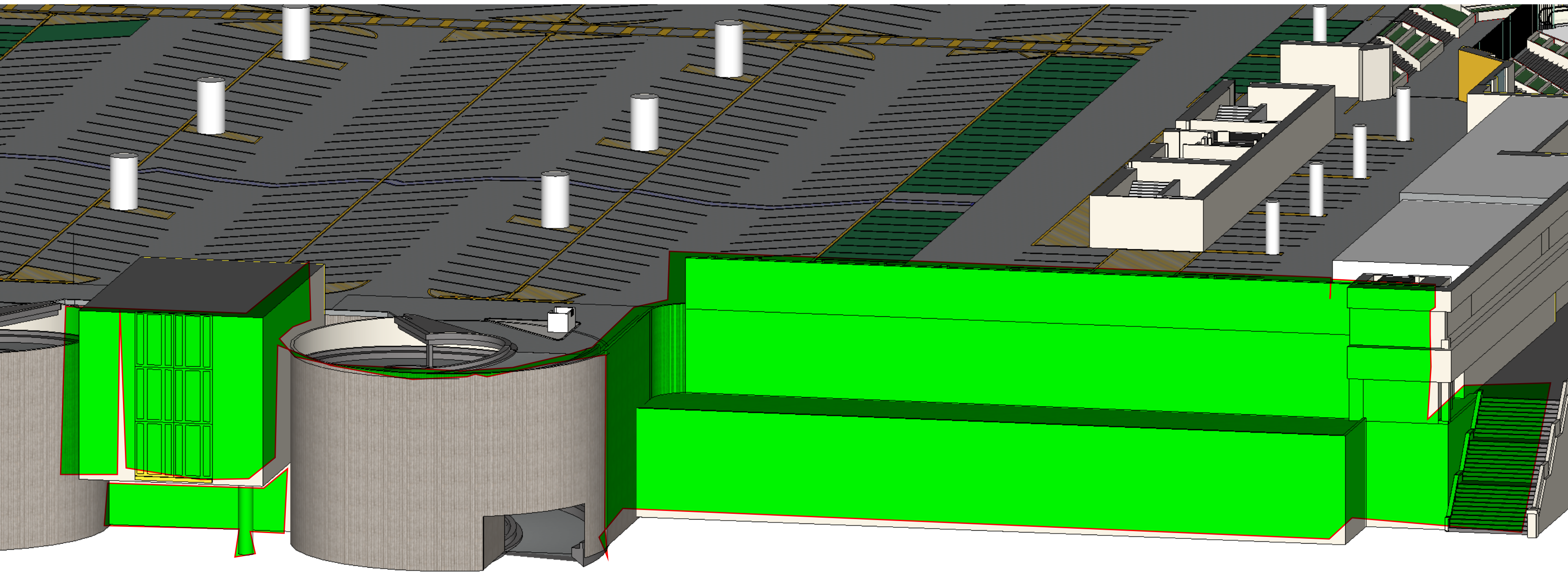
KALAKUA STREET



EFIS PAINTED / EXTERNAL PLANTER
BOX EFIS



RIGHT SIDE ALA WAI



EFIS PAINTED



RIGHT SIDE KAHAKAI DRIVE

SECTION 09 91 00

PAINTING

WJE GUIDE SPECIFICATION - AUGUST 19, 2021

THIS GUIDE SPECIFICATION IS LIMITED TO AN REQUEST FOR PROPOSAL (RFP) FOR THE THIRD FLOOR PLANTER AND BELOW GRADE WATERPROOFING REPAIRS AS BASED ON INFORMATION PROVIDED BY OUR CLIENT, CUMMING CORPORATION. WJE IS NOT THE ARCHITECT-OF-RECORD (AOR). WJE DID NOT PERFORM AN INVESTIGATION, WATER TESTING, OR MATERIAL BASED SAMPLING FOR THIS PROJECT. THIS GUIDE SPECIFICATION IS PROVIDED FOR INFORMATION ONLY REGARDING GENERAL BUILDING ENVELOPE RESISTANCE TO WATER LEAKAGE, AIR INFILTRATION/EXFILTRATION, THERMAL CONTINUITY, AND DURABILITY. THIS GUIDE SPECIFICATION IS NOT FOR CONSTRUCTION. ACTUAL PERFORMANCE OF THE BUILDING ENVELOPE COMPONENTS IS HIGHLY DEPENDENT UPON CONTRACTOR QUALIFICATIONS, SITE CONDITIONS, WEATHER DURING CONSTRUCTION, CONTRACTOR QUALITY ASSURANCE AND THEIR QUALITY CONTROL.

THIS GUIDE SPECIFICATION IS INTENDED FOR THE SOLE USE OF OUR CLIENT AND ARE BEING OFFERED FOR FURTHER REVIEW AND CONSIDERATION BY OUR CLIENT. THE INFORMATION CONTAINED HEREIN MUST BE REVIEWED AND APPROVED BY THE AOR PRIOR TO INCORPORATION INTO THE RFP, AND SHOULD BE THOROUGHLY REVIEWED BY INVOLVED PARTIES FOR PROJECT-WIDE APPLICABILITY, ADAPTABILITY AND COST IN THE BROADER CONTEXT OF THE PROJECT. ANY MODIFICATIONS TO THE RFP OR FUTURE CONSTRUCTION DOCUMENTS THAT IS BASED, IN WHOLE OR IN PART, ON THE GUIDE SPECIFICATION SHALL BE THE SOLE RESPONSIBILITY OF THE AOR.

PART 1 - GENERAL

1.01 SUMMARY

- A. This Section includes surface preparation, priming, and painting of exterior construction material surfaces for the following:
 - 1. Concrete
- B. Related Sections include the following:
 - 1. Section 07 62 00 - Sheet Metal Flashing and Trim
 - 2. Section 07 92 00 - Joint Sealants

1.02 REFERENCES

- A. General

1. All standards latest edition of the date of this Specification
- B. American Society for Testing and Materials (ASTM)
 1. ASTM D16: Standard Terminology for Paint, Related Coatings, Materials, and Applications
 2. ASTM D523: Standard Test Method for Specular Gloss
 3. ASTM D2244: Standard Practice for Calculation of Color Tolerances and Color Differences from Instrumentally Measured Color Coordinates
 4. ASTM D3276: Standard Guide for Painting Inspectors (Metal Substrates)
 5. ASTM D3359: Standard Test Methods for Measuring Adhesion by Tape Test
 6. ASTM D4214: Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films
 7. ASTM D4541: Standard Test Method for Pull-Off Strength of Coatings Using Portable Adhesion Testers
 8. ASTM D5064: Standard Practice for Conducting a Patch Test to Assess Coating Compatibility
 9. ASTM D5324: Standard Guide for Testing Water-Borne Architectural Coatings
 10. ASTM D7234: pull-off strength of Coatings on Concrete Using Portable Pull-off Adhesion Testers
- C. International Concrete Repair Institute (ICRI)
 1. ICRI Guideline No. 03732: Selecting and Specifying Concrete Surface Preparation for Sealers, Coatings, and Polymer Overlays
 - a. Concrete Surface Profiles (CSP)
 - 1) CSP-2: Grinding
 - 2) CSP-3: Light shotblast
 - 3) CSP-4: Light scarification
- D. Code of Federal Regulations (CFR)
 1. 29 CFR: Labor
 - a. 29 CFR 1910.1000: Air Contaminants
 - b. 29 CFR 1910.1001: Asbestos, Tremolite, Anthophyllite, and Actinolite
 - c. 29 CFR 1910.1025: Lead
 - d. 29 CFR 1910.6200: Lead Exposure in Construction
 2. 40 CFR: Protection of Environment
 - a. 40 CFR 59 National Volatile Organic Compound (VOC) Emission Standards for Consumer and Commercial Products
 - b. 40 CFR 261 Identification and Listing of Hazardous Waste
 - c. 40 CFR 262 Standards Applicable to Generators of Hazardous Waste
 - d. 40 CFR 263 Standards Applicable to Transporters of Hazardous Waste
 3. 24 CFR: Housing and Urban Development (HUD)
 - a. 24 CFR 35 Requirements for Notification Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance
- E. Environmental Protection Agency (EPA)
 1. EPA Toxicity Characteristic Leaching Procedure (TCLP)
- F. Occupational Health and Safety Administration (OSHA)

1.03 DEFINITIONS

- A. General: Standard coating terms defined in ASTM D 16 apply to this Section.
- B. Paint: Paint includes coating system materials, primers, emulsions, enamels, stains, sealers, fillers, and other applied materials whether used as prime, intermediate, or finish coats.

1.04 SUBMITTALS

- A. Product Data: For each paint system indicated.
 - 1. Material List: An inclusive list of required coating/paint materials. Indicate each material and cross-reference specific coating, finish system, and application. Identify each material by manufacturer's catalog number and general classification.
 - 2. Manufacturer's Information: Manufacturer's technical information, including label analysis and instructions for handling, storing, and applying each coating material.
 - 3. Material Safety Data Sheet: Material safety data sheet (MSDS) for each product.
 - 4. Volatile Organic Compound (VOC) content.
- B. Samples: For each color and material to be applied, with texture and sheen to simulate actual conditions, on **representative samples of the actual substrate**
 - 1. Provide stepped Samples, defining each separate coat, including block fillers and primers. Use representative colors when preparing Samples for review. Resubmit until required sheen, color, and texture are achieved.
 - 2. Provide a list of materials and applications for each coat of each Sample. Label each Sample for location and application.
 - 3. Submit **3** Samples for the Architect and Owner's review of color, sheen, and texture.
- C. Safety Plan: A safety plan submitted describing procedures for material testing to determine if existing coatings contain any toxic or hazardous materials, surface preparation, protection, and disposal
- D. Qualification Data: For Applicator.

1.05 WARRANTY

- A. Provide a minimum 5 year labor and 10 year materials warranty from Date of Substantial Completion on paint work. The Paint Installer's Surety shall not be held liable beyond two years of the Substantial Completion date.

1.06 QUALITY ASSURANCE

- A. Applicator Qualifications: A firm or individual experienced in applying paints and coatings similar in material, design, and extent to those indicated for this Project, whose work has resulted in applications with a record of successful in-service performance. Applicator must have a minimum of five years of skilled experience.
- B. Application: All coatings shall be applied in strict accordance with the manufacturer's printed instructions. This includes film thickness, curing and recoating times, temperature and humidity, mixing and thinning, pot life, and application methods and techniques. Follow procedures in ASTM D5324 to ensure quality of the paint.

- C. Finish: Coatings shall be visibly free from flow-lines, streaks, blisters, or other surface imperfections in the dry-film state on exposed surfaces. Inspections shall be completed in accordance with ASTM D3276 for metal substrates, and similarly for all other types of substrates.
- D. Compatibility: New paint coating systems must be compatible with any existing coatings that may exist. Test compatibility according to ASTM 5064.
- E. Mockups: Provide a full-coat mockup finish sample for each type of coating and substrate required. Surface preparation shall represent surface preparation specified for the substrate. Duplicate finish of approved sample Submittals.
 - 1. Architect and Owner will select locations to represent surfaces and conditions for application of each type of coating and substrate.
 - a. Surfaces: Provide samples on at least 1 square foot
 - b. Small Areas and Items: Architect will designate items or areas required.
 - 2. Mockups showing the color, texture, sheen, preparation, and application to each surface type shall cure the duration as required by manufacturer's written direction. Architect and Owner to compare finish for selection and approval.
 - 3. Adhesion tests will be completed according to ASTM D3359 and/or ASTM D7234 on the mockup samples after the coating has cured according to manufacturer's written instruction to assure adequate bonding to the substrate. Mockups shall be continued until bond has been accepted by the Architect. Adhesion testing will continue to be performed during the course of the coating applications.
 - 4. Do not proceed with Work until mockups have been approved by Architect and Owner.
 - 5. Accepted mockups will be considered the target for evaluating the remainder of the Work.

1.07 DELIVERY, STORAGE, AND HANDLING

- A. Deliver materials to Project site in manufacturer's original, unopened packages and containers bearing manufacturer's name and label and the following information:
 - 1. Product name or title of material.
 - 2. Product description (generic classification or binder type).
 - 3. Manufacturer's stock number and date of manufacture.
 - 4. Contents by volume, for pigment and vehicle constituents.
 - 5. Thinning instructions.
 - 6. Application instructions.
 - 7. Color name and number.
 - 8. VOC content.
- B. Store materials not in use in tightly covered containers in a well-ventilated area at ambient temperatures allowed by manufacturer. Maintain storage containers in a clean condition, free of foreign materials and residue. Protect containers from direct sunlight
- C. Dispose of waste created from Work legally and in accordance with OSHA, EPA, and other federal, state, and local regulations for the types of materials and VOC contents.
- D. Where paint recycling is available, collect waste paint by type and provide for delivery to recycling or collection facility. Materials that cannot be reused must be treated as hazardous waste and disposed of in an appropriate manner.

1.08 SAFETY

- A. Apply coatings in strict accordance with all safety and weather conditions required by the manufacturer's product literature, technical bulletins, or as applicable rules and regulations of local, state, and federal authorities having jurisdiction.
- B. Contractor to provide OSHA approved personal protective and safety equipment for all employees working on the job site.
- C. Contractor to provide adequate ventilation system to keep concentration of volatile material below maximum allowable concentration prescribed by applicable local, state, and federal safety regulations.
- D. Contractor to protect personnel from overexposure to toxic materials, conforming to the most stringent guidance from the following:
 - 1. Manufacturer's MSDS.
 - 2. Local regulation.
 - 3. 29 CFR 1910.1000.
 - 4. OSHA standard in 29 CFR 1910.1025 and 29 CFR 1926.62 for surface preparation on painted surfaces containing lead.
- E. Ensure that proper procedures are executed if existing coatings contain hazardous materials prior to execution of work. Have samples tested according to 40 CFR 261, 40 CFR 262, and 40 CFR 263.

1.09 PROJECT CONDITIONS

- A. Apply waterborne paints only when temperatures of surfaces to be painted and surrounding air do not exceed 90 degrees F.
- B. Apply solvent-thinned paints only when temperatures of surfaces to be painted and surrounding air do not exceed 95 degrees F.
- C. Perform no exterior painting work in rain, fog, or mist; or when relative humidity exceeds 85 percent; or at temperatures less than 5 degrees F above the dew point; or to damp or wet surfaces. Maintain minimum ambient air and substrate temperatures for 24 hours before, during, and after paint application.
- D. Perform no painting work when the relative humidity is above 85 percent or when the dew point is less than 5 degrees F variance between the air/surface temperature.
- E. Perform no painting work when the maximum moisture content of the substrate exceeds:
 - 1. 12 percent for concrete and masonry
 - 2. 15 percent for wood
 - 3. 12 percent for plaster and gypsum board
- F. Apply paint only to dry, clean, properly cured, and adequately prepared surfaces in areas where dust is no longer generated by construction activities such that airborne particles will not affect the quality of finished surfaces.
- G. Protection:

1. Protect existing construction and work in place from damage resulting from operations related to the work including removals, reinstallation, and the storage, preparation, handling, and application of the coating materials.
2. Exercise caution in performing the work so as not to damage other building and site elements. Be responsible to protect the building and site elements from mechanical damage.
3. In areas where coating systems are to be applied, protect surrounding construction, including existing paving and sidewalks, from drippage or other effects of coatings.
4. Materials damaged by the coating process shall be repaired to the satisfaction of the Project Manager without additional cost to the Owner.
5. Workers, Pedestrians, Animals, Plants, Automobiles, Other Property, etc.
 - a. The work required herein includes the use of chemicals that can harm workers, pedestrians and other persons, animals, plants, and damage automobiles, other buildings, outdoor furniture, fencing, etc.
 - b. Be responsible for protecting workers, pedestrians and other persons, animals, plants, adjacent buildings, parked or moving automobiles, other buildings, outdoor furniture, fencing, and other persons and objects that are vulnerable to damage by the coating operations.
 - c. Damage to adjacent structures, buildings, automobiles, site features, etc., caused by the coating operations shall be the responsibility of the Contractor and shall result in no additional cost to the Owner.

PART 2 - PRODUCTS

2.01 MANUFACTURERS

- A. Products: Subject to compliance with requirements, provide one of the products listed in other Part 2 articles.
- B. Manufacturers: Listed below are manufactures to consider required paint coating system:
 1. Benjamin Moore & Co.
 2. ICI Dulux Paint Centers
 3. Pratt & Lambert
 4. Sherwin-Williams Co.
 5. Tnemec Corporation Inc.
 6. Approved equal

2.02 GENERAL PAINT MATERIALS

- A. Material Compatibility: Provide block fillers, primers, and finish-coat materials that are compatible with one another and with the substrates indicated under conditions of service and application, as demonstrated by manufacturer based on testing and field experience.
- B. Material Manufacture: Paint systems in contact with one another (i.e. primer and finish coats) shall be supplied by the same manufacturer.
- C. Material Quality: Provide manufacturer's best-quality paint material of the various coating types specified that are factory formulated and recommended by manufacturer for application indicated. Paint-material containers not displaying manufacturer's product identification will not be acceptable.

2.03 MATERIALS

- A. Source Limitations: Obtain materials through 1 source from single coating manufacturer, or from sources approved by coating manufacturer. Provide manufacturer's best-quality material products of the various coating types specified.
- B. Crack Fillers: Elastomeric coating manufacturer's recommended, factory-formulated crack fillers or sealants, including crack primers, compatible with substrate and other materials furnished.
- C. Primer: Elastomeric coating manufacturer's recommended, factory-formulated, alkali-resistant primer compatible with substrates and other materials indicated.
- D. Exterior Concrete Substrate Paint
 - 1. Exterior Paint System
 - a. Filler Coat:
 - 1) Type: High-performance Latex block filler
 - b. Primer Coat:
 - 1) Type: Alkali-resistant acrylic-latex primer (bare concrete surfaces)
 - 2) Coats: one
 - 3) Dry Film Thickness: 1.4 mils
 - c. Primer Coat:
 - 1) Type: Acrylic primer (previously painted concrete surfaces)
 - 2) Coats: one
 - 3) Dry Film Thickness: 1.4 mils
 - d. Intermediate Coat:
 - 1) Type: Elastomeric Hi-build
 - 2) Coats: one
 - 3) Dry Film Thickness: 7.5 mils
 - e. Finish Coat:
 - 1) Type:
 - a) Acrylic with 100 percent solids
 - b) Acrylic-emulsion latex paint for exterior application
 - c) Waterborne acrylic-latex enamel for exterior application
 - 2) Coats: two
 - 3) Dry Film Thickness: 7 mils
 - f. Finish Color: To match existing
 - g. Sheen: To match existing

PART 3 - EXECUTION

3.01 EXAMINATION

- A. Examine substrates, areas, and conditions, with Applicator present, for compliance with requirements for paint application.
 - 1. Proceed with paint application only after unsatisfactory conditions have been corrected and surfaces receiving paint are thoroughly dry.
 - 2. Start of painting will be construed as Applicator's acceptance of surfaces and conditions within a particular area.

- B. Coordination of Work: Review other Sections in which primers are provided to ensure compatibility of the total system for various substrates.
 - 1. Notify Architect about anticipated problems when using the materials specified over substrates primed by others.

3.02 PREPARATION

- A. General: Remove items already installed that are not to be painted. If removal is impractical or impossible because of size or weight of the item, provide surface-applied protection before surface preparation and painting.
 - 1. After completing painting operations in each space or area, reinstall items removed using workers skilled in the trades involved.
- B. Cleaning: Before applying paint or other surface treatments, wash and clean substrates of substances that could impair bond of the various coatings. Remove oil and grease before cleaning. Use manufacturer recommended products and procedures.
 - 1. Schedule cleaning and painting so dust and other contaminants from the cleaning process will not fall on wet, newly painted surfaces.
- C. Surface Preparation: Clean and prepare surfaces to be painted according to manufacturer's written instructions for each particular substrate condition and as specified.
 - 1. Barrier Coats: Provide barrier coats over incompatible primers or remove and re-prime.
 - 2. Existing Coatings:
 - a. Remove all unsound areas of the existing coating as recommended by manufacturer.
 - b. Feather edges of existing coatings by techniques recommended by manufacturer and as specified for the specific substrate. The existing coating should not have raised or rough edges.
 - c. Do not use abrasive means that will create airborne particles if the existing coating contains lead. Follow local and federal regulations for proper removal and containment of lead coatings.
 - 3. Cementitious Materials: Prepare concrete, concrete unit masonry, stucco (portland cement plaster), and mineral-fiber-reinforced cement panel surfaces to be painted. Remove efflorescence, chalk, dust, dirt, grease, oils, and release agents. Roughen as required to remove glaze. If hardeners or sealers have been used to improve curing, use mechanical methods of surface preparation.
 - a. Use abrasive blast-cleaning methods if recommended by paint manufacturer.
 - b. Determine alkalinity and moisture content of surfaces by performing appropriate tests. If surfaces are sufficiently alkaline to cause the finish paint to blister and burn, correct this condition before application. Do not paint surfaces if moisture content exceeds that permitted in manufacturer's written instructions.
 - c. Prepare concrete surface in accordance with ICRI Guideline No. 03732 to a **CSP-1 to 3**
- D. Material Preparation: Mix and prepare paint materials according to manufacturer's written instructions.
 - 1. Maintain containers used in mixing and applying paint in a clean condition, free of foreign materials and residue.
 - 2. Stir material before application to produce a mixture of uniform density. Stir as required during application. Do not stir surface film into material. If necessary, remove surface film and strain material before using.
 - 3. Use only thinners approved by paint manufacturer and only within recommended limits.

- E. Tinting: Tint each undercoat a lighter shade to simplify identification of each coat when multiple coats of same material are applied. Tint undercoats to match the color of the finish coat, but provide sufficient differences in shade of undercoats to distinguish each separate coat.

3.03 APPLICATION

- A. General: Apply paint according to manufacturer's written instructions. Use applicators and techniques best suited for substrate and type of material being applied.
 - 1. Do not paint over dirt, rust, scale, grease, moisture, scuffed surfaces, or conditions detrimental to formation of a durable paint film.
 - 2. Provide finish coats that are compatible with primers used.
 - 3. The term "exposed surfaces" includes areas visible when permanent or built-in fixtures, grilles, convactor covers, covers for finned-tube radiation, and similar components are in place. Extend coatings in these areas, as required, to maintain system integrity and provide desired protection.
- B. Scheduling Painting: Apply first coat to surfaces that have been cleaned, pretreated, or otherwise prepared for painting as soon as practicable after preparation and before subsequent surface deterioration.
 - 1. The number of coats and film thickness required are the same regardless of application method. Do not apply succeeding coats until previous coat has cured as recommended by manufacturer. If sanding is required to produce a smooth, even surface according to manufacturer's written instructions, sand between applications.
 - 2. Omit primer over metal surfaces that have been shop primed and touchup painted.
 - 3. If undercoats, stains, or other conditions show through final coat of paint, apply additional coats until paint film is of uniform finish, color, and appearance. Give special attention to ensure that edges, corners, crevices, welds, and exposed fasteners receive a dry film thickness equivalent to that of flat surfaces.
 - 4. Allow sufficient time between successive coats to permit proper drying. Do not recoat surfaces until paint has dried to where it feels firm, and does not deform or feel sticky under moderate thumb pressure, and until application of another coat of paint does not cause undercoat to lift or lose adhesion.
- C. Application Procedures: Apply paints and coatings by brush, roller, spray, or other applicators according to manufacturer's written instructions.
 - 1. Brushes: Use brushes best suited for type of material applied. Use brush of appropriate size for surface or item being painted.
 - 2. Rollers: Use rollers of carpet, velvet-back, or high-pile sheep's wool as recommended by manufacturer for material and texture required.
 - 3. Spray Equipment: Use airless spray equipment with orifice size as recommended by manufacturer for material and texture required.
- D. Minimum Coating Thickness: Apply paint materials no thinner than manufacturer's recommended spreading rate to achieve dry film thickness indicated. Provide total dry film thickness of the entire system as specified or recommended by manufacturer.
- E. Block Fillers: Apply block fillers to concrete masonry block at a rate to ensure complete coverage with pores filled.
- F. Prime Coats: Before applying finish coats, apply a prime coat, as recommended by manufacturer, to material that is required to be painted or finished and that has not been prime coated by others. Recoat primed and sealed surfaces where evidence of suction spots or

unsealed areas in first coat appears, to ensure a finish coat with no burn-through or other defects due to insufficient sealing.

- G. Pigmented (Opaque) Finishes: Completely cover surfaces as necessary to provide a smooth, opaque surface of uniform finish, color, appearance, and coverage. Cloudiness, spotting, holidays, laps, brush marks, runs, sags, ropiness, or other surface imperfections will not be acceptable.
- H. For removable items and new assemblies, all concealed and faying surfaces shall be coated with the full coating system.
- I. Completed Work: Match approved samples for color, texture, and coverage. Remove, refinish, or repaint work not complying with requirements at no expense to the Owner.

3.04 FIELD QUALITY CONTROL

- A. Owner reserves the right to invoke the following test procedure at any time and as often as Owner deems necessary during the period when paint is being applied:
 - 1. Owner will engage a qualified independent testing agency to sample paint material being used. Samples of material delivered to Project will be taken, identified, sealed, and certified in the presence of Contractor.
 - 2. Testing agency will perform appropriate tests for the following characteristics as required by Owner:
 - a. Adhesion
 - b. Dry film thickness
 - c. Chalking
 - d. Environmental conditions
 - e. pH level
 - 3. Owner or Architect may direct Contractor to stop painting if test results show material being used does not comply with specified requirements. Contractor shall remove noncomplying paint from Project site, pay for testing, and repaint surfaces previously coated with the noncomplying paint. If necessary, Contractor may be required to remove noncomplying paint from previously painted surfaces if, on repainting with specified paint, the two coatings are incompatible.

3.05 CLEANING

- A. Cleanup:
 - 1. Immediately clean up accidental splatter, spillage, and misplaced paint, and restore the affected area to its original undamaged condition.
 - 2. Daily: Remove paint cans, trays, tarps, covers, brushes, trash, rags, and other tools and supplies from the grounds and interior spaces at the end of each work day. Post "Wet Paint" signs to warn against freshly painted surfaces. Damage to clothing and personal property due to contact with un-posted, wet paint surfaces shall be remedied with the individuals.
 - 3. At End of Project: Remove supplies from the site. Dispose of empty paint containers in a legal manner, off-site. Clean spills, splatters, and other paint stains at no additional expense to the Owner and to the Owner's satisfaction.

END OF SECTION

SECTION 07 24 00

EXTERIOR INSULATION AND FINISH SYSTEMS

WJE GUIDE SPECIFICATION - AUGUST 19, 2021

THIS GUIDE SPECIFICATION IS LIMITED TO AN REQUEST FOR PROPOSAL (RFP) FOR THE THIRD FLOOR PLANTER AND BELOW GRADE WATERPROOFING REPAIRS AS BASED ON INFORMATION PROVIDED BY OUR CLIENT, CUMMING CORPORATION. WJE IS NOT THE ARCHITECT-OF-RECORD (AOR). WJE DID NOT PERFORM AN INVESTIGATION, WATER TESTING, OR MATERIAL BASED SAMPLING FOR THIS PROJECT. THIS GUIDE SPECIFICATION IS PROVIDED FOR INFORMATION ONLY REGARDING GENERAL BUILDING ENVELOPE RESISTANCE TO WATER LEAKAGE, AIR INFILTRATION/EXFILTRATION, THERMAL CONTINUITY, AND DURABILITY. THIS GUIDE SPECIFICATION IS NOT FOR CONSTRUCTION. ACTUAL PERFORMANCE OF THE BUILDING ENVELOPE COMPONENTS IS HIGHLY DEPENDENT UPON CONTRACTOR QUALIFICATIONS, SITE CONDITIONS, WEATHER DURING CONSTRUCTION, CONTRACTOR QUALITY ASSURANCE AND THEIR QUALITY CONTROL.

THIS GUIDE SPECIFICATION IS INTENDED FOR THE SOLE USE OF OUR CLIENT AND ARE BEING OFFERED FOR FURTHER REVIEW AND CONSIDERATION BY OUR CLIENT. THE INFORMATION CONTAINED HEREIN MUST BE REVIEWED AND APPROVED BY THE AOR PRIOR TO INCORPORATION INTO THE RFP, AND SHOULD BE THOROUGHLY REVIEWED BY INVOLVED PARTIES FOR PROJECT-WIDE APPLICABILITY, ADAPTABILITY AND COST IN THE BROADER CONTEXT OF THE PROJECT. ANY MODIFICATIONS TO THE RFP OR FUTURE CONSTRUCTION DOCUMENTS THAT IS BASED, IN WHOLE OR IN PART, ON THE GUIDE SPECIFICATION SHALL BE THE SOLE RESPONSIBILITY OF THE AOR.

PART 1 GENERAL

1.1 SUMMARY

- A. Section Includes: Barrier-type (in kind wall repairs) as indicated for exterior insulation and finish system with polymer-based base and finish coats.
- B. Related Sections
 - 1. Section 07 62 00 - Sheet Metal Flashing and Trim
 - 2. Section 07 92 00 - Joint Sealants
 - 3. Section 09 91 00 - Painting

1.2 REFERENCES

- A. Reference Standards: Latest edition as of Specification date.
 - 1. ASTM International.

- a. C 150 - Standard Specification for Portland Cement.
- b. C 954 - Standard Specification for Steel Drill Screws for the Application of Gypsum Panel Products or Metal Plaster Bases to Steel Studs From 0.033 in. (0.84 mm) to 0.112 in. (2.84 mm) in Thickness.
- c. C 1002 - Standard Specification for Steel Self-Piercing Tapping Screws for the Application of Gypsum Panel Products or Metal Plaster Bases to Wood Studs or Steel Studs.
- d. C 1063 - Standard Specification for Installation of Lathing and Furring to Receive Interior and Exterior Portland Cement-Based Plaster.
- e. C 1397 - Standard Practice for Application of Class PB Exterior Insulation and Finish Systems.
- f. E 84 - Standard Test Method for Surface Burning Characteristics of Building Materials.
- g. E 1677 - Standard Specification for an Air Retarder (AR) Material or System for Low-Rise Framed Building Walls.
- 2. Uniform Building Code (UBC).
 - a. Standard 14-1 - Kraft Waterproof Building Paper.
- 3. EIFS Industry Members Association (EIMA).
 - a. Guide to EIFS Construction.

1.3 DEFINITIONS

- A. EIFS: Exterior Insulation and Finish System. A “non-load bearing, exterior wall cladding system that consists of an insulation board attached either adhesively, mechanically, or both to the substrate; an integrally reinforced base coat; and a textured protective finish coat,” as defined by ASTM C 1397.
 - 1. Class PB - Polymer-based base and finish coats.
 - 2. Barrier-type: EIFS intended to prevent moisture from penetrating EIFS surface.

1.4 SUBMITTALS

- A. Product Data: For each type and component of EIFS indicated.
- B. Shop Drawings: Include plans, elevations, sections, details of components, details of penetrations and terminations, flashing details, joint locations and configurations, insulation board layout, fastening and anchorage details including mechanical fasteners, and connections and attachments to other work.
- C. Samples for Initial Selection: For each type of finish-coat color and texture indicated.
 - 1. Include similar samples of joint sealants and exposed accessories involving color selection.
- D. Samples for Verification: 24-inch-square panels for each type of finish-coat color and texture indicated, prepared using same tools and techniques intended for actual work including brick work pattern.
 - 1. Include sealants and exposed accessory samples to verify color selected.
- E. Manufacturer Certificates: Signed by manufacturers certifying that EIFS, substrates, and joint sealants specified for Project comply with requirements.
- F. Qualification Data: For Installer and testing agency.

- G. Compatibility and Adhesion Test Reports: From joint sealant manufacturer indicating following:
 - 1. Materials forming joint substrates and joint-sealant backings have been tested for compatibility and adhesion with joint sealants.
 - 2. Interpretation of test results and written recommendations for primers and substrate preparation needed for adhesion.
- H. Research/Evaluation Reports: For weather-resistive barrier and EIFS.
- I. Sample Warranty: Copy of EIFS manufacturer's warranty, stating obligations, remedies, limitations, and exclusions. Submitted with bid.
- J. Following completion of Work, submit copies of completed EIFS manufacturer's warranty.
- K. Maintenance Data: EIFS maintenance manual.

1.5 QUALITY ASSURANCE

- A. Installer Qualifications: An installer certified in writing by EIFS manufacturer as qualified to install manufacturer's system using trained workers.
- B. Source Limitations: Obtain EIFS through one source.
- C. Mock-ups: Prior to start of Work or purchase of material, construct EIFS mock-up at on-site location determined by Architect, to verify material selection, to demonstrate finished appearance, and to set standard of workmanship.
 - 1. Include weather-resistive barrier and flexible, membrane flashing; include back-wrapping at perimeter of panel.
 - 2. If Architect determines mock-up does not comply with requirements, modify mock-up or construct new mock-up until mock-up is approved. Approval of mockups does not constitute approval of deviations from Contract Documents contained in mockups unless such deviations are specifically approved by Architect in writing.
 - 3. Maintain approved mockup for duration of Work as quality standard for Work.
- D. Pre-installation Conference: Conduct conference at Project site. Review requirements for EIFS, including surface preparation, forecasted weather conditions, special details and flashings, installation procedures, testing and inspection procedures, and protection and repairs. Contractor's site foreman and EIFS manufacturer's technical representative shall attend.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Deliver materials to Project site in original packages with seals unbroken, labeled with EIFS manufacturer's name, product brand name and type, date of manufacture, lot number, and directions for storing and mixing with other components.
- B. Store materials in original, undamaged containers in clean, dry, protected location on raised platforms with weather-protective coverings, within temperature range required by EIFS manufacturer. Protect stored materials from direct sunlight. EIFS manufacturer's standard packaging and covering is **not** considered adequate weather protection. Stack insulation board flat.

- C. Limit stored materials on structures to safe loading of structure at time materials are stored.
- D. Handle materials to avoid damage.
- E. Remove and replace materials that cannot be applied within stated shelf life.

1.7 PROJECT CONDITIONS

- A. Verify existing dimensions and details prior to installation of materials. Notify Architect/Engineer of conditions found to be different than those indicated in Contract Documents. Architect will review situation and inform Contractor and Installer of changes.
- B. Environmental Limitations: Apply EIFS within range of ambient and substrate temperatures recommended by EIFS manufacturer. Do not apply EIFS under following conditions, unless otherwise recommended by EIFS manufacturer and approved by Architect/Engineer.
 - 1. To substrates that are damp or wet, or that have dew, frost, snow, or ice on them.
 - 2. In rain, fog, or mist, or when such weather conditions are imminent during application or curing period.

1.8 CHANGES IN WORK

- A. During rehabilitation work, existing conditions may be encountered which are not known or are at variance with drawings and specifications. Such conditions may interfere with Work and may consist of damage or deterioration of substrate or surrounding materials or components that could jeopardize integrity or performance of new EIFS.
- B. Notify Architect of conditions that may interfere with proper execution of Work or jeopardize integrity of new EIFS prior to proceeding with Work.

1.9 WARRANTY

- A. Manufacturer's Warranty:
 - 1. Written warranty, signed by EIFS manufacturer, including
 - a. Labor and materials necessary to repair or replace EIFS that does not comply with requirements; that does not remain watertight; that fails in adhesion, cohesion, or general durability; that experiences abrasion or tearing failure not due to misuse; that experiences surface crazing, spalling, or color fading; or that deteriorates in manner not clearly specified by submitted EIFS manufacturer's data as inherent quality of material for application indicated. Warranty does not include deterioration or failure of EIFS due to failure of substrate prepared according to requirements, formation of new substrate cracks exceeding 1/16 inch in width, or vandalism.
 - 2. Warranty Period: 5 years after Substantial Completion date.
 - 3. Submit Contract Documents to EIFS manufacturer for review and comment prior to construction. Comply with EIFS manufacturer's review comments and requirements for warranty.

PART 2 PRODUCTS

2.1 EIFS DESIGN

- A. Provide Dryvit Residential MD (Drainage-system) and Dryvit Outsulation (Barrier-system repairs) as basis-of-design systems by one of following manufacturers.
 - 1. Sto Corp.
 - 2. Senergy Inc
 - 3. Parex, Inc.

2.2 MATERIALS

- A. Compatibility: Provide substrates, weather-resistive barrier, adhesive, fasteners, board insulation, reinforcing mesh, base- and finish-coat materials, sealant, and accessories that are compatible with one another and approved for use by EIFS manufacturer for Project.
- B. Colors, Textures, and Patterns of Finish Coat:
 - 1. Barrier-system: To match existing color, texture, and pattern of existing adjacent EIFS and as selected by Owner.
- C. Related Materials
 - 1. Coating: EIFS manufacturer's standard formulation and accessories designed for indicated use and compatible with substrate.
 - 2. Weather-Resistive Barrier: ASTM E 1677, Type I air retarder, with flame-spread and smoke-developed indexes of less than 25 and 450, respectively, when tested according to ASTM E 84, and UV-stabilized.
 - a. Use Tyvek StuccoWrap manufactured by DuPont Tyvek Weatherization Systems, E. I. DuPont de Nemours and Company, or an approved equal.
 - b. Use pressure-sensitive, plastic tape recommended by building wrap manufacturer for sealing joints and penetrations through building wrap.
- D. Flexible, Membrane Flashing: Cold-applied, fully-self-adhering, self-healing, rubberized-asphalt and polyethylene-film composite sheet or tape and primer.
- E. Trim Accessories: Type as designated or required to suit conditions indicated and to comply with EIFS manufacturer's written requirements; manufactured from UV-stabilized PVC; and complying with ASTM D 1784, manufacturer's standard Cell Class for use intended, and ASTM C 1063.
- F. Primer/Sealer: EIFS manufacturer's standard substrate conditioner designed to seal substrate from moisture penetration and to improve bond between substrate and adhesive used for insulation.
- G. Adhesive for Insulation: EIFS manufacturer's standard formulation designed for indicated use, compatible with substrate, and complying with one of the following requirements:
 - 1. Job-mixed formulation of portland cement complying with ASTM C 150, Type I, and polymer-based adhesive specified for base coat.
 - 2. Factory-blended dry formulation of portland cement, dry polymer admixture, and fillers specified for base coat.
 - 3. Factory-mixed, non-cementitious formulation designed for adhesive attachment of insulation to substrates of type indicated, as recommended by EIFS manufacturer.

- H. Mechanical Fasteners: EIFS manufacturer's standard, corrosion-resistant fasteners, including thermal cap, standard washer, and shaft attachments; selected for project substrates and pullout, tensile, and shear strengths required to resist design loads; capable of pulling fastener head below surface of insulation board.
 - 1. For attachment to steel studs from 0.033 to 0.112 inch in thickness, provide steel drill screws complying with ASTM C 954.
 - 2. For attachment to light-gage steel framing members not less than 0.0179 inch in thickness, provide steel drill screws complying with ASTM C 1002.
 - 3. For attachment to wood framing members and plywood sheathing, provide steel drill screws complying with ASTM C 1002, Type W.
- I. Insulation Board: Expanded polystyrene. Thicknesses to match existing or as shown on Drawings.
- J. Reinforcing Mesh: Comply with EIFS manufacturer's requirements.
 - 1. Standard-Impact Reinforcing Mesh: Not less than 4.0 ounces per square yard.
 - 2. Intermediate-Impact Reinforcing Mesh: Not less than 10.0 ounces per square yard.
 - 3. High-Impact Reinforcing Mesh: Not less than 15.0 ounces per square yard.
 - 4. Heavy-Duty Reinforcing Mesh: Not less than 20.0 ounces per square yard.
 - 5. Strip Reinforcing Mesh: Not less than 3.75 ounces per square yard.
 - 6. Detail Reinforcing Mesh: Not less than 4.0 ounces per square yard.
 - 7. Corner Reinforcing Mesh: Not less than 7.2 ounces per square yard.
 - 8. Base-Coat Materials: Cementitious polymer-based material.
- K. Primer: EIFS manufacturer's standard, factory-mixed, elastomeric, polymer primer for preparing base-coat surface for application of finish coat. Apply as required by manufacturer.
- L. Base-Coat Materials: Cementitious polymer-based material.
- M. Finish-Coat Materials: EIFS manufacturer's standard, acrylic-based coating with enhanced mildew resistance complying with following requirements for material composition and method of combining materials:
- N. Cleaning Solution (Mix)
 - 1. 1 Gallon - warm water
 - 2. 1 Quart - household bleach
 - 3. 8 Ounces - Trisodium Phosphate (TSP)Do not use acid (Sure Klean 600, etc.)
- O. Water: Potable.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Examine substrates and conditions with Installer and EIFS manufacturer's representative for compliance with requirements and other conditions affecting performance.
 - 1. Examine roof edges, wall framing, flashings, openings, substrates, and junctures at other construction for suitable conditions where EIFS will be installed.
 - 2. Ensure that Work done by other trades is complete and ready to receive EIFS.

3. Notify Architect in writing of conditions which may adversely affect EIFS installation or performance. Do not proceed with EIFS installation until these conditions have been corrected and reviewed by Architect.
4. Verify compatibility with and suitability of substrates.
5. Application of coating indicates acceptance of surfaces and conditions.

3.2 SURFACE PREPARATION

- A. Remove existing wall construction to expose substrate for EIFS installation.
- B. Protect adjacent surfaces, substrates, and wall construction from moisture penetration and soiling from EIFS installation. Provide temporary covering and masking.
- C. Clean and prepare substrate to comply with EIFS manufacturer's written requirements.
- D. Weather-Resistive Barrier: Apply over substrate.
 1. Tape and seal joints, exposed edges, terminations, and inside and outside corners of sheathing, unless otherwise indicated by EIFS manufacturer's written instructions.
- E. Flexible, Membrane Flashing: Install over weather-resistive barrier.
 1. Prime substrates if required, and install flashing to comply with EIFS manufacturer's written instructions and details provided in Drawings.
 2. Apply and lap to shed water.
 3. Seal at openings, penetrations, terminations, and where indicated by EIFS manufacturer's written instructions.
- F. Do not allow moisture to penetrate weather-resistive barrier or flexible, membrane flashings.
- G. Installer and EIFS manufacturer's representative shall examine substrate to ensure that it is properly prepared and ready to receive EIFS. EIFS manufacturer's representative shall report in writing to Installer and Architect conditions which will adversely affect EIFS system installation or performance. Do not proceed with EIFS installation until these conditions have been corrected and reviewed by Architect/Engineer.
- H. Proceed with installation only after unsatisfactory conditions have been corrected. Commencing work constitutes acceptance of work surfaces and conditions.

3.3 EIFS INSTALLATION

- A. General: Comply with ASTM C 1397 and EIFS manufacturer's written instructions for installation of EIFS. Protect EIFS installation from moisture penetration and weather.
- B. Mixing: Comply with EIFS manufacturer's requirements for combining and mixing materials.
 1. Do not introduce admixtures, water, or other materials except as recommended by EIFS manufacturer.
 2. Mix materials in clean containers.
 3. Use materials within time specified by EIFS manufacturer, or discard.
- C. Trim: Apply trim accessories at perimeter of EIFS, at expansion joints, at windowsills, and elsewhere as indicated, according to EIFS manufacturer's written instructions. Coordinate with installation of insulation.
 1. Use drip screed/track at bottom edges of drainage EIFS, unless otherwise indicated.

D. Expansion Joints: Install at locations indicated on drawings.

E. Board Insulation:

1. Attach insulation to substrate in compliance EIFS manufacturer's written requirements.
2. Apply insulation over drainage mat and dry substrates in courses with long edges of boards oriented horizontally.
3. Begin first course of insulation from level base line and work upward.
4. Begin first course of insulation from drip screed/track and work upward.
5. Stagger vertical joints of insulation boards in successive courses to produce running bond pattern.
 - a. Locate joints so no piece of insulation is less than the width of the wall or 12 inches wide (whichever controls) or 6 inches high.
 - b. Offset joints not less than 6 inches from corners of window and door openings, and not less than 4 inches from aesthetic reveals.
 - c. With adhesive attachment, offset insulation joints not less than 6 inches from horizontal joints and 4 inches from vertical joints in sheathing.
 - d. With mechanical attachment, offset joints of insulation from horizontal joints in sheathing.
6. Interlock ends at internal and external corners.
7. Abut insulation tightly at joints to produce flush, continuously even surfaces without gaps or raised edges between boards. If gaps greater than 1/16 inch occur, fill with insulation cut to fit gaps exactly; insert insulation without using adhesive or other material.
8. Cut insulation to fit openings, corners, and projections precisely, and to produce edges and shapes complying with details indicated.
9. Rasp or sand flush entire surface of insulation to remove irregularities projecting more than 1/32 inch from surface and to remove yellowed areas due to sun exposure; do not create depressions deeper than 1/16 inch.
10. Cut aesthetic reveals in outside face of insulation with high-speed router and bit configured to produce grooves, rabbets, and other features that comply with profiles and locations indicated. Do not reduce insulation thickness at aesthetic reveals to less than 3/4 inch. Do not allow board joints to occur at reveals.
11. Install foam shapes attached to supporting substrate as required to achieve desired pattern effect.
12. Interrupt insulation for expansion joints where indicated.
13. Form joints for sealant application by leaving gaps between adjoining insulation edges and between insulation edges and dissimilar adjoining surfaces. Make gaps wide enough to produce joint widths indicated after encapsulating joint substrates with base coat and reinforcing mesh.
14. Fully wrap board edges and extend encapsulating mesh not less than 2 1/2 inches over front and back face, unless otherwise indicated on Drawings.
15. Treat exposed edges of insulation as follows:
 - a. Encapsulate edges with base coat and reinforcing mesh. For edges that are not at sealant joints, encapsulate with finish coat also.
 - b. At edges trimmed by accessories, extend base coat, reinforcing mesh, and finish coat over face leg of accessories.
16. Coordinate installation of flashing and insulation to produce wall assembly that does not allow water to penetrate behind flashing.
17. Base Coat: Apply to exposed surfaces of insulation in minimum thickness recommended in writing by EIFS manufacturer, but not less than 1/16-inch, dry-coat thickness.

F. Reinforcing Mesh:

1. Embed in wet base coat to produce wrinkle-free installation, with mesh continuous at corners and overlapped not less than 2 1/2 inches or otherwise treated at joints to comply with ASTM C 1397 and EIFS manufacturer's written requirements.
 - a. Do not lap reinforcing mesh within 8 inches of corners.
 - b. Completely embed mesh, applying additional base-coat material if necessary, so reinforcing-mesh color is not visible and mesh does not create a tactile texture in the base coat.
 - c. Where double layers of reinforcing mesh are indicated, apply second base coat and second layer of reinforcing mesh, overlapped not less than 2 1/2 inches or otherwise treated at joints to comply with ASTM C 1397 and EIFS manufacturer's written requirements. Do not apply until first base coat has cured.
 2. Reinforcing mesh locations, unless noted otherwise.
 - a. Standard-impact reinforcing mesh - at second floor and above.
 - b. Intermediate-impact reinforcing mesh - at balconies on second floor and above.
 - c. Strip, detail, and corner reinforcing mesh.
 - 1) Strip reinforcing mesh.
 - a) Apply around openings, extending 4 inches beyond perimeter.
 - b) Apply additional 9-inch-by-12-inch strip diagonally at re-entrant corners of openings.
 - 2) Corner reinforcing mesh: Apply 8-inch-wide strip at inside and outside corners unless base layer of mesh is lapped not less than 4 inches on each side of corners.
 - 3) Embed strip, detail, and corner reinforcing mesh in base coat before applying first layer of reinforcing mesh.
- G. Primer: Apply over dry base coat according to EIFS manufacturer's written instructions.
- H. Finish Coat: Apply over dry primer in thickness required by EIFS manufacturer, to produce uniform finish color and texture matching approved sample and free of cold joints, shadow lines, and texture variations. Maintain wet edge for uniform appearance.

3.4 CLEANING AND PROTECTION

- A. Promptly remove EIFS coating materials from windows, doorframes, and other surfaces adjacent to Work area.
- B. Remove temporary coverings and protection.
- C. Provide protection and maintain conditions in manner acceptable to Installer and EIFS manufacturer to ensure that EIFS is not damaged at time of Substantial Completion.

END OF SECTION

SECTION 07 92 00

JOINT SEALANTS

WJE GUIDE SPECIFICATION - AUGUST 19, 2021

THIS GUIDE SPECIFICATION IS LIMITED TO AN REQUEST FOR PROPOSAL (RFP) FOR THE THIRD FLOOR PLANTER AND BELOW GRADE WATERPROOFING REPAIRS AS BASED ON INFORMATION PROVIDED BY OUR CLIENT, CUMMING CORPORATION. WJE IS NOT THE ARCHITECT-OF-RECORD (AOR). WJE DID NOT PERFORM AN INVESTIGATION, WATER TESTING, OR MATERIAL BASED SAMPLING FOR THIS PROJECT. THIS GUIDE SPECIFICATION IS PROVIDED FOR INFORMATION ONLY REGARDING GENERAL BUILDING ENVELOPE RESISTANCE TO WATER LEAKAGE, AIR INFILTRATION/EXFILTRATION, THERMAL CONTINUITY, AND DURABILITY. THIS GUIDE SPECIFICATION IS NOT FOR CONSTRUCTION. ACTUAL PERFORMANCE OF THE BUILDING ENVELOPE COMPONENTS IS HIGHLY DEPENDENT UPON CONTRACTOR QUALIFICATIONS, SITE CONDITIONS, WEATHER DURING CONSTRUCTION, CONTRACTOR QUALITY ASSURANCE AND THEIR QUALITY CONTROL.

THIS GUIDE SPECIFICATION IS INTENDED FOR THE SOLE USE OF OUR CLIENT AND ARE BEING OFFERED FOR FURTHER REVIEW AND CONSIDERATION BY OUR CLIENT. THE INFORMATION CONTAINED HEREIN MUST BE REVIEWED AND APPROVED BY THE AOR PRIOR TO INCORPORATION INTO THE RFP, AND SHOULD BE THOROUGHLY REVIEWED BY INVOLVED PARTIES FOR PROJECT-WIDE APPLICABILITY, ADAPTABILITY AND COST IN THE BROADER CONTEXT OF THE PROJECT. ANY MODIFICATIONS TO THE RFP OR FUTURE CONSTRUCTION DOCUMENTS THAT IS BASED, IN WHOLE OR IN PART, ON THE GUIDE SPECIFICATION SHALL BE THE SOLE RESPONSIBILITY OF THE AOR.

PART 1 -- GENERAL

1.1 SUMMARY

- A. Section Includes: Surface preparation and installation of sealant in joints.
- B. Related Sections
 - 1. Section 06 16 43 - Exterior Gypsum Sheathing
 - 2. Section 07 24 00 - Exterior Insulation and Finish System
 - 3. Section 07 62 00 - Sheet Metal Flashing and Trim

1.2 REFERENCES

- A. Reference Standards: Latest edition as of Specification date.

1. ASTM International:
 - a. C920: Standard Specification for Elastomeric Joint Sealants.
 - b. C1193: Standard Guide for Use of Sealants
 - c. C1248: Standard Test Method for Staining of Porous Substrate by Joint Sealants.
 - d. C1521: Standard Practice for Evaluating Adhesion of Installed Weatherproofing Sealant Joints.

1.3 ADMINISTRATIVE REQUIREMENTS

- A. Coordinate Work to ensure that adjacent areas are not adversely affected; that new materials and building interior are kept continuously dry; and that continuous, watertight, new sealant installation is provided. Coordinate:
 1. With Owner's Representative.
 2. With other trades:
 - a. To ensure that work being performed by other trades is complete and ready for sealant Work.
 - b. To avoid or minimize work on, or in immediate vicinity of, sealant Work in progress.
 - c. To ensure that subsequent work will not adversely affect completed sealant Work.
- B. Pre-installation Meeting:
 1. Conduct meeting at Site.
 2. Review requirements for sealant Work, including:
 - a. Construction schedule.
 - b. Availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
 - c. Site use, access, staging, and set-up location limitations.
 - d. Forecast weather conditions.
 - e. Surface preparation and substrate condition and pretreatment.
 - f. Installation procedures.
 - g. Special details and condition of other construction that will affect sealant Work.
 - h. Testing and inspection requirements.
 - i. Temporary protection and repairs of sealant Work.
 - j. Government regulations.
 3. Contractor's Site superintendent, sealant manufacturer's technical representative, sealant Installer, Owner's Representative, Architect shall attend.

1.4 SUBMITTALS

- A. Product Data: Sealant manufacturer's literature including written instructions for evaluating, preparing, and treating substrate; technical data including tested physical and performance properties; and installation instructions.
 1. Include temperature ranges for storage and application of materials, and special cold-weather application requirements or limitations.
 2. SpecData sheet for substrate cleaner and substrate primer recommended by sealant manufacturer for specific substrate surface and conditions.
 3. Include Safety Data Sheets (SDS) for information only; safety restrictions are sole responsibility of Contractor.
- B. Samples:
 1. Sealant manufacturer's color sample card, either printed or with thin sealant beads, showing range of colors available for each product exposed to view.

- C. Manufacturer's Reports and Certifications:
 - 1. Prior to sealant installation, submit report from sealant manufacturer with results of sealant compatibility, sealant and substrate staining, and mock-up adhesion tests.
 - a. Report shall state that materials which come into contact with or in close proximity to sealant have been tested.
 - b. Report shall include sealant manufacturer's interpretation of test results relative to material performance, potential staining of sealant and substrates, dirt accumulation of sealant, and dirt runoff from sealant.
 - c. Report shall include sealant manufacturer's recommendations for substrate preparation and primer needed to obtain durable adhesion, required cure time before penetrating sealer can be applied, and installation procedures successfully used in mockups and field tests. If primers are not required, the sealant manufacturer must state that they have reviewed the conditions on this particular project and that primers are not required for this project.
 - 2. Product Certificates: For each sealant product, accessory, related products, joint type, and substrate, provide sealant manufacturers' written approval of their products' use for specified conditions; based on mockups and field tests.
- D. Sample Warranty: Copy of sealant manufacturer's warranty, stating obligations, remedies, limitations, and exclusions. Submitted with bid.
- E. Following completion of the Work:
 - 1. Sealant manufacturer's inspection report of completed sealant installation.
 - 2. Completed warranty from sealant manufacturer.
 - 3. Completed warranty from Installer.

1.5 QUALITY ASSURANCE

- A. Installer Qualifications: Must have installations of specified materials in local area in use for minimum of five (5) years.
 - 1. Employ foreman with minimum of five (5) years experience as foreman on similar projects, to be on site at all times during Work. Do not change foremen during the course of the Project except for reasons beyond the control of the Installer; inform Architect/Engineer in advance of any changes.
- B. Mockups:
 - 1. Initial: Install five feet of sealant in each type of joint to verify and set quality standards for materials and installation procedures, and to demonstrate aesthetic effects and ability to match existing conditions.
 - a. Include each type of backing material, sealant, primer and other related products.
 - b. Mockups shall be accessible or located as indicated by Owner's Representative.
 - c. Notify Owner's Representative and Architect seven days in advance of date when mockups will be constructed.
 - 2. If Architect or manufacturer representative determines mockup does not comply with requirements, modify mockup or construct new mockup until mockup is approved.
 - 3. Mock-ups, when approved by Owner's Representative and Architect, will become standard for Work.
 - 4. Approved mockups may become part of completed Work if undisturbed at time of Substantial Completion.
 - 5. Do not begin joint sealant Work until mock-up is accepted by Owner's Representative and Architect/Engineer.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle materials according to manufacturer's recommendations and in such a manner as to prevent damage to materials or structure.
- B. Deliver materials to Project site in original packages with seals unbroken, labeled with sealant manufacturer's name, product brand name and type, date of manufacture, lot number, and directions for storing and mixing with other components.
- C. Keep materials dry and do not allow materials to be exposed to moisture during transportation, storage, handling, or installation. Reject and remove from Site new materials which exhibit evidence of moisture during application or which have been exposed to moisture.
- D. Store materials in original, undamaged containers in clean, dry, protected location on raised platforms with weather-protective coverings, within temperature range required by sealant manufacturer. Protect stored materials from direct sunlight. Sealant manufacturer's standard packaging and covering is not considered adequate weather protection.
- E. Limit stored materials on structures to safe loading of structure at time materials are stored, and to avoid permanent deflection.
- F. Conspicuously mark wet or damaged materials and remove from site as soon as possible.
- G. Remove and replace materials that cannot be applied within stated shelf life.

1.7 PROJECT CONDITIONS

- A. Verify existing dimensions and details prior to installation of materials. Notify Architect/Engineer of conditions found to be different than those indicated in Contract Documents. Architect/Engineer will review situation and inform Contractor and Installer of changes.
- B. Comply with Owner's limitations and restrictions for site use and accessibility.
- C. Environmental Limitations: Install sealant when existing and forecast weather conditions permit sealant to be installed according to sealant manufacturer's written instructions and warranty requirements.
 - 1. Do not install sealant when ambient or substrate temperatures are not in accordance with the sealant manufacturer recommendations.
 - 2. Do not proceed with installation during inclement weather except for temporary work necessary to protect building interior and installed materials. Remove temporary work and Work that becomes moisture damaged.
- D. Handle and install materials in strict accordance with safety requirements required by sealant manufacturer; Safety Data Sheets (SDS); and local, state, and federal rules and regulations. Maintain Safety Data Sheets (SDS) with materials in storage area and available for ready reference on Site.

1.8 CHANGES IN WORK

- A. During rehabilitation work, existing conditions may be encountered which are not known or are at variance with Contract Documents. Such conditions may interfere with Work and may consist

of damage or deterioration of substrate or surrounding materials or components that could jeopardize integrity or performance of new sealant.

- B. Notify Architect of conditions that may interfere with proper execution of Work or jeopardize integrity of new sealant prior to proceeding with Work.

1.9 WARRANTY

A. Manufacturer's Warranty:

1. Written warranty, signed by sealant manufacturer, including
 - a. Repair or replace sealant that does not comply with requirements; that does not remain watertight; that fails in adhesion, cohesion, or general durability; or that deteriorates in manner not clearly specified by submitted sealant manufacturer's data as inherent quality of material for application indicated.
 - b. Removal and replacement of sealant joints must include installing new sealant backer or bond breaker materials.
 - c. Labor and materials to perform warranty Work.
 - d. Warranty does not include sealant deterioration or failure due to following.
 - 1) Excessive joint movement caused by structural settlement or errors attributable to design or construction, resulting in stresses in sealant exceeding sealant manufacturer's written specifications for sealant elongation or compression.
 - 2) Deterioration or failure of sealant due to failure of substrate prepared according to requirements.
 - 3) Mechanical damage caused by individuals, tools, or other outside agents.
 - 4) Changes in sealant appearance caused by accumulation of dirt or other atmospheric contaminants.
2. Warranty Period: Five (5) years from date of Substantial Completion.

B. Sealant Installer's Warranty:

1. Completed warranty form at end of Section, signed by Installer.
 - a. Repair or replace sealant that does not comply with requirements; that does not remain watertight; that fails in adhesion, cohesion, or general durability; or that deteriorates in manner not clearly specified by submitted sealant manufacturer's data as inherent quality of material for application indicated.
 - b. Removal and replacement of sealant joints must include installing new sealant backer or bond breaker materials.
 - c. Labor and materials to perform warranty work.
 - d. Warranty does not include sealant deterioration or failure due to following.
 - 1) Excessive joint movement caused by structural settlement or errors attributable to design or construction, resulting in stresses in sealant exceeding sealant manufacturer's written specifications for sealant elongation or compression.
 - 2) Deterioration or failure of sealant due to failure of substrate prepared according to requirements.
 - 3) Mechanical damage caused by individuals, tools, or other outside agents.
 - 4) Changes in sealant appearance caused by accumulation of dirt or other atmospheric contaminants.
2. Warranty Period: Five (5) years from date of Substantial Completion. The Sealant Installer's Surety shall not be held liable beyond two years of the Substantial Completion date.

PART 2 - PRODUCTS

2.1 ELASTOMERIC JOINT SEALANTS

- A. General:
 - 1. Comply with ASTM C920 and other requirements indicated.
 - 2. Compatibility: Provide joint sealants, backings, and other related materials that are compatible with one another and with joint substrates under conditions of service and application, as demonstrated by sealant manufacturer, based on testing on similar projects, mockups and preconstruction testing for this project, and field experience.
 - 3. Select products based on mockups, preconstruction testing, and sealant manufacturer's previous testing and experience.
 - 4. Source Limitations: Obtain each type of joint sealant through one source from single manufacturer.
 - 5. Colors of Exposed Joint Sealants: Selected and approved in writing by Owner's Representative, from sealant manufacturer's full range.
 - 6. Width of preformed sealants as indicated on Drawings.
- B. Single-component, neutral cure, medium modulus, Class 50 (ASTM C719), silicone sealant specially formulated to reduce or eliminate dirt pickup and substrate staining. All exposed exterior seals in contact with an EIFS, pre-finished aluminum sheet metal, or concrete/masonry substrates (one or two sides).
 - 1. Dowsil 756 SMS Building Sealant by Dowsil
 - 2. SilPruf NB SCS9000 Non Stain/Non Bleed Silicone Sealant by Momentive
 - 3. Tremco Spectrem 3 by Tremco Commercial Sealants & Waterproofing.
 - 4. Approved equal.
- C. Single-component silicone sealant designed for adhering to low energy surfaces (polyethylene bond surfaces, and concealed air seals).
 - 1. Dowsil 758 Silicone Weather Barrier Sealant by Dowsil.
 - 2. Approved equal.
- D. High temperature, non-skinning, non-hardening butyl sealant. - (Metal to metal flashing lap splices):
 - 1. Tremco JS-773.
 - 2. Approved equal.

2.2 AUXILIARY MATERIALS

- A. General: Primers, surface cleaners, masking tape, and other materials recommended by sealant manufacturer, that are non-staining and compatible with substrates; based on mockups, preconstruction testing, and sealant manufacturer's previous testing and experience.
- B. Joint Backer Rod:
 - 1. Configurations as recommended by manufacturer for joint widths provided on Drawings.
 - a. Bi-cellular, non-gassing polyethylene foam backer rod: "Sof Rod" manufactured by Nomaco (pending approval by sealant manufacturer).
 - b. Approved equals.
- C. Bond Breaker Tape:
 - 1. Polyethylene tape with or without single side adhesive. Width as required to prevent three-sided adhesion within joint.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Examine substrates and conditions with installer and sealant manufacturer's representative for compliance with requirements and for other conditions affecting sealant performance.
 - 1. Verify dimensions of sealant joints at the project site by field measurement so that all proper sealant profiles will be accurately maintained.
 - 2. Ensure that work done by other trades is complete and ready for sealant Work.
 - 3. Verify that areas and conditions under which sealant Work is to be performed permit proper and timely completion of Work.
 - 4. Where sealant is to bond to concrete or masonry, verify new concrete or masonry has adequately cured prior to the installation of sealant.
 - 5. Notify Architect in writing of conditions which may adversely affect sealant installation or performance, including joints with widths less than those allowed by sealant manufacturer for applications indicated. Do not proceed with sealant installation until these conditions have been corrected and reviewed by Architect.
 - 6. Installation of sealant system indicates acceptance of Work surfaces and conditions.

3.2 SURFACE PREPARATION

- A. Remove existing sealant, mortar and other foreign material from joints.
- B. Repair damaged or deteriorated substrate surfaces according to sealant manufacturer's written instructions and as approved by Architect.
- C. Clean joint substrates immediately before installing sealant, to comply with sealant manufacturer's written instructions based on mockups and preconstruction testing.
 - 1. Remove from substrate foreign material that could interfere with adhesion of sealant, including dirt, dust, existing sealant, oil, grease, surface coatings, etc.
 - 2. Provide dry substrate; prevent wetting of substrate prior to sealant installation. Newly built and/or repaired masonry surfaces are to be fully cured prior to preparation and installation of sealant.
 - 3. Clean porous substrates, such as concrete, masonry, stone, wood, by brushing, grinding, blast-cleaning, mechanical-abrading, or combination of methods to produce clean, sound substrate capable of developing optimum bond with sealant. Remove laitance and form-release agents from concrete. Remove loose particles remaining after cleaning operations by vacuuming or blowing out joints with oil-free, compressed air.
 - 4. Clean nonporous surfaces, such as metal, with chemical cleaners or other means that do not stain, harm substrates, or leave residues capable of interfering with adhesion of sealant.
- D. Install masking tape on adjacent surfaces to prevent permanent staining or damage due to contact with sealant or cleaning methods to remove sealant smears. Remove tape immediately after tooling sealant, without disturbing sealant.

3.3 INSTALLATION OF JOINT SEALANT

- A. General: Comply with sealant manufacturer's written installation instructions for products and applications indicated, based on mockups and preconstruction testing.
- B. Joint Priming: Prime joint substrates using primers recommended in writing by sealant manufacturer, based on mockups and preconstruction testing. If manufacturer does not require

primers, provide certification from the manufacturer that they have reviewed the conditions on this project and that primers are not required. Apply primer to comply with sealant manufacturer's written instructions.

1. Confine primer to areas of sealant bond; do not allow spillage or migration onto adjoining surfaces.
 2. Limit priming to areas that will be covered with sealant in same day. Unless recommended otherwise by sealant manufacturer, reprime areas exposed for more than 24 hours.
- C. Install sealant backer and position to produce cross-sectional shape and proper depth of installed sealant.
1. Use properly-sized backer. Do not use multiple-backer units or braided-backer units to accommodate wide joints. Do not cut/slice or sliver backer units to accommodate small joints.
 2. Install backer with device that will provide consistent depth between substrate surface and outer surface of backer.
 3. Do not leave gaps between ends of sealant backers.
 4. Do not stretch, twist, puncture, or tear sealant backers.
 5. Remove wet or contaminated backers and replace with dry and clean materials.
- D. Install bond-breaker tape at back of designated joints.
- E. Install sealant immediately after installing backer material; to produce uniform, cross-sectional shape and depth; to directly contact and fully wet joint sides and backer material; and to completely fill recesses in joint configuration.
1. Install sealant flush with surface unless noted otherwise on Drawings.
 2. Immediately after sealant application and before skinning or curing begins, dry tool joint. Provide slight concave surface (unless flat profile specifically designated on Drawings), compressing sealant into joint to form smooth, uniform sealant bead; to eliminate air pockets; and to ensure contact and adhesion of sealant with sides of joint. Do not use tooling agent.
 3. Remove excess sealant from surfaces adjacent to joints.

3.4 FIELD QUALITY CONTROL

- A. At completion of Project, observe installed sealant for damage or deterioration. If damage or deterioration occurs, notify Architect/Engineer for review.

3.5 CLEANING

- A. As sealant Work progresses, clean off excess sealant or sealant smears by methods and with cleaning materials approved in writing by sealant manufacturer and manufacturers of products in which joints occur. Exercise care to avoid scratching or damage to surfaces.
- B. At the end of each workday, clean Site and Work areas and place rubbish, empty cans, rags, and other discarded materials in appropriate containers.
- C. After completing sealant Work:
1. Repair surfaces stained, marred, or otherwise damaged during sealant Work.
 2. Clean up debris and surplus materials and remove from Site.

3.6 PROTECTION

- A. Protect sealant during and after curing period from contact with contaminating substances and from damage, so sealants are without deterioration or damage at time of Substantial Completion.

PART 4 END OF SECTION 07 92 00

SEALANT INSTALLER'S WARRANTY

WHEREAS <Insert name> of <Insert address>, herein called *Sealant Installer*, has performed sealant and associated work, designated *Work*, on following project:

Owner: <Insert name of Owner.>

Address: <Insert address.>

Building Name/Type: <Insert information.>

Address: <Insert address.>

Area of Work: <Insert information.>

Acceptance Date: <Insert date.>

Warranty Period: Five years

Expiration Date: <Insert date.>

AND WHEREAS Sealant Installer has contracted, either directly with Owner or indirectly as subcontractor, to warrant said Work against leaks and faulty or defective materials and workmanship for designated Warranty Period,

NOW THEREFORE Sealant Installer hereby warrants, subject to terms and conditions herein set forth, that during Warranty Period it will, at its own cost and expense, make or cause to be made such repairs to or replacement of said Work as are necessary to correct faulty and defective work and as are necessary to maintain said Work in watertight condition, and warrants against following.

1. Components of sealant system that do not comply with requirements; that do not remain watertight; that fail in adhesion, cohesion, or general durability; or that deteriorate in manner not clearly specified by submitted sealant manufacturer's data as inherent quality of material for application indicated, regardless of whether Work was previously accepted by Owner.
2. Damage by exposure to foreseeable weather; and damage by intrusion of foreseeable wind-borne moisture.

Warranty is made subject to following terms and conditions:

1. Specifically excluded from Warranty are damages to Work and other parts of the building, and to building contents, caused by:
 - a. lightning;
 - b. peak gust wind speed exceeding 75 miles per hour;
 - c. fire;
 - d. failure of sealant substrate, including cracking, settlement, excessive deflection, deterioration, and decomposition;
 - e. activity adjacent to sealant Work by others, including construction contractors, maintenance personnel, other persons, and animals, whether authorized or unauthorized by Owner's Representative.
2. When Work has been damaged by any of foregoing causes, Warranty shall be null and void until such damage has been repaired by Sealant Installer and until cost and expense thereof have been paid by Owner or by another responsible party so designated.
3. Sealant Installer is responsible for damage to Work covered by Warranty but is not liable for consequential damages to building or building contents resulting from leaks or faults or defects of Work.
4. During Warranty Period, if Owner allows alteration of Work by anyone other than Sealant Installer, including cutting, patching, and maintenance, Warranty shall become null and void on date of said alterations, but only to extent said alterations affect Work covered by Warranty. If Owner engages Sealant Installer to perform said alterations, Warranty shall not become null and void unless Sealant Installer, before starting said work, shall have notified Owner in writing, showing reasonable cause

for claim, that said alterations would likely damage or deteriorate Work, thereby reasonably justifying limitation or termination of Warranty.

5. Owner will promptly notify Sealant Installer of observed, known, or suspected leaks, defects, or deterioration and will afford reasonable opportunity for Sealant Installer to inspect Work and to examine evidence of such leaks, defects, or deterioration. Sealant Installer shall inspect leak, defect, or deterioration within 24 hours of notification.
6. If permanent repair or replacement of warranted condition cannot be made immediately, due to weather conditions, availability of appropriate labor or materials, building occupancy, etc., Sealant Installer must make, or cause to be made, immediate temporary repairs to prevent any further damage, deterioration, or unsafe conditions. Permanent repair or replacement of warranted condition shall be scheduled as soon thereafter as practical, and with Owner's consent and approval.
7. If Owner notifies Sealant Installer of warranted condition that requires immediate attention to prevent potential injury or damage, and Sealant Installer cannot or does not promptly inspect and repair same, either permanently or temporarily, then Owner may make, or cause to be made, such temporary repairs as may be essential and Sealant Installer will reimburse Owner for cost of such repairs. Such action will not relieve Sealant Installer of its obligation to perform any necessary permanent repairs, and Warranty shall remain in full force and effect for remaining portion of its original term.
9. Sealant Installer shall provide equipment, labor, and material required to remedy warranted conditions, including repair or replacement of damage to other work resulting therefrom, and removal and replacement of other work required to access warranted condition. Additional required work will be at Sealant Installer's sole expense for full term of Warranty. Warranty includes removal and replacement of sealant-backer material and sealant.
10. Warranty is recognized to be only Warranty of Sealant Installer on said Work and shall not operate to restrict or cut off Owner from other remedies and resources lawfully available to Owner in cases of sealant failure. Specifically, Warranty shall not operate to relieve Sealant Installer of responsibility for performance of original Work according to requirements of Contract Documents, regardless of whether Contract was directly with Owner or with Owner's General Contractor.

IN WITNESS THEREOF, and intending to be legally bound hereby, Sealant Installer has caused this document to be executed by undersigned, duly-authorized officer.

(Sealant Installer) Corporate Seal:

By: _____
(Signature)

(Name)

(Date)

Subscribed and sworn to before me this ____ day of ____, 20__

Notary Public

My commission expires _____