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Clerk
Hamilton County, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON) CAUSE NO.: 29C01-2305-PL-004661

DCG INDIANA, INC. d/b/a DILLON)
CONSTRUCTION GROUP a/k/a DILLON)
CONSTRUCTION a/k/a DCG)
CONSTRUCTION.)

Plaintiff,)

vs.)

JURY DEMANDED

CARDINAL XLIII, LLC;)
MOTORSPORT REAL ESTATE)
VENTURES, LLC d/b/a ANDRETTI)
MOTORSPORTS; STUDIO M)
ARCHITECTURE AND PLANNING, LLC;)
GRADEX, INC; and GLENMARK)
CONSTRUCTION COMPANY,)
INC.;)

Defendants.)

AMENDED COMPLAINT FOR BREACH OF CONTRACT,
FRAUDULENT TRANSFER, COPYRIGHT INFRINGEMENT, AND
LIEN FORECLOSURE

Plaintiff, DCG Indiana, Inc. d/b/a Dillon Construction Group a/k/a Dillon Construction a/k/a DCG Construction (“DCG”), by counsel, for its Complaint against Defendants, Cardinal XLIII, LLC (“Cardinal”); Motorsport Real Estate Ventures, LLC (“Motorsport”); Studio M Architecture and Planning, LLC (“Studio M”); Gradex, Inc. (“Gradex”); and Glenmark Construction Co. Inc. (“Glenmark”), alleges as follows:

I. Parties and Venue

1. This matter arises from the design and construction of a racing facility for Andretti Global in Fishers, IN.

2. DCG is an Indiana corporation with its principal place of business located at 6828 Hillside Court, Indianapolis, IN 46250

3. Cardinal is a Delaware limited liability company with its principal place of business located c/o Bradford Allen Realty Services, LLC, 300 S. Wacker Drive, 35th Floor, Chicago, IL 60606.

4. Motorsport is a Delaware limited liability company with its principal place of business located c/o Bradford Allen Realty Services, LLC, 300 S. Wacker Drive, 35th Floor, Chicago, IL 60606.

5. Studio M is an Indiana limited liability company with its principal place of business located at 2 West Main Street, Carmel, IN 46032.

6. Gradex is an Indiana corporation with its principal place of business located at 10220 N. Illinois Street, Carmel, IN 46290.

7. Glenmark is an Indiana corporation with its principal place of business located at 951 Western Drive, Indianapolis, IN 46241.

8. Pursuant to Indiana Trial Rule 75(A)(2), Hamilton County is a county of preferred venue because this Complaint includes a claim to foreclose mechanic's liens on property located in Hamilton County.

II. Factual Allegations
DCG and Andretti Autosports

9. For over 20 years, DCG and its founder Dale Dillon ("Dillon") have engaged in myriad design and construction projects, including the design and construction of IndyCar motorsports facilities and street courses.

10. DCG designed and built the Green Racing IndyCar Race Facility at 7615 Zionsville Rd, Indianapolis, IN 46268, which was purchased by Andretti Autosports (“Andretti”) and then expanded twice by DCG.

11. Subsequently, DCG worked with Andretti on multiple IndyCar projects, including the conceptual design and budgeting for new race facilities in Speedway, IN, and Charlotte, NC; Andretti’s purchase and reinstatement of the Toronto Grand Prix; all aspects of the St. Pete Grand Prix; the design and logistics for the Grand Prix of Turks and Caicos; and studies for races in Boston, New York City, and Ft. Lauderdale.

The Andretti Global Headquarters

12. In early 2022, Andretti approached DCG to discuss the development, design, and construction of a new headquarters in Indiana (the “Project”).

13. Completion and occupancy of the Project had to occur no later than the Fall of 2024 so that Andretti could prepare for the 2025 IndyCar racing season.

14. In addition, Andretti had started discussions with the Fédération Internationale de l’Automobile (“FIA”) regarding the possible approval of Andretti as an F1 expansion team, which would require Andretti to satisfy stringent FIA facility requirements.

15. At the request of Andretti, DCG then undertook—beginning in January 2022, prior to the execution of a contract, and thus at its own risk—extensive efforts to identify possible sites for the facility; explored financial incentives from various municipalities; coordinated critical meetings between Andretti and those municipalities; investigated land, utility and road requirements; discussed Andretti’s Project criteria in detail; created construction budgets; developed site and building conceptual plans and

renderings; facilitated the purchase of property from the Indianapolis Airport Authority in Fishers, IN; adapted the conceptual design to comply with Federal Aviation Administration construction requirements; identified designers and trade subcontractors to complete the design and construction of the facility; and met with state and local authorities to obtain necessary permits.

16. DCG retained Studio M to prepare and iterate architectural and structural concept plans for the Project.

17. DCG retained DEEM, LLC (“DEEM”) to prepare and iterate mechanical-electrical-and plumbing (“MEP”) concept plans for the Project.

18. In addition, DCG explored the possibility of utilizing development companies to assemble a group of investors to finance the Project, but Andretti ultimately assembled its own investment group.

19. In July 2022, Andretti informed DCG that it had retained Bradford Allen Realty Services, LLC (“Bradford Allen”), which had created a single-purpose entity named Cardinal XLVIII, LLC (“Cardinal”) to act as the Project Owner and to represent the investors’ interests.

20. At their initial meeting, DCG explained to Cardinal the work that DCG had already performed, its current and ongoing activities, and the planned upcoming work activities, requirements, and deadlines.

21. Acknowledging the immovable late-2024 deadline for Andretti’s occupancy of the Project, Cardinal instructed DCG to “keep going as fast as it could.”

22. DCG continued to work with subcontractors, potential subcontractors, engineers, testing agencies, architects, City of Fishers officials, Hamilton County officials, Andretti, and numerous other entities to keep the Project on schedule.

23. DCG advised Andretti and Cardinal on proposed site use and improvements, selection of materials, and building systems and equipment; and DCG provided Andretti and Cardinal with recommendations on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including alternative designs, preliminary budgets, life-cycle data, and possible cost reductions.

24. During a Project Design Meeting on July 28, 2022, DCG, Andretti, and Cardinal selected Fishers, IN, as the location for the Project, discussed Andretti's Project criteria, discussed the bid package for MEP systems, and reviewed the location and design of the building, the exterior material for the building, building entry points, and energy conservation measures.

25. During a Project Design Meeting on August 4, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, the Project site and building concept plans and the MEP bid; and DCG provided Cardinal a draft contract for the Project.

26. During a Project Design Meeting on August 11, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria and continued to discuss the Project site, building concept plans, and the MEP bid.

27. During a Project Design Meeting on August 18, 2022, DCG provided an updated Project schedule and payment schedule in addition to continuing discussions on the Project criteria, site, and building.

28. During a Project Design Meeting on August 25, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria and discussed and approved the commencement of site work on the Project.

29. During a Project Design Meeting on September 1, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, the Project's sanitary and sewer requirements, an updated building concept plan to be provided by Studio M, and Fishers's request to construct a portion of the Nickel Plate Trail on the Project site.

30. During a Project Design Meeting on September 9, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, the updated concept plans provided by Studio M, building equipment requirements, and the MEP bid package.

31. On September 10, 2022, DCG submitted its first Application for Payment.

32. During a Project Design Meeting on September 22, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, site grading plans, a conceptual building equipment list, and soliciting bids for site and MEP work in early October.

33. During a Project Design Meeting on October 6, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, grading and drainage plans, a conceptual equipment list, and soliciting bids for site work.

34. During a Project Design Meeting on October 19, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, the commencement of site work, soliciting bids for concrete work, and the retention of Alt & Witzig Engineering, Inc. to provide materials testing and inspection.

35. During a Project Design Meeting on October 26, 2022, which neither Andretti nor Cardinal attended but were provided meeting minutes, DCG discussed the commencement of site work and bidding of the concrete and steel work.

36. During a Project Design Meeting on November 3, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria and continued to discuss site work and the bidding of concrete and steel work.

37. During a Project Design Meeting on November 10, 2022, DCG, Andretti, and Cardinal continued to discuss Andretti's Project criteria, execution of a subcontract for site work and commencement of site work, concrete and steel work bidding, and soliciting elevator bids.

38. During a Project Design Meeting on November 21, 2022, which neither Andretti nor Cardinal attended but were provided meeting minutes, DCG prepared bid tabulations and reported the status of elevator bids, other site bids, concrete bids, MEP bids, fire protection bids, wall panel bids, glazing bids, and steel bids.

39. During a Project Design Meeting on December 1, 2022, DCG, Andretti, and Cardinal continued to discuss Andretti's Project criteria, status of the various bid packages, the most recent building floor plans from Studio M, and the groundbreaking ceremony.

40. During a Project Design Meeting on December 8, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria and bids for elevator and roofing.

41. During a Project Design Meeting on December 15, 2022, DCG, Andretti, and Cardinal discussed Andretti's Project criteria, the commencement of concrete

foundation and slab-on-grade work, design of the building shell, and bids for roofing work.

The Design-Build Contract

42. At the August 5, 2022, Project Design Meeting, DCG provided to Cardinal a draft contract for the Project.

43. DCG and Cardinal engaged in extensive contract negotiations and exchanged multiple contract forms and revisions that were drafted and reviewed by counsel for both parties.

44. Effective November 4, 2022, Cardinal and DCG executed an AIA A141-2014 Standard Form of Agreement between Owner and Design-Builder (the “Design-Build Contract”) pursuant to which Cardinal agreed that DCG was to continue to design and build the Project.

45. A true and accurate copy of the Design-Build Contract is included herewith as Exhibit A.

46. Unlike a design-bid-build project delivery method, under which a project owner first retains a design professional who develops a relatively complete design for a project that is only then released for bidding, under a design-build project delivery method a single design-builder is responsible for both the design and construction of a project and can thus “fast track” a project and begin construction before the design is complete.

47. The Design-Build Contract is a “cost-plus” contract under which DCG was to receive payment for actual costs it incurred plus a fee equal to 5.5% of those costs.

48. The Design-Build Contract required DCG to design and to build the Project in accordance with Cardinal's criteria, program, design requirements, and physical characteristics as set forth in Design-Build Contract Exhibits C and G (collectively the "Owner's Program").

49. The Owner's Program included development of a site with roads, utilities, sidewalks, and paths plus the design and construction of multiple buildings and improvements on that site.

50. The Design-Build Contract was amended once (the "First Amendment") to identify additional parties for which DCG was to provide various insurance coverages.

51. Beginning with DCG's first Application for Payment, Cardinal was consistently late making payments to DCG as required by the Design-Build Contract.

52. On or about February 22, 2023, Dillon placed a telephone call to Jeff Bernstein ("Bernstein"), a representative for Bradford Allen and Cardinal, regarding Cardinal's late payments.

53. Bernstein, who had executed the Design-Build Contract on behalf of Cardinal, stated that, "I'm not dealing with this <expletive>. I hate this <expletive> design-build <expletive>. You're terminated."

54. Mr. Bernstein called Mr. Dillon the next day and stated that, "I'm not putting my reputation on the line for some little contractor. If you want to work with Clark [Construction], fine, but if you're not going to JV with them, you're done. If you want to go to war with a bunch of international billionaires, we'll bury you."

55. Clark Construction is a large construction contractor with whom Bradford Allen apparently has a longstanding relationship.

56. Bradford Allen had not previously mentioned Clark Construction to DCG.

57. On February 23, 2023, counsel for Cardinal emailed to counsel for DCG a proposed Third Amendment to the Design-Build Contract.

58. A true and accurate copy of that email and the proposed Third Amendment is included herewith as Exhibit B.

59. The proposed Third Amendment sought dramatically to reduce the scope of the Design-Build Contract by limiting DCG to performing only site work—thus eliminating roughly 90% of DCG’s work and fees.

60. On February 26, 2023, counsel for DCG transmitted to counsel for Cardinal a letter noting that the Design-Build Contract bound Cardinal to use DCG as the design-builder for the Project; objecting to the unilateral scope reduction; and rejecting Cardinal’s insistence that DCG joint venture with Clark Construction.

61. A true and accurate copy of that February 26, 2023, letter is included herewith as Exhibit C.

62. During a subsequent telephone conversation, counsel for Cardinal indicated to counsel for DCG that, “Cardinal never intended to hire DCG for anything beyond the site work,” and that Cardinal “needs a large, financially-backed contractor to obtain funding.”

63. Cardinal had negotiated, revised, and executed the Design-Build Contract, which clearly includes both the site and building.

64. Prior to the execution of the Design-Build Contract, Cardinal never expressed concern about the size of DCG or the need for a large contractor to obtain funding, and any such concern is unfounded.

65. On March 1, 2023, counsel for DCG again transmitted to counsel for Cardinal a letter stating that the Design-Build Contract included the design and construction of the entire Project.

66. A true and accurate copy of that March 1, 2023, letter is included herewith as Exhibit D.

67. On March 9, 2023, counsel for DCG transmitted to counsel for Cardinal a formal claim that Cardinal had anticipatorily breached the Design-Build Contract and demanding payment of costs and fees already incurred by DCG, payment of reasonable overhead and profit on the remainder of the Project work, and warning Cardinal that its breach of the Design-Build Contract invalidated its license to use DCG's Project design documents, and demanding mediation.

68. A true and accurate copy of that March 9, 2023, letter is included herewith as Exhibit E.

Termination of the Design-Build Contract

69. On March 10, 2023, Cardinal transmitted to DCG a letter that called for the Design-Build Contract to be terminated following 7-days' notice to DCG (the "Termination Notice").

70. A true and accurate copy of the Termination Notice is included herewith as Exhibit F.

71. Understanding that the termination was wrongful, Bernstein notified Dillon by email dated March 17, 2023, as follows: "Dale: See below. As we discussed this morning, your contract is reinstated. My only request is that any work contracted by you or any financial commitments that you make are, as the contract dictates, first cleared

with us. If there is any issue with this, please feel free to reach out to me directly. Also, as we discussed, I will make sure that January's draw will be paid in full ASAP. Thanks so much, good weekend. Jeff.”

72. Notwithstanding Cardinal's express revocation of the 7-day notice of termination letter, on May 11, 2023, counsel for Cardinal transmitted to counsel for DCG a letter claiming that the Design-Build Contract had been terminated for cause on April 7, 2023.

73. A true and accurate copy of that May 11, 2023, letter is included herewith as Exhibit G (portions of that letter discussing settlement have been redacted).

Transfer of Property

74. Prior to February 2023, title to the real property on which the Project is located was vested solely in Cardinal.

75. In December of 2022, Cardinal prepared but did not sign a “Second Amendment” to the Design-Build Contract that redefined the term “Owner” in the Design-Build Contract to include Cardinal plus Bradford Allen Investment Advisors LLC; BAIHP HOLDINGS LLC; Bradford Allen Capital Investments, LLC; Bradford Allen Corporate Holdings LLC; Bradford Development Company; and BAIHP Management LLC—and thus would have made those additional entities' assets subject to any judgment obtained by DCG.

76. On February 8, 2023, at a time when it owed DCG \$2,155,874.51, Cardinal transferred title to the property on which the Project is located (the “Property”) by quitclaim deed to Motorsport Real Estate Ventures, LLC (“Motorsport”).

77. Cardinal and Motorsport share identical or common ownership.

78. Motorsports actively consented to the Project and the improvements to the Project made by DCG.

79. DCG did not consent to the transfer of ownership of the property from Cardinal to Motorsport.

Mechanic's Liens

80. On May 4, 2023, DCG recorded its Sworn Statement and Notice of Intent to Hold Mechanic's Lien against the Property in the office of the Hamilton County Recorder as Instrument No. 2023015887 ML (the "DCG Lien").

81. A true and accurate copy of the DCG Lien is included herewith as Exhibit H.

82. On May 16, Studio M recorded its Sworn Statement and Notice of Intent to Hold Mechanic's Lien against the Property in the office of the Hamilton County Recorder as Instrument No. 2023017705 ML (the "Studio M Lien").

83. A true and accurate copy of the Studio M Lien is included herewith as Exhibit I.

84. On May 17, 2023, Gradex recorded its Sworn Statement and Notice of Intent to Hold Mechanic's Lien against the Property in the office of the Hamilton County Recorder as Instrument No. 2023017716 ML (the "Gradex Lien").

85. A true and accurate copy of the Gradex Lien is included herewith as Exhibit J.

86. On May 19, 2023, Glenmark recorded its Sworn Statement and Notice of Intent to Hold Mechanic's Lien against the Property in the office of the Hamilton County Recorder as Instrument No. 2023018105 ML (the "Glenmark Lien").

87. A true and accurate copy of the Glenmark Lien is included herewith as Exhibit K.

Mediation

88. Section 14.3.1 of the Design-Build Contract requires all disputes or other matters in controversy arising out of or related to the Design-Build Contract to be submitted to mediation “as a condition precedent to binding dispute resolution,” but section 14.3.2 states that the request for mediation “may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing”

89. Contemporaneously with the filing of this Complaint, DCG has filed in this action a Motion to Stay Proceedings and has filed with the American Arbitration Association a Request for Mediation.

COUNT 1

(Breach of Contract against Cardinal)

90. DCG incorporates herein by reference paragraphs 1 – 89.

91. The Design-Build Contract is a valid and binding contract.

92. Prior to Cardinal’s termination of the Design-Build Contract, DCG incurred and billed to Cardinal costs and fees totaling One Million, Eleven Thousand, Four Hundred Sixty-Two Dollars and Twenty-One Cents (\$1,011,462.21) (the “Past Due Amount”).

93. Despite demand, Cardinal has failed and refused to pay the Past Due Amount.

94. All conditions precedent to payment of the Past Due Amount have been performed, have occurred, or have been excused.

95. Cardinal's failure and refusal to pay the Past Due Amount is a material breach of the Design-Build Contract.

96. Section 13.2.4.1 of the Design-Build Contract provides a mechanism for Cardinal to terminate the Design-Build Contract "for convenience": "The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause."

97. Section 13.2.4.3 of the Design-Build Contract states that "in case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed."

98. Bernstein of Cardinal decided to terminate the Design-Build Contract and hire Clark Construction but did not want to pay DCG overhead and profit on the remaining work as required by the Design-Build Contract.

99. Instead of terminating the Design-Build Contract "for convenience," Cardinal fabricated reasons to terminate the Design-Build Contract "for cause" that are non-substantial, specious, and a pretext to disguise Cardinal's true intent: to avoid the terms of a contract it had negotiated and executed and to replace DCG with Clark Construction.

100. Cardinal's termination of DCG is a material breach of the Design-Build Contract.

101. Cardinal alleges as a basis for termination that DCG failed to submit design drawings for approval, but that allegation is false: DCG presented and discussed

updated drawings during multiple design meetings, drawings were available to Cardinal and its consultant Ridge & Partners, LLP (“Ridge”) via ProCore, an electronic project document repository, and Cardinal and Ridge participated in ongoing design iterations, and Ridge approved DCG designs.

102. Cardinal alleges as a basis for termination that DCG’s design drawings were untimely and erroneous, but that allegation is false: The January 31, 2023, permit drawings were made necessary by Cardinal’s delay approving interior designs and the need to keep the Project moving forward, provide flexibility for daylighting, mezzanines, and other possible changes, and reflect design loads obtained from Ridge; and the only permit sought and received by DCG is the foundation permit, which conforms to the scope of the building requested by Cardinal.

103. Cardinal alleges as a basis for termination that DCG failed to maintain the design schedule, but that allegation is false: DCG met all dates and discussed design progress during multiple design meetings.

104. Cardinal alleges as a basis for termination that DCG awarded subcontracts without Cardinal’s approval, but that allegation is false: The only subcontracts awarded by DCG are those to Studio M, who is the Project architect and engineer, was working on the Project prior to Cardinal’s involvement, was introduced to Cardinal immediately, was approved by Cardinal, and who participated in many design meetings with Cardinal; Gradex, who is the site contractor, was working on the Project prior to Cardinal’s involvement, whose mobilization and work on the Project is critical to achieving timely completion, was approved by Cardinal; DEEM, who was working on the Project prior to Cardinal’s involvement, whose design of mechanical, electrical, and

plumbing systems is critical to achieving timely completion, was approved by Cardinal; and Wilhelm, who has been released only to design rebar, which is critical to achieving timely completion.

105. Section 13.2.3.1 of the Design-Build Agreement states that “the Owner may, without cause, order the Design-Builder *in writing* to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.”

106. Cardinal alleges as a basis for termination that DCG ignored a suspension of work order issued verbally on or about January 21, 2023, but that allegation is false: Cardinal’s suspension order applied only to the earthwork portion of the Project, and not the continuing design work and on-site work to protect the Project site and maintain erosion control.

107. Cardinal alleges as a basis for termination that DCG failed to understand Andretti’s criteria, but that allegation is false: DCG participated in several design meetings with Andretti before Cardinal’s involvement, continued to hold design meetings almost weekly after that, and suggested numerous cost-saving and value-enhancing ideas.

108. Cardinal alleges as a basis for termination that DCG requested shop drawings without Cardinal’s approval, but that allegation is false: The only shop drawings requested by DCG were for anchor bolts and rebar, were discussed with Cardinal at multiple design meetings, and were critical to achieving timely completion; and there is no contract requirement for shop drawings to be submitted to Cardinal. Shop drawings were submitted to the Engineer of record, approved and placed on Procore for use on the Project.

109. Cardinal alleges as a basis for termination that DCG failed to provide monthly reports, but that allegation is false: DCG provided monthly reports with every pay application after execution of the Design-Build Contract.

110. Cardinal alleges as a basis for termination that DCG increased the Project budget without Cardinal approval, but that allegation is false: DCG's Applications for Payment never increased any amount in the schedule of values or the total budget not requested or approved by Cardinal or Ridge.

111. Cardinal alleges as a basis for termination that DCG wrongly communicated with the City of Fishers, but that allegation is false: The Design-Build Contract does not prohibit such communications, DCG necessarily communicated with Fishers regarding ILPs, infrastructure, and the Nickel Plate project; and DCG's ongoing communications with Fishers was essential to timely completion.

WHEREFORE, DCG, by counsel, respectfully prays for judgment in its favor and against Cardinal in an amount to be proved at trial but consisting, at a minimum, of the Past Due Amount plus 5.5% of the cost of completing the Project, for costs of this action, and for all other just and proper relief.

COUNT 2

(Fraudulent Transfer against Cardinal and Motorsport)

112. DCG incorporates herein by reference paragraphs 1 – 89.

113. Cardinal transferred the Property to Motorsport with the actual intent to hinder, delay, or defraud DCG or without receiving a reasonably equivalent value in exchange for the transfer or obligation while Cardinal was engaged in the Project and its remaining assets were unreasonably small in relation to the cost of the Project.

114. Cardinal's transfer of the Property to Motorsport is fraudulent and voidable under the Uniform Fraudulent Transfer Act.

WHEREFORE, DCG, by counsel, respectfully prays for an injunction against Cardinal and Motorsport preventing further transfer of the Property, for an attachment or other provisional remedy against the Property, for judgment in its favor and against Cardinal and Motorsport voiding the transfer of the Property to Motorsport, for costs of this action, and for all other just and proper relief.

COUNT 3
(Copyright Infringement against Cardinal)

115. DCG incorporates herein by reference paragraph 1 – 89.

116. The Design-Build Contract granted to Cardinal a limited, irrevocable, and nonexclusive license to use the tangible and intangible creative work developed by DCG ("Instruments of Service").

117. However, the Design-Build Contract also deems DCG as the author and owner of the Instruments of Service and indicates that DCG retains all common law, statutory and other reserved rights, including copyrights.

118. Moreover, the Design-Build Contract specifies that the license granted by DCG to Cardinal terminates if Cardinal does not substantially perform its obligations, including prompt payment of all sums when due.

119. Cardinal wrongfully terminated the Design-Build Contract and failed to pay DCG all sums when due, and the license for it to use DCG's Instruments of Service has terminated.

120. Despite being warned by DCG counsel, Cardinal has continued to use DCG's Instruments of Service.

121. The Instruments of Service are architectural works of original authorship under 17 USC § 102(a)(8) and thus subject to copyright protection.

122. By continuing to use the Instruments of Service without license from DCG, Cardinal has infringed DCG's copyright.

WHEREFORE, DCG, by counsel, prays for an injunction to prevent or restrain Cardinal's infringement of DCG's copyright; for an order impounding the Instruments of Service; for judgment in its favor and against Cardinal that Cardinal has violated DCG's copyright in the Instruments of Service, for an award of statutory damages, attorney's fees, and costs; and for all other just and proper relief.

COUNT 4

(Lien Foreclosure against Motorsport, Gradex, Studio M, and Glenmark)

123. DCG incorporates herein by reference paragraphs 1 – 89.

124. The DCG Lien is a valid and subsisting lien upon the Property.

125. Pursuant to Indiana law, DCG is entitled to foreclose the DCG Lien against the Property to satisfy DCG's claim and debt.

126. Studio M is made a party hereto to answer for its interests in the Property pursuant to the Studio M Lien.

127. Gradex is made a party hereto to answer for its interests in the Property pursuant to the Gradex Lien.

128. Glenmark is made a party hereto to answer for its interests in the Property pursuant to the Glenmark Lien.

WHEREFORE, DCG, by counsel prays for an in-rem judgment in its favor and against Motorsport and the Property in an amount to be proved at trial; for an award of its attorney's fees; for costs of this action; for the DCG Lien to be declared the first and

prior security on the Property; for the DCG Lien to be foreclosed; that the equity of redemption be foreclosed and barred; that the Property be ordered sold to pay and satisfy DCG's claim and debt with the proceeds of sale to be applied first against the payment of costs and expenses of sale, second to satisfy and pay DCG's claim and debt, and any excess proceeds to be used to pay the claims of Studio M and Gradex and that all rights of Studio M, Gradex, and Glenmark against the Property be foreclosed and barred; and for all other appropriate relief.

DEMAND FOR JURY TRIAL

Pursuant to Indiana Trial Rule 39(B), DCG hereby demands a trial by jury of all issues triable of right by a jury.

Respectfully submitted,

/s/ J. Michael Cavosie

J. Michael Cavosie, Atty. No. 16674-49

J. Greg Easter, Atty No. 8420-49

Elizabeth S. Schmitt, Atty. No. 30146-53

Katelyn Klingler, Atty No. 36867-49

mcavosie@easterandcavosie.com

geaster@easterandcavosie.com

eschmitt@easterandcavosie.com

kleveque@easterandcavosie.com

EASTER & CAVOSIE

11555 N. Meridian Street, Suite 410

Carmel, IN 46032

(317) 574-0828 telephone

(317) 574-0969 facsimile

Attorneys for Plaintiff, DCG Indiana, Inc. d/b/a

Dillon Construction Group A/K/A Dillon

Construction A/K/A DCG Construction

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May 2023, a copy of this pleading was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ J. Michael Cavosie
J. Michael Cavosie

29C01-2305-PL-004661
Exhibit A
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

AIA® Document A141™ - 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the «4th » day of «November » in the year «2022 »
(In words, indicate day, month and year.)

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

«Cardinal XLIII, LLC
c/o Bradford Allen Realty Services LLC »« »
«300 S Wacker Drive, 35th Floor
Chicago, IL 60606 »
« »
« »

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

«Dillon Construction, Inc. d/b/a DCG Construction »« »
«6828 Hillside Court
Indianapolis, IN 46256 »
« »
« »

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

«Andretti Global »
«Fishers, IN »
« »

The Owner and Design-Builder agree as follows.

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

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

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

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- C PROJECT DESCRIPTION
- D PROJECT SCHEDULE
- E SCHEDULE OF VALUES
- F DESIGN-BUILDER'S STANDARD RATE SCHEDULE
- G PRELIMINARY DESIGN DOCUMENT LOG

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

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

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the

requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:
(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

« See EXHIBIT C and EXHIBIT G. »

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

« See EXHIBIT C and EXHIBIT G. »

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

« See EXHIBIT C and EXHIBIT G. »

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

«None.»

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

«None.»

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

« Identified in the Schedule of Values, attached to this Agreement as EXHIBIT E. »

§ 1.1.7 The Owner's design and construction milestone dates are identified in the Project Schedule, EXHIBIT D to this Agreement.

§ 1.1.8 The Design-Builder will retain the following Architect, Consultants and Contractors for the Project:
(List name, legal status, address and other information.)

.1 Architect

«Studio M Architecture & Planning
2 W Main Street
Carmel, IN 46032.»

.2 Consultants

«Civil & Environmental Consultant, Inc.
530 E Ohio St, Suite G
Indianapolis, IN 46204

Alt & Witzig Engineering Inc.
4105 W 99th St
Carmel, IN 46032 »

3 Contractors

«TBD »

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

« See EXHIBIT C and EXHIBIT G »

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

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

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

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™–2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

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

« »
« »
« »
« »
« »
« »

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

«None »

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

« »

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

«Audie Tarpley »
«DCG Construction »
«6828 Hillside Court
Indianapolis, IN 46256 »
«(214) 587-8722 »
«atarpley@dilloncg.com »
« »

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

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 14.4
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

§ 1.4 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1.4.16 **The Construction Documents.** The “Construction Documents” are the drawings and specifications establishing the requirements of the Work to be performed by the Design-Builder. Once approved by the Owner, the Construction Documents shall be identified in an addendum to this Agreement or by a no-cost Change Order.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed

§ 2.1.1 Unless otherwise agreed, payments for Work performed shall be made monthly.

§ 2.1.2 The hourly billing rates for services of the Design-Builder are set forth below.

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

« Identified in the Design-Builder’s Standard Rate Schedule, EXHIBIT F to this Agreement »

§ 2.2 Contract Sum and Payment for Work Performed

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

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

§ 3.1 General

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

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

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

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

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

§ 3.1.3.3 The standard of care for all preconstruction, design and other professional services performed under the Design-Build Documents (including warranty and correction of Work provisions of the Contract) shall be the care and skill exercised by recognized members of the applicable profession practicing under similar conditions on projects of similar type, size and complexity

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

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

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

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

§ 3.1.8 Progress Reports

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

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

§ 3.1.8.2 In addition, the Design-Builder shall include a cost summary comparing actual costs to the Design-Builder's estimate in its progress reports.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder and the Owner have agreed to the design and construction schedule attached to this Agreement as EXHIBIT E (the "Project Schedule"). The schedule, including the time required for design and construction, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents.

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

§ 3.1.10 Intentionally omitted.

§ 3.1.11 Design-Builder's Submittals

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

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

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

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

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

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

§ 3.1.13 Royalties, Patents and Copyrights

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

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria.

However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

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

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

§ 3.1.15 Contingent Assignment of Agreements

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

- .1** assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

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

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

None required

ARTICLE 4 WORK PRIOR TO PRELIMINARY DESIGN APPROVAL

§ 4.1 General

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

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

§ 4.2 Evaluation of the Owner's Criteria

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

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

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

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3.

§ 4.3 Preliminary Design

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

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

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

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Construction Documents.

ARTICLE 5 WORK FOLLOWING PRELIMINARY DESIGN APPROVAL

§ 5.1 Construction Documents

§ 5.1.1 Upon the Owner's approval of the Preliminary Design, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

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

§ 5.2 Construction

§ 5.2.1 **Commencement.** Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment. The intent of the Construction Documents, once approved by the Owner, is to include those items which are reasonably necessary for the completion of the Work by the Design-Builder. Performance by the Design-Builder shall be required only to the extent consistent with the Construction Documents.

In the event of conflict between the terms or provisions of the Contract and any of the other Design-Build Documents, the terms or provisions of the Contract shall control.

§ 5.2.2 Intentionally omitted.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

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

§ 5.3 Labor and Materials

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

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

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

§ 5.4 Taxes

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

§ 5.5 Permits, Fees, Notices and Compliance with Laws

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

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

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

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

adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

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

§ 5.6.2 Unless otherwise provided in the Design-Build Documents, whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual costs and the allowances under Section 5.6.2..

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

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 Except for those persons or entities already identified in Section 1.1.8, the Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

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

§ 5.7.3 Except for those persons or entities already identified Section 1.1.8, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within three (3) business days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

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

§ 5.8 Documents and Submittals at the Site

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

§ 5.9 Use of Site

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

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

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

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and the cost thereof shall be charged against the Contract Sum.

§ 5.12 Access to Work

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

§ 5.13 Construction by Owner or by Separate Contractors

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

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. Design-Builder shall have no control over and shall not be responsible for the means, methods, and procedures of separate contractors engaged by Owner for work on the Project. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14. In addition, Owner shall require Owner's Separate Contractors to name Design-Builder as an Additional Insured on their Commercial General Liability, Auto, and Excess (umbrella) policies of insurance. Upon Design-Builder's request Owner will furnish to Design-Builder written evidence that such insurance is in effect and that the Design-Builder has been named an additional insured for each Separate Contractor. To the fullest extent permitted by law, Owner shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction to the extent resulting from the negligent acts or omissions of Owner's separate contractors, Owner, or anyone employed directly or indirectly by Owner, or anyone for whose acts any of them may be liable.

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

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules.

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

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to

the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

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

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

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

§ 5.15 Owner's Right to Clean Up

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

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

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

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

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

§ 6.2 Change Orders

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

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

§ 6.2.1.4 A "Change Request" is a written authorization from the Owner to the Design-Builder to proceed with a change in the Work, with an authorized adjustment in the Contract Sum and/or Contract Time, pending the preparation and execution of a Change Order. There may be one or more Change Requests combined into a single Change Order.

§ 6.3 Change Directives

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

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

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

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- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

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

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

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

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data.

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

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

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

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

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

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Project Schedule. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

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

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

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

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

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

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

§ 7.2.7 Prior to commencement of construction, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

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

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

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

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule, in accordance with the Project Schedule, or otherwise approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the

Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

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

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine whether the Owner agrees with the Design-Builder's stated date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

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

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. The Work shall be commenced, and Substantial Completion shall be achieved, by the dates indicated in the Project Schedule. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

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

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

§ 8.2 Delays and Extensions of Time

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

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

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

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

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

§ 9.2 Schedule of Values

The Design-Builder and Owner have agreed upon the schedule of values attached to this Agreement as EXHIBIT E. This schedule shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by payment applications or invoices from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

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

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

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

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

§ 9.4 Payment

The Owner shall, within seven (7) days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due and notify the

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Design-Builder in writing of the Owner's reasons for withholding Certification , in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold payment to the extent reasonably necessary to protect the Owner from loss for which the Contractor may be liable under the Design-Build Documents because one or more of the reasons identified below. If the Owner is intends to withhold payment, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a payment for the undisputed amount due and owing.

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

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

§ 9.6 Progress Payments

§ 9.6.1 The Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

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

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

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when: (A) the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use as indicated by the Design-Build Documents; (B) the Architect has issued a Certificate of Substantial Completion under Section 9.8.5; and (C) a certificate of occupancy has been issued by the authority with jurisdiction.

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

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

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

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

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public

authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Final Payment, constituting the unpaid balance of sums due the Design-Builder, shall be due and payable upon Substantial Completion. If there remain items of Work to be completed, the Design-Builder and the Owner shall list such items at the time of final payment, and the Design-Builder shall complete the items within a reasonable time. The Owner may retain a sum equal to the estimated cost of the items and completing the items, The Owner shall pay to the Design-Builder, within 30 days of the Design Builder’s invoice, the amount retained as each of the items is completed.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner’s property might be responsible or encumbered, (less amounts withheld by Owner) will, upon final payment be paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer’s warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations from payments previously received by the Design-Builder, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If the Owner has made payments as required by the Design-Build Documents, the Design-Builder shall, within thirty (30) days after filing, cause the removal of any liens filed against the Project by any party performing labor or services or supplying materials in connection with the Work. If the Design-Builder fails to take such action, the Owner may cause the lien to be removed at the Design-Builder’s expense including the Owner’s attorney’s fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

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

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

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

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ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder or its Contractors shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

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

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

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

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

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

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon

recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

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

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

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

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

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

§ 10.4 Emergencies

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

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 If, within one year after the date of Substantial Completion of the Work, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9. The Design-Builder's warranty excludes defects or damage caused by (1) abuse, modification, or improper maintenance or operation by persons other than the Design-Builder, its Contractors, or others for whom the Design-Builder is responsible, and (2) normal wear and tear under normal usage.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

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

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

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

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

§ 11.3 Acceptance of Nonconforming Work

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

ARTICLE 12 COPYRIGHTS AND LICENSES

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

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as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

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

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

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

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

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Intentionally omitted.

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

§ 13.2.1 Termination by the Design-Builder

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

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

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

§ 13.2.2 Termination by the Owner For Cause

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

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

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

- .1 Exclude the Design-Builder from the site and take possession of all materials, and equipment purchased for the Project;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

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

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

§ 13.2.3 Suspension by the Owner for Convenience

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

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

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

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

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

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

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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

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

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

§ 14.1.6 Claims for Additional Time

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

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

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 There shall be no Initial Decision Maker.

§ 14.2.2 Procedure

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

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

§ 14.2.3 Intentionally omitted.

§ 14.2.4 Intentionally omitted.

§ 14.2.5 Intentionally omitted.

§ 14.2.6 If a dispute arises out of or relates to the Contract or its breach, the parties shall endeavor to settle the dispute first through direct discussions between the parties' representatives who have the authority to settle the dispute. If the parties' representatives are not able to promptly settle the dispute, the executives of the parties, who shall have the authority to settle the dispute, shall meet within twenty-one (21) days after the dispute first arises. If the dispute is not settled within seven (7) days from the referral of the dispute to the parties' executives, the parties may submit the dispute to mediation in accordance with Section 14.3.

§ 14.2.6.1 Either party may, within 30 days from the date of any meeting in accordance with this section 14.2.6, demand in writing that the other party file for mediation within 60 days. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

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

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

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

§ 14.4 Arbitration

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

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

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

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

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

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

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

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

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

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

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic transmission to the email address for the party's representative as identified in this Agreement.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

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

§ 15.5 Tests and Inspections

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

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

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User Notes: (1246775604)

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

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

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

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

§ 15.6 Confidential Information

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

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

§ 15.7 Capitalization

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

§ 15.8 Interpretation

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

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

ARTICLE 16 SCOPE OF THE AGREEMENT

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

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 Other:

«See Table of Exhibits at start of this Agreement»

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

OWNER (Signature)

DESIGN-BUILDER (Signature)

« » « »

« » « »

(Printed name and title)

(Printed name and title)

AIA® Document A141™ – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder executed contemporaneously with this EXHIBIT A (the "Agreement")
(In words, indicate day, month and year.)

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

Andretti Global
Fishers, Indiana

THE OWNER:
(Name, legal status and address)

Cardinal XLIII, LLC
c/o Bradford Allen Realty Services LLC
300 S. Wacker Drive, 35th Floor
Chicago, Illinois 60606

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

Dillon Construction, Inc. d/b/a DCG Construction
6828 Hillside Court
Indianapolis, Indiana 46256

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

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

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

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

TABLE OF ARTICLES

- A.1 CONTRACT SUM
- A.2 CONTRACT TIME
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
- A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The

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Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

- Stipulated Sum, in accordance with Section A.1.2 below
- Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below
- Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

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

(Paragraphs deleted)
§ A.1.2 Intentionally omitted.

(Table deleted)
§ A.1.3 Cost of the Work Plus Design-Builder's Fee
§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:
(Paragraph deleted)
5.5% of the Cost of the Work

(Paragraphs deleted)
§ A.1.4 Intentionally omitted.

(Paragraphs deleted)
(Table deleted)
§ A.1.5 Payments
§ A.1.5.1 Progress Payments

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

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

§ A.1.5.1.3 On or before the 25th day of each month, the Design-Builder shall submit to the Owner an Application for Payment based on Work completed and materials stored at the Project or at locations approved by the Owner for the period ending on the last day of the current month. Owner shall make payment within thirty (30) days of receipt of Design-Builder's Application for Payment. If the Application for Payment is received by the Owner after the 25th of each month Owner shall make payment within thirty (30) days of receipt of the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 Intentionally omitted.

§ A.1.5.1.5 With each Application for Payment, the Design-Builder shall submit an updated Schedule of Values in accordance with the Design-Build Documents. This Schedule of Values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

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

(Paragraphs deleted)

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Article A.5 of this Amendment;
- .2 Add the Design-Builder’s Fee, less retainage of ten percent (10 %). The Design-Builder’s Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder’s Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of ten percent (10 %) from that portion of the Work that the Design-Builder self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

(Paragraphs deleted)

§ A.1.5.3.4 If the Owner holds retainage:

- .1 Once each early finishing Contractor has completed its work and that work has been accepted by the Owner, the Owner shall release final retention on that portion of the Work; and
- .2 after the Work is fifty percent (50%) complete, the Owner shall withhold no additional retainage.

§ A.1.5.5 Final Payment

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

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner’s auditors will review and report in writing on the Design-Builder’s final accounting within 30 days after the Design-Builder delivers the final accounting

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

ARTICLE A.2 CONTRACT TIME

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

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than
(Paragraphs deleted)
the date identified in the Project Schedule attached to the
(Table deleted)
Agreement as EXHIBIT D, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Paragraphs deleted)

ARTICLE A.3 Intentionally Omitted.

ARTICLE A.4 Intentionally Omitted.

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

ARTICLE A.5 COST OF THE WORK

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

§ A.5.1.1 Labor Costs

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

§ A.5.1.1.2

(Paragraphs deleted)
Compensation, at the rates established in EXHIBIT F to the Agreement, of the Design-Builder's personnel engaged for the Project for supervision, preconstruction services, project management, and administration, whether performed at the Project site or the Design-Builder's offices.
(Table deleted)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work, at the rates established in EXHIBIT F to the Contract.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, are included in the rates set forth in EXHIBIT F.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier included in the rates set forth in EXHIBIT F.

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

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

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

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, may be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

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

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

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

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

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

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents. Builder's Risk insurance premiums and any deductibles shall be billed at Design-Builder's cost. Premiums for all other insurance that Design-Builder is required to carry under the Design-Build Documents shall be billed at the fixed rate set forth in EXHIBIT F. Such rate is not subject to audit, but will not be further marked up with Design-Builder's Fee.

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

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

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

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

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the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner’s prior approval, costs for electronic equipment and software directly related to the Work. ProCore project management software shall be billed at a fixed rate set forth in EXHIBIT F. Such rate is not subject to audit, but will not be further marked up with Design-Builder’s Fee.

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

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

§ A.5.1.5.9 With the Owner’s prior approval, expenses incurred in accordance with the Design-Builder’s standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder’s personnel required for the Work, such as travel, lodging, meals, other subsistence expenses, gasoline.

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

§ A.5.1.6 Other Costs and Emergencies

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

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

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

§ A.5.1.7 Related Party Transactions

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

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

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

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

- .1 Salaries and other compensation of the Design-Builder’s personnel stationed at the Design-Builder’s principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder’s principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;

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- .4 The Design-Builder’s capital expenses, including interest on the Design-Builder’s capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds

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

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

§ A.5.4 Other Agreements

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

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

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

§ A.5.5 Accounting Records

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

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder’s skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests.

(Table deleted)(Paragraph deleted)

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User Notes:

AIA Document A141™ – 2014 Exhibit B

Insurance and Bonds

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

Andretti Global
Fishers, IN

THE OWNER:
(Name, legal status and address)

Cardinal XLIII, LLC
c/o Bradford Allen Realty Services, LLC
300 S. Wacker Drive, 35th Floor
Chicago, IL 60606

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

Dillon Construction, Inc. d/b/a DCG Construction
6828 Hillside Court
Indianapolis, IN 46256

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement).

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 DESIGN BUILDER'S INSURANCE AND BONDS**
- B.3 OWNER'S INSURANCE**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

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

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement. The insurers must have a minimum AM Best rating of A VIII. All insurance procured or maintained by the Design-Builder shall be primary. Any insurance maintained by the Owner shall be considered excess and non-contributory. Coverages shall be written on a per occurrence basis.

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

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

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User Notes: (1198934131)

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

Coverages shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment.

§ B.2.1.1 Commercial General Liability (CG 00 01 or its equivalent) for bodily injury and property damage including personal injury, premises/operations, broad form property damage, independent contractors, products and completed operations (with coverage for a minimum period of two (2) years after Substantial Completion), including (1) explosion, collapse, shoring grading and underground property damage hazards, and (2) damages or injury arising from defective Work, including costs to repair or replace damaged Work, with policy limits of not less than Three Million Dollars (\$ 3,000,000.00) for each occurrence and Three Million Dollars (\$ 3,000,000.00) in the aggregate providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury;
- .3 damages because of injury to or destruction of tangible property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder and hired car coverage with policy limits of not less than One Million Dollars (\$ 1,000,000.00) combined single limit for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

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

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability covering all employees, volunteers, temporary employees and leased workers with policy limits as provided below:

One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) disease each employee and One Million Dollars (\$1,000,000) disease policy limits

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than:

- .1 For the Architect: Two Million Dollars (\$ 2,000,000.00) per claim and Two Million Dollars (\$ 2,000,000.00) in the aggregate, with not more than a \$100,000.00 deductible;
- .2 For Consultants and design-build Contractors: : One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate, with not more than a \$100,000.00 deductible.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per claim and One Million Dollars (\$ 1,000,000.00) in the aggregate.

§ B.2.1.7.1 Intentionally omitted.

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

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

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.1.11 The Design-Builder shall require its Contractors to carry insurance in amounts reasonable in light of the work to be performed and naming the Owner as additional insured under their commercial general liability, automobile liability, and any umbrella or excess liability policies.

§ B.2.2 Performance Bond and Payment Bond
 The Design-Builder shall provide surety bonds as follows:
 (Specify type and penal sum of bonds.)

| Type | Penal Sum (\$0.00) |
|------|--------------------|
| NONE | Not applicable |

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

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

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

§ B.3.2 Property Insurance

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

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary

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buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Design-Builder shall pay costs not covered because of such deductibles, but such costs shall be considered a Cost of the Work.

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

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

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

§ B.3.2.3 Intentionally omitted.

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

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

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

§ B.3.2.7 **Waivers of Subrogation.** The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Design-Builder. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein (and cause their insurers to recognize and consent to such waiver of rights). The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not

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pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ B.3.2.8 A loss insured under the property insurance shall be adjusted by the Design-Builder and made payable to the Design-Builder as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgage clause and of Section B.3.2.10. The Design-Builder shall pay the Owner, Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Design-Builder shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Design-Builder's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Design-Builder as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

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

None

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Andretti Global
Project Description
EXHIBIT C

September 27, 2022

1. Project Description

- A. The project consists of +/- 99 Acre site with necessary roads, utilities, sidewalks and paths. The buildings consist of a 390,000 GSF production area with +/- 111,000 GSF of office, a 28,000GSF museum, the building ncludes a café and work out facility, a plaza area between the 820 space surface parking lot and the building all located adjacent to Metro Airport in Fishers, In. (see exhibit A site plan and exhibit C floor plan of first and second floor)
- B. The building consists of two (2) levels of office space, various mezzanines, a museum and shop/manufacturing area. All areas have necessary service areas, restrooms, etc. as shown. The current layout shows twenty (20) truck transporter positions with associated drive in doors.
- C. The exterior of the building will be clad with a combination of 8" insulated panels with punched windows, and glass curtain wall materials as depicted in the conceptual rendering.(see exhibit B
- D. The interior finishes are described in Section 6.
- E. A complete description of sitework, foundations, structural frame, exterior skin, interior finishes, elevators, mechanical systems, and electrical systems is included herewith.
- F. Parking for cars will be provided around the building per the site plan with a 600 car parking garage and 238 surface parking positions.

1a.General Conditions

- A. All architectural, civil, structural, mechanical, electrical engineering and landscape design necessary to provide construction documents are included. These documents will be prepared by architects and engineers registered by the State of Indiana and will be adequate for the purposes of obtaining building permits. The drawings and specifications will meet all state and local codes

and properly define the scope of work for the project.

- B. The Americans with Disabilities Act accessibility guide will be adhered to in the design and construction of the facility.
- C. Required building related permits from state and local governing authorities will be provided. Any building required variances or tap fees shall also be provided.
- D. The following pre-designs have been included in the project cost:
 - 1. Geotechnical Testing
 - 2. Topographic survey verification
 - 3. Site and building survey
 - 4. State approvals
- E. Supervision and management will be provided by an on-site Field Superintendent, Pre-Construction and Project Manager in the office. Each individual will be a full time employee of the contractor.
- F. On-site structures and utilities shall be provided as follows:
 - 1. Electric
 - 2. Telephone (Fiber Optic Capable)
 - 3. Sanitary facilities
 - 4. Project signage
 - 5. Job Site office using the existing two story empty building that is on site
 - 6. Cleaning
- G. Concrete testing and structural inspection will be provided throughout the course of the project to insure quality performance of the placement of concrete and structural steel.

2. Sitework

- A. All site clearing and preparation will be provided to accommodate all paving areas, building pad, and landscape area. All grading will be provided to +/- 1/10 of a foot and all fill material will be compacted to 93% modified proctor under all paving and slab areas. All excavation for

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Project Description
EXHIBIT C*

September 27, 2022

- foundations, site concrete, and site utilities will be provided.
- B. Granular fill shall be pit run material placed under slab-on-grade and used as interior backfill at the continuous footings. The fill depth shall be 4”.
 - C. Heavy duty asphalt paving at the truck access/delivery drive lanes shall have a base of stone at 6” deep and crushed stone at 3” deep. The base shall have a final density of 93% of maximum density as determined by the Modified Proctor test. Asphalt binder shall be 3” deep, having one (1) layer of course crushed stone and sand with 4.5% to 5.0% asphalt. The surface course shall be 1” deep, having one (1) layer of sand-stone composition with 6% to 6.5% asphalt. The paving will be designed to meet or exceed local code.
 - D. The truck transport entry apron shall be 8” non reinforced concrete on 6” of gravel.
 - E. Regular duty asphalt paving at the surface car parking lot shall have a base of #2 stone at 4” deep and #53 stone at 2” deep. The base shall have a final density of 93% of maximum density as determined by the Modified Proctor test. Asphalt binder course shall be 2” deep having one (1) layer of crushed course stone and sand with 4.5% to 5% asphalt. The surface course shall be 1” deep, having one (1) layer of sand stone composition with 6% to 6.5% asphalt. Pavement striping and signage is included for parking stalls as shown on the site plan.
 - F. A 4,000-psi concrete sidewalk with integral curb adjacent to office building will be provided. Additionally, concrete walk shall be provided at lobby entrance and other exit doors from building to nearest parking area as required by code.
 - G. Concrete curb at the perimeter of the car parking areas and all parking lot islands is included..
 - H. All storm sewers for roof drainage and car parking areas will be provided via underground pipe and storm system. All required retention and approvals will be provided.
 - I. All utilities will extend to the building and final connections made for gas, electric, water, and sanitary. We will coordinate and provide access (six each 4” PVC empty conduits from building to property line) for telephone and communication contractors (fiber optic capable).
 - J. A water line (sized as required) will be extended to facility from water main on the property line with connection made to building fire suppression system.
 - K. Control joint sealant of the sidewalk is included.
 - L. Exterior lighting will be provided to meet all zoning, local, FAA and state codes. See Electrical below for description of site lighting.
 - M. Erosion control will be provided as required.
 - N. Landscaping including site seeding, sod, plantings and irrigation systems on site will be provided to meet local code and as requested by the owner.
 - O. Site lighting will be provided by pole mounted fixtures on a concrete base to provide 1.0 foot-candles average maintained at parking lots. This will be depicted on a photometric plan once design is complete.

3. Foundations And Slabs

- A. Building foundation systems are included in this proposal for loads imposed by a building of this type. We have included all column and grade beam foundations based upon an assumed 2,500 PSF bearing capacity. Final foundation size will be determined once borings, geotechnical report and structural load analysis are complete. The foundation size and price will be adjusted once soil borings are complete.
- B. Poured-in-place concrete wall is included at the elevator pit. Concrete strength shall be 4,000 PSI in 28 days.
- C. The slab-on-grade will be 8” thick, 4,000-PSI concrete, non-reinforced on a minimum of 8”

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Project Description
EXHIBIT C

September 27, 2022

compacted aggregate base. The slab will have a 6 mil. polyethylene vapor barrier.

| | | |
|-----------|---------------|---------------|
| Live Load | 25#/SF | 100#/SF * |
| Dead Load | <u>23#/SF</u> | <u>52#/SF</u> |
| | 48#/SF | 152#/SF |

D. The elevated floor slabs shall be 4" thick, normal weight concrete, reinforced with 6 x 6 W1.4xW1.4 welded wire fabric on metal deck.

*80# Live Load / 20# Partition

E. The flatness and levelness control for the slabs-on-grade shall be FF=30 and FL=50.

* additional 5# / SF for roof top solar

5.Exterior Skin

The skin will be a combination of the materials noted below.. A conceptual rendering of the building is included for design concept/intent. See Exhibit B

4. Structural

A. Column bay spacing shall be typically 57' x 40' on center and the floor elevations for the building shall be as follows:

| | |
|--------------|---------|
| First Floor | +0'-0" |
| Second Floor | +14'-0" |
| Clear Height | +28'-0" |

A. Insulated metal panels

1. The panels are typically 44" wide, full height and be 8" thick.

B. The structural system shall be steel beams and joists supported by steel tubes and wide flange columns.

B. Glass and Glazing:

1. The exterior glazing will be an aluminum frame, thermally broken system. The punched windows will have a clear, black or bronze anodized mullion system. The vision glass will be reflective, low-E, 1"insulated thermal unit with performance characteristics as follow: U-Value of 0.35 and Shading Coefficient of 0.33. All systems are based upon a 5' mullion grid module.

C. Metal roof deck shall be prime painted 1 1/2" type B metal deck. Elevated slab deck shall be 2" steel deck. All deck shall be welded in accordance to SDI criteria.

2. Curtain wall glass system will be provided at museum. Aluminum and glass system will match that as described above.

D. Seven (7) stairwells (three monumental and 4 standard) have been included for access to the second floor. One stair will contain an access ladder to the roof. Stair construction shall be pan filled concrete treads, landings at each floor and hand railing.

3. The glass entries will be a clear glazing with clear, black or bronze anodized mullions. Door system shall be medium stile doors with custom hardware including concealed closers at main entrance.

E. Miscellaneous metal items provided as follows:

1. Roof equipment support frames for HVAC equipment as described in this proposal
2. Elevator pit ladder
3. Bollards as requested by the owner

C. Thermal / Moisture Protection:

1. The manufacturer shall warrant all roofing for 20 years on labor and material. Roofing manufacturers will be Firestone or Carlisle.

F. Design loads for steel framing is as follows:

Roof Floor

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2. Internal roof drains with overflows connected to the site storm drainage system shall drain the office roof. polyurethane and will carry a 5-year warranty.
 3. The roof membrane shall be a single-ply, 45 mil. EPDM or TPO. The roofing system shall have a UL Class A rating and a Factory Mutual Class 1 fire rating (non-combustible).
 4. Manufacturer walkway pads will be provided from the roof access door to all rooftop mechanical units.
 5. The roof insulation shall be rigid closed cell isocyanurate boards having a minimum density of 1.0 pcf, a minimum 20-psi compressive strength and a minimum R-value of 30.
 6. Coping, Flashing and Curbs:
 - a. Contractor shall include tapered insulation where required to insure positive drainage at all points of the roof. The structural steel is sloped to reduce this effort as much as possible. All membrane sidewall flashing shall be a minimum of 60 mil. uncured EPDM material installed in accordance to the manufacturer's details and design criteria.
 - b. All rooftop mechanical units and other miscellaneous rooftop equipment shall be mounted on an insulated curb (seismic zone will be taken into consideration if required by code). All piping and vents, which penetrate the roof membrane, will be flashed using molded or fabricated EPDM or neoprene flashing.
 - c. All sheetmetal copings and flashings shall be a minimum of 24 ga. prefinished galvanized steel with a factory applied Kynar 500 finish and will be designed and installed as per SMACNA standards.
 7. All windows, door system, and misc.joints will be caulked with a two-part silicone or
8. All office perimeter walls will be insulated with a batt or semi-rigid insulation providing R10.3.
 9. Elevator pit walls will be waterproofed
- 6. Interior Finishes – All provided in Office Finish Allowance and will follow the following outline criteria:**
- A. Main lobby:
 1. In the main lobby - stone or marble to be applied to the floors. Stone is based on a 12" x 12" x 3/8" thin set material.
 2. Wall construction shall be metal stud and drywall with painted gypsum board with reglet reveals throughout lobby area. Medium stile aluminum and glass tenant entry shall be provided off lobby area.
 3. The second floor elevator lobby shall have stone tile and painted gypsum board walls and ceiling.
 4. The ceiling in the main lobby is based upon a painted drywall surface with reglet reveals and decorative coffer .
 - B. Elevator lobbies:
 1. The finish of the second floor lobby is covered under the tenant finish description.
 - C. Core Areas:
 1. Restrooms - The floors and fixture walls of each restroom will receive ceramic tile. Remaining wall surface will be finished with vinyl wall covering. The ceiling consists of a 2' x 2' acoustical ceiling grid with fissured pad. Drywall lighting soffit will be constructed over full-length "Corian type" or granite countertop lavatories. Toilet

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accessories shall be stainless steel finish and fully recessed in walls where possible. Toilet partitions to be plastic laminate, floor mounted overhead braced.

- 2. Doors to be 8'-0", birch premium grade, solid core wood doors with push/pull hardware.
- 3. Mechanical/electrical rooms and stairwells - Floors shall be sealed concrete in each room with a finish painted surface on the walls. No ceilings are provided in these areas. Doors shall be 8'-0", birch premium grade, solid core wood doors with appropriate hardware.

D. Office Spaces:

- 1. Perimeter walls of restrooms, stairwells, mechanical/electrical rooms will receive drywall surface over metal studs. Exterior walls and columns (perimeter of each floor), above and below the window system, and at building brace walls; will receive metal furring studs with drywall finish.
- 2. Ceilings will be acoustical Finished ceiling heights shall be 9'-0".

7. Furnishings

- A. Exterior windows from tenant areas will be equipped with 1" horizontal mini-blinds. Blinds shall be provided in a color selection to be determined by the owner.
- B. Building entry vestibules at main lobby will receive recessed walk-off mat type carpet tile inset.
- C. Signage at each restroom will be provided and comply with ADA guidelines.
- F. Building directory and mailboxes shall be provided as directed.

8. Elevators

- A. Passenger travel shall be provided to each floor via FOUR (4) 3500# capacity elevators. Elevators shall be hydraulic types with a travel speed of 150 FPM. One of the elevators shall be gurney sized for passenger/freight use.
- B. Passenger elevator cabs shall be finished as requested by owner. Cab and lobby doors to be a brushed stainless steel finish.
- C. Passenger elevators shall have security touch pad control capabilities.
- D. Elevators will be provided with hooks and pads for use when service transportation is required.

9. HVAC

- A. The building heating and cooling system is based upon a water source heat pump system. The system includes cooling capacity distributed on the floors in zones ranging from 1000 sq. ft. to 1,500sq.ft. The tonnage is determined by calculation of the heat gains anticipated. The elements of the central system are designed to accommodate up to 10% additional tons of cooling throughout the building.
- B. The design conditions are:

Outdoor Summer - 94° F DB/77° F WB
Indoor Summer - 74° F office / 78° DB/50% RH
Outdoor Winter - 0° F DB
Indoor Winter - 72° office / 70° F production DB (no humidity control)
- C. The heat load is anticipated to be:

Solar Gain As required for the zone
Lighting 2 watts/sq./ ft. Fluorescent
0.5 watts/sq. ft. Incandescent
Equipment 3 watts/sq. ft.
People TBD / 1000 sq. ft.
Ventilation Air Per ASHRAE 6289
- D. Fresh air is provided via low-pressure ductwork per code.

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E. Downstream ductwork and diffusers as well as return air grilles will be furnished as required.

F. Energy management system provided for facility as follows:

1. A room thermostat operates its respective tenant heat pump to maintain the tenant's space temperature at setpoints during occupied hours. Occupied hours are adjustable thru the DC central system.
2. The heat pumps are indexed to an occupied/unoccupied mode of operation on a zone-by-zone basis by the DDC System. Each floor is divided into various zones for occupied/unoccupied control. During the unoccupied period all the heat pumps for a particular zone are started should the space sensor for that zone sense the space temperature has fallen below 55°F or raised above 85°F (adjustable). The sensor senses when the temperature raises above or drops below setpoint, while the DDC system will allow the heat pumps for that zone to go occupied mode until the sensor setpoint is satisfied.
3. A manual override switch located on each thermostat, overrides the DDC system from unoccupied to occupied mode. This (2) hour override switch is located on the thermostat. This (2) two-hour override effects only the zone in which that heat pump thermostat is controlled.

G. Restroom exhaust will be provided through central exhaust riser serving each core area restroom per code.

H. A Building Management system will be provided, programmed and installed.

10. Plumbing

A. Plumbing to be provided will include a complete sanitary sewer with waste and vent piping in the building and schedule 40 PVC outside the building with cleanouts provided. Water closets will be wall mounted, and urinals will be wall-hung and allow for one handicapped water closet

per toilet room. Fixture count is based upon the estimated occupancy, .Stainless steel water coolers, two combination standard and handicapped on each floor, will be installed. Mop sinks will be provided in each janitor's closet.

B. Electric water heaters (size to be determined) will be located as required to serve the restroom facilities. Floor drains will be provided in each toilet room. Internal roof drains will be installed as required. Shut off valves for the water supply shall be installed at supplies to each user. A backflow preventer and booster pump will be installed as required. Hot and cold water piping will be insulated where exposed.

C. Wet stacks will be installed as required.

11. Fire Protection

A. A complete fire protection system will be installed. It will be designed to Ordinary Hazard Group I and will limit sprinkler head spacing to a maximum of 120-sq. ft. per head. Mains and branch lines will be sized to accommodate head spacing of one head to every 80 sq. ft. All sprinkler heads in acoustical and or drywall ceilings shall be concealed. All heads in other areas shall be exposed.

B. A ESFR fire protection system will be installed in the production area.

12. Electrical

A. Service size is yet to be determined. The transformer will be installed by the Utility Company. Two 4" empty ducts will be provided to the telephone board and two 4" empty duct out of the building for phone service (capable of accepting fiber optic service). Main switchgear will be located in the electric room on the first floor. Power distribution will be 480/277V for lighting panel boards and 120/208V for receptacle panel boards and provided at each floor. Distribution to various equipment shall be installed as required.

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Project Description
EXHIBIT C*

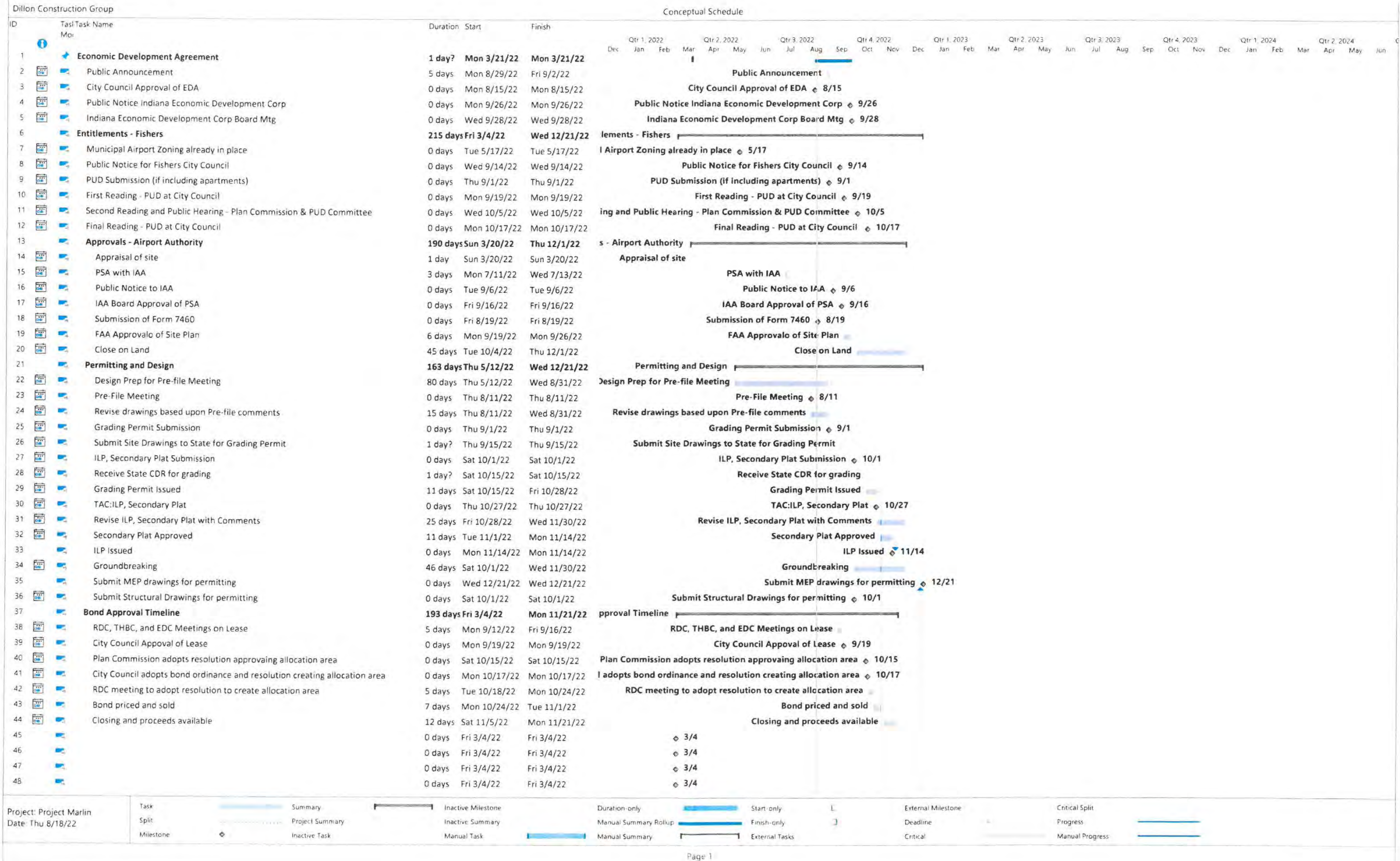
September 27, 2022

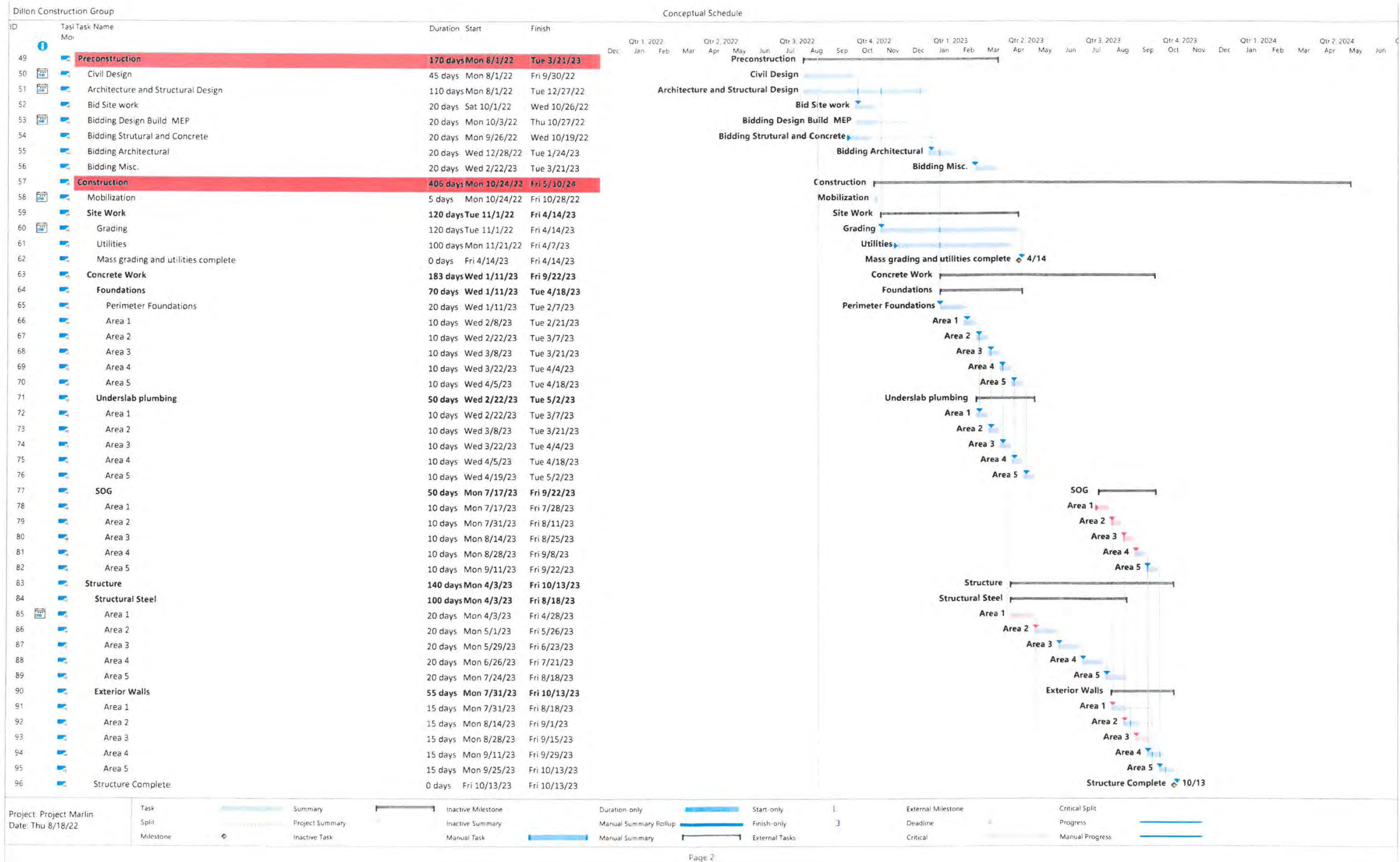
- B. Distribution for heat and general service shall be provided via conduit and wire risers, thus allowing electrical load flexibility throughout entire building. Power panels to office floors have been provided at 7 watts /r.s.f. for power, exclusive of HVAC requirements.
- C. All mechanical equipment specified herein will be wired.
- C. An exit and emergency lighting system including self-contained battery operated exit signs and self-contained battery operated emergency units will be installed.
- D. The elevators will be wired complete with fusible disconnecting means, switched pit light, and receptacle.
- E. Generator will be sized and provided as required once all owner requested loads are determined.
- F. Lighting will be installed in all areas to provide light as required for the various processes. All fixtures shall be LED fixtures.
- G. Fire alarm system will include smoke detectors in lobby areas, water flow switch monitor, strobe and horn system throughout areas as required by code.
- H. Receptacles will be provided as required.
- I. Lighting in restrooms, janitor's closets, mechanical and electrical rooms shall be controlled via infrared controls for on/off operation.

OPTIONS:

- 1. Roof mounted solar panels
- 2. Rain capture from roof system.

EXHIBIT D





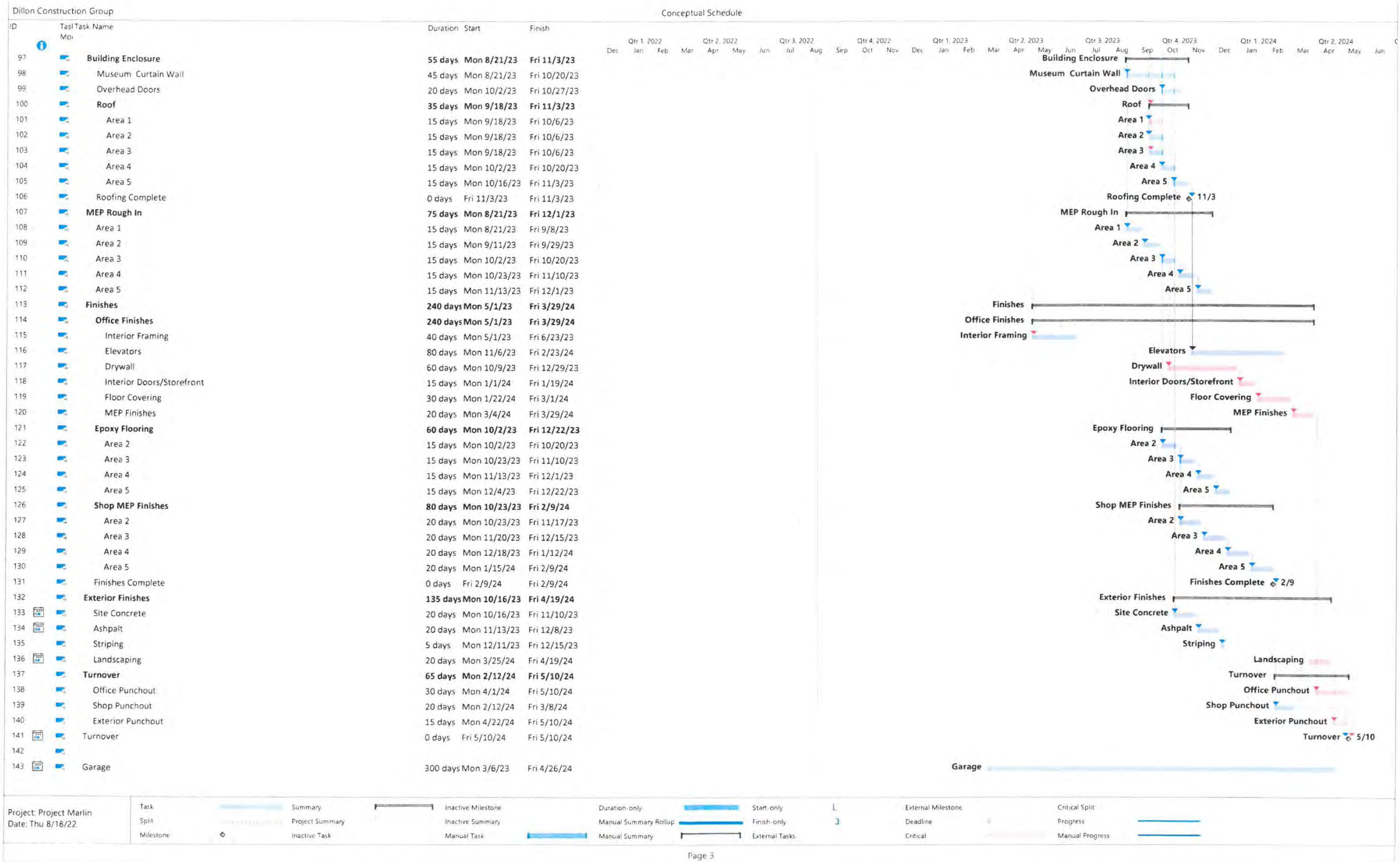


EXHIBIT E

Dillon Construction Group

| Project: | | Andretti Autosport - SITE | | File Location: | | | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------------------------------------|----------------------|----------------|---------------|-------------------------|---------|-----|-------------------|----|----|--|--|--|--|
| Location: | | Fishers, in | | Building Type: | | | | | | | | | | | |
| Estimate Date: | | 10/23/2022 | | | | | | | | | | | | | |
| COST CODE | Job Cost | DESCRIPTION | QUANTITY | UNIT | UNIT PRICE | GRAND TOTAL | | | | | | | | | |
| CSI Task | Item | Category | | | | NOTES | | | | | | | | | |
| <table border="1"> <tr> <td>Gross Building Size:</td> <td>580,614</td> <td>GSF</td> </tr> <tr> <td>Rentable Building Size:</td> <td>580,614</td> <td>RSF</td> </tr> <tr> <td>Project Duration:</td> <td>24</td> <td>MO</td> </tr> </table> | | | Gross Building Size: | 580,614 | GSF | Rentable Building Size: | 580,614 | RSF | Project Duration: | 24 | MO | | | | |
| Gross Building Size: | 580,614 | GSF | | | | | | | | | | | | | |
| Rentable Building Size: | 580,614 | RSF | | | | | | | | | | | | | |
| Project Duration: | 24 | MO | | | | | | | | | | | | | |
| 01 00 000 | | GENERAL CONDITIONS | | | | | | | | | | | | | |
| 01 05 000 | | Permits/Insurance/Fees | | | | | | | | | | | | | |
| | | State CDR - FIVE site/fdn/struc/MEP/final | 0 | | \$ 50,000.00 | \$ - | | | | | | | | | |
| | | State CDR - EXPEDITE | 0 | | \$ 50,000.00 | \$ - | | | | | | | | | |
| 01 05 002 | O | Building Permit | 0 | SF | \$ 0.15 | \$ - | | | | | | | | | |
| 01 05 004 | O | Permit Services | | SF | | \$ - | | | | | | | | | |
| 01 05 006 | O | Business License | | SF | | \$ - | | | | | | | | | |
| 01 05 008 | O | Zoning Permit | 0 | LS | \$ 1,500.00 | \$ - | | | | | | | | | |
| 01 05 010 | O | Tap Fees | 0 | SF | \$ 50,000.00 | \$ - | | | | | | | | | |
| 01 05 012 | O | Impact/Capacity Fees | 0 | AC | \$ 1,200.00 | \$ - | | | | | | | | | |
| 01 05 014 | O | Certificate of Occupancy | | SF | | \$ - | | | | | | | | | |
| 01 05 016 | O | Bond Fees | | LS | | \$ - | | | | | | | | | |
| 01 10 002 | O | Liability Insurance | 1 | LS | \$ 67,500.00 | \$ 67,500.00 | | | | | | | | | |
| 01 10 004 | O | Builders Risk | 0 | LS | \$ 25,000.00 | \$ - | | | | | | | | | |
| 01 10 006 | O | Additional Insurance | | LS | | \$ - | | | | | | | | | |
| 01 10 008 | O | Legal Fees | 1 | LS | \$ 5,000.00 | \$ 5,000.00 | | | | | | | | | |
| 01 10 010 | O | Brokerage/Realtor Fees | | LS | | \$ - | | | | | | | | | |
| 01 15 000 | | Supervision | | | | \$ - | | | | | | | | | |
| 01 15 002 | L | superintendent | 12 | WK | \$ 3,894.23 | \$ 46,730.77 | | | | | | | | | |
| 01 15 004 | L | Asst. Superintendent | 0 | WK | | \$ - | | | | | | | | | |
| 01 15 006 | L | Office Engineer | | WK | | \$ - | | | | | | | | | |
| 01 15 008 | L | Field Engineer | 12 | WK | \$ 2,920.67 | \$ 35,048.08 | | | | | | | | | |
| 01 15 010 | L | Project Manager | 12 | WK | \$ 3,894.23 | \$ 46,730.77 | | | | | | | | | |
| 01 15 012 | L | Assistant Project Manager | | WK | | \$ - | | | | | | | | | |
| 01 15 014 | L | Administrative Asst. | 12 | WK | \$ 2,920.67 | \$ 35,048.08 | | | | | | | | | |
| 01 15 016 | O | Out-of-town Expense | | MO | | \$ - | | | | | | | | | |
| 01 15 018 | O | Travel and Entertainment | 0 | LS | \$ 25,000.00 | \$ - | | | | | | | | | |
| 01 20 000 | | Temporary Facilities | | | | \$ - | | | | | | | | | |
| 01 20 002 | O | Office Trailer - REMODEL BULDG | 0 | LS | \$ 150,000.00 | \$ - | | | | | | | | | |
| 01 20 004 | O | PROCORE SOFTWARE | 1 | MO | \$ 7,500.00 | \$ 7,500.00 | | | | | | | | | |
| 01 20 006 | M | Office Supplies | 1 | MO | \$ 500.00 | \$ 500.00 | | | | | | | | | |
| 01 20 006 | O | Office Supplies | | MO | | \$ - | | | | | | | | | |
| 01 20 008 | O | Postage & Overnite Delivery | 1 | LS | \$ 200.00 | \$ 200.00 | | | | | | | | | |
| 01 20 010 | M | Office Furniture & Equip. | 0 | LS | \$ 25,000.00 | \$ - | | | | | | | | | |
| 01 20 010 | O | Office Furniture & Equip. | | LS | | \$ - | | | | | | | | | |
| 01 20 012 | O | Mobilize / Demobilize | | LS | | \$ - | | | | | | | | | |
| 01 20 014 | O | Set-up Inside Building | 0 | LS | \$ 15,000.00 | \$ - | | | | | | | | | |
| 01 20 016 | M | Project Sign | | LS | | \$ - | | | | | | | | | |
| 01 20 016 | S | Project Sign @ TWO ENTRIES | 0 | LS | \$ 10,000.00 | \$ - | | | | | | | | | |
| 01 20 018 | M | Drawings & Blueprints | 1 | LS | \$ 500.00 | \$ 500.00 | | | | | | | | | |
| 01 20 020 | M | Construction Fence | 0 | LF | \$ 20.00 | \$ - | | | | | | | | | |
| 01 20 020 | O | Job Photos | 1 | MO | \$ 500.00 | \$ 500.00 | | | | | | | | | |
| 01 20 022 | O | Construction Parking | 1 | LS | \$ 5,000.00 | \$ 5,000.00 | | | | | | | | | |
| 01 20 024 | S | Security Guard | 0 | WK | \$ 3,000.00 | \$ - | | | | | | | | | |
| 01 25 000 | | Temporary Utilities | | | | \$ - | | | | | | | | | |
| 01 25 002 | O | Phone Service-Field Office | 0 | WK | \$ 150.00 | \$ - | | | | | | | | | |
| 01 25 004 | O | Power-Field Office | 0 | WK | \$ 300.00 | \$ - | | | | | | | | | |
| 01 25 006 | O | Power-Temp for Building | 0 | LS | \$ 35,000.00 | \$ - | | | | | | | | | |
| 01 25 008 | O | Temporary Gas Service | 0 | MO | \$ 1,000.00 | \$ - | | | | | | | | | |
| 01 25 010 | O | Temporary Water Service | 0 | LS | \$ 3,000.00 | \$ - | | | | | | | | | |
| 01 25 012 | O | Job Toilets | 16 | WK | \$ 120.00 | \$ 1,920.00 | | | | | | | | | |
| 01 25 014 | M | Ice & Water-Cups Etc | 6 | MO | \$ 65.00 | \$ 390.00 | | | | | | | | | |
| 01 25 016 | M | Job Communication Equip | | LS | | \$ - | | | | | | | | | |
| 01 25 018 | M | Pagers & Mobile Phone | 3 | MO | \$ 100.00 | \$ 300.00 | | | | | | | | | |
| 01 25 020 | S | Temporary Lighting | 0 | LS | \$ 15,000.00 | \$ - | | | | | | | | | |
| 01 30 000 | | Field Engineering | | | | \$ - | | | | | | | | | |
| 01 30 002 | O | Engineering Equipment | | LS | | \$ - | | | | | | | | | |
| 01 30 004 | O | Engineering Crew | 20 | HR | \$ 130.00 | \$ 2,600.00 | | | | | | | | | |
| 01 35 000 | | Equipment Rental | | | | \$ - | | | | | | | | | |
| 01 35 002 | O | Pick-Up Truck | 3 | MO | \$ 1,500.00 | \$ 4,500.00 | | | | | | | | | |
| 01 35 004 | O | Other Equipment | | LS | \$ 1,000.00 | \$ - | | | | | | | | | |
| 01 35 006 | O | Hoists & Cranes | | WK | | \$ - | | | | | | | | | |
| 01 35 008 | M | Small Tools | | LS | | \$ - | | | | | | | | | |
| 01 35 008 | O | Small Tools | | LS | | \$ - | | | | | | | | | |
| 01 35 010 | O | Tool Rental | | LS | | \$ - | | | | | | | | | |
| 01 35 012 | M | Gas & Oil | 3 | MO | \$ 2,500.00 | \$ 7,500.00 | | | | | | | | | |
| 01 40 000 | | Project Safety | | | | \$ - | | | | | | | | | |
| 01 40 002 | M | Safety Equipment & OSHA | 1 | LS | \$ 500.00 | \$ 500.00 | | | | | | | | | |
| 01 40 002 | O | Safety Equipment & OSHA | 0 | MO | \$ 1,350.00 | \$ - | | | | | | | | | |
| 01 40 004 | M | First Aid Supplies | 0 | LS | \$ 400.00 | \$ - | | | | | | | | | |
| 01 40 006 | M | Safety Signs | 0 | LS | \$ 2,500.00 | \$ - | | | | | | | | | |
| 01 40 008 | M | Fire Extinguishers-Safety | 0 | LS | \$ 10,000.00 | \$ - | | | | | | | | | |
| 01 45 000 | | Temporary Construction | | | | \$ - | | | | | | | | | |
| 01 45 002 | S | Temporary Partitions | | LS | | \$ - | | | | | | | | | |
| 01 45 004 | S | Temporary Roads maintenance | 0 | LS | \$ 50,000.00 | \$ - | | | | | | | | | |
| 01 45 006 | S | Tree Protection | | LS | | \$ - | | | | | | | | | |
| 01 45 008 | S | Barricades & Railings | | LS | | \$ - | | | | | | | | | |
| 01 45 012 | S | Horizontal Protection | | LS | | \$ - | | | | | | | | | |
| 01 45 014 | S | Covered Walkways | | LS | | \$ - | | | | | | | | | |
| 01 45 016 | S | Weather Conditions | | LS | | \$ - | | | | | | | | | |
| 01 45 018 | M | Temporary Heat | 0 | MO | \$ 15,000.00 | \$ - | | | | | | | | | |
| 01 45 018 | O | Temporary Heat | | MO | | \$ - | | | | | | | | | |
| 01 45 020 | S | Temporary Enclosures | | LS | | \$ - | | | | | | | | | |
| 01 45 022 | S | Snow Removal | 0 | LS | \$ 15,000.00 | \$ - | | | | | | | | | |
| 01 45 024 | O | Mucking & Dewatering | 0 | LS | \$ 1,500.00 | \$ - | | | | | | | | | |
| 01 50 002 | S | Daily Clean Up | | SF | | \$ - | | | | | | | | | |
| 01 50 004 | S | Final Clean Up | 0 | SF | \$ 0.10 | \$ - | | | | | | | | | |
| 01 50 006 | S | Site Clean Up | 0 | SF | \$ 0.12 | \$ - | | | | | | | | | |
| 01 50 008 | S | Glass Clean Up | | SF | | \$ - | | | | | | | | | |
| 01 50 010 | O | Dumpster Rental | 10 | EA | \$ 500.00 | \$ 5,000.00 | | | | | | | | | |
| 01 50 014 | S | Street Clean-Up | | LS | | \$ - | | | | | | | | | |
| 01 55 000 | | Testing & Inspections | | | | \$ - | | | | | | | | | |
| 01 55 002 | O | Soil Testing | 50 | HR | \$ 150.00 | \$ 7,500.00 | | | | | | | | | |
| 01 55 004 | O | Asphalt Testing | 35 | EA | \$ 150.00 | \$ 5,250.00 | | | | | | | | | |
| 01 55 006 | O | Concrete Testing | 35 | EA | \$ 250.00 | \$ 8,750.00 | | | | | | | | | |
| 01 55 008 | O | Floor Flatness/Levelness Testing | 0 | EA | \$ 1,000.00 | \$ - | | | | | | | | | |
| 01 55 010 | O | Steel Connections | 0 | HR | \$ 250.00 | \$ - | | | | | | | | | |
| 01 55 012 | O | Roof Inspections | 0 | HR | \$ 200.00 | \$ - | | | | | | | | | |
| 01 55 014 | O | Window System Testing/Fees | 0 | LS | \$ 10,000.00 | \$ - | | | | | | | | | |

Dillon Construction Group

| Project: Andretti Autosport - SITE | | File Location: | | | | | |
|-------------------------------------------|-------------------|-----------------------------------------|-----------|------|---------------|------------------|------------------------------|
| Location: Fishers, In | | Building Type: | | | | | |
| Estimate Date: 10/23/2022 | | | | | | | |
| COST CODE | Job Cost Category | DESCRIPTION | QUANTITY | UNIT | UNIT PRICE | GRAND TOTAL | NOTES |
| 01 60 000 | O | Design Fees | | | | | |
| 01 60 002 | O | Civil Design Fees | 1 | LS | \$ 45,000.00 | \$ 45,000.00 | TOTAL DES. FEES |
| 01 60 004 | O | Topographic Survey | 1 | LS | \$ 5,000.00 | \$ 5,000.00 | |
| 01 60 006 | O | Pre/Post ALTA Survey | 0 | LS | \$ 39,500.00 | \$ - | \$ 57,500.00 |
| 01 60 008 | O | Soil Borings | 1 | LS | \$ 500.00 | \$ 500.00 | |
| 01 60 010 | O | Environmental Engineering | 0 | LS | \$ 10,000.00 | \$ - | |
| 01 60 012 | O | Architectural CDs - Museum | 0 | LS | \$ - | \$ - | |
| 01 60 014 | O | Architectural CDS - Main Building | 0 | LS | \$ 920,000.00 | \$ - | |
| 01 60 016 | O | Architectural CD's - I1 | 0 | LS | \$ 100,000.00 | \$ - | |
| 01 60 018 | O | Interior Space Planning | 0 | LS | \$ - | \$ - | |
| 01 60 020 | O | Structural Frame Design Fees | 0 | LS | \$ 95,000.00 | \$ - | |
| 01 60 022 | O | Structural Foundation Fees | 0 | LS | \$ 6,000.00 | \$ - | |
| 01 60 024 | O | Mechanical Design Fees | 0 | LS | \$ 250,000.00 | \$ - | GENERAL CONDITIONS |
| 01 60 026 | O | Electrical Design Fees | 0 | LS | \$ 300,000.00 | \$ - | \$ 299,467.69 |
| 01 60 028 | O | Code Consultants | 0 | LS | \$ 10,000.00 | \$ - | |
| 01 60 030 | O | A&E Reimbursables | 1 | LS | \$ 2,000.00 | \$ 2,000.00 | |
| 01 60 032 | O | Blueprints/Printing Costs | 1 | LS | \$ 5,000.00 | \$ 5,000.00 | |
| 01 60 034 | O | Zoning Submittals | | LS | | | |
| 01 60 036 | O | Preliminary Engineering | | LS | | | 356,968 |
| 01 60 038 | O | Landscape Architect | | LS | | | |
| 01 60 040 | O | Traffic Impact Studies | | LS | | | |
| 01 60 042 | O | Wetlands Consultant | | LS | | | |
| 01 60 044 | O | Geotechnical Engineer | 0 | LS | \$ 25,000.00 | \$ - | |
| 01 60 046 | O | Archeological Studies | | LS | | | |
| 01 60 048 | O | Master Planning Fees | 0 | LS | \$ 50,000.00 | \$ - | |
| 01 60 050 | O | Unassigned Costs - Design Contingency | 1 | LS | \$ 5,000.00 | \$ 5,000.00 | |
| 01 20 003 | U | Office Trailer Security | 0 | MO | \$ 50.00 | \$ - | Cost Code Incomplete |
| Total Division 1 | | | | | | \$ 356,967.69 | \$ 0.61 /GSF |
| 02 00 000 | | SITWORK | | | | | |
| 02 05 000 | S | Demolition | | | | | |
| 02 05 002 | S | Site Demolition/Clearing | | LS | \$ 2,000.00 | \$ - | |
| 02 05 004 | S | Building Demolition | 5,000 | SF | \$ 5.00 | \$ 25,000.00 | |
| 02 05 006 | S | Interiors Demolition | | SF | | \$ - | |
| 02 05 008 | S | Haul Off Demo | | LS | | \$ - | |
| 02 10 000 | S | Soil Treatment | | | | \$ - | |
| 02 10 002 | S | Termite Control | | SY | | \$ - | |
| 02 10 004 | S | Wetland Mitigation/Delineation | | LS | | \$ - | |
| 02 10 006 | S | Archeological Mitigation | | LS | | \$ - | |
| 02 10 008 | S | Environmental Remediation | | LS | | \$ - | |
| 02 15 000 | S | Earthwork | | | | | |
| 02 15 001 | S | Clearing | 98 | AC | \$ 1,000.00 | \$ 98,000.00 | |
| 02 15 002 | S | Mass Earthwork | 224,400 | CY | \$ 4.00 | \$ 897,600.00 | |
| 02 15 002 | S | Strp Topsoil | 146,813 | CY | \$ 1.00 | \$ 146,813.00 | |
| 02 15 002 | S | Replace Topsoil | 73,407 | CY | \$ 2.50 | \$ 183,516.25 | EARTHWORK |
| 02 15 002 | S | Finish Grade | 3,963,960 | SF | \$ 0.15 | \$ 594,594.00 | \$ 2,643,023.25 \$ 29,044.21 |
| 02 15 004 | S | Lime Stabilization - Building pad | 0 | LOT | \$ 750,000.00 | \$ - | \$ 1,250,000.00 |
| 02 15 005 | S | Lime Stabilization Roadways | 1 | LOT | \$ 500,000.00 | \$ 500,000.00 | |
| 02 15 006 | S | Unsuitable Soil Conditions/Undercutting | 0 | LS | \$ 5,000.00 | \$ - | \$ 1,393,023.25 |
| 02 15 008 | S | Silt Fence & Erosion Control | 14,000 | LF | \$ 2.50 | \$ 35,000.00 | |
| 02 15 008 | S | Inlet protection | 100 | EA | \$ 250.00 | \$ 25,000.00 | \$ 2,279,943.00 |
| 02 15 008 | S | Construction Parking /Laydown area | 0 | LS | \$ 500,000.00 | \$ - | \$ (886,919.75) |
| 02 15 008 | S | Concrete washout | 0 | LS | \$ 2,500.00 | \$ - | |
| 02 15 008 | S | Temp seed and straw | 250,000 | SY | \$ 0.50 | \$ 125,000.00 | \$ 277,352.00 |
| 02 15 008 | S | Erosion Control Blanket | 15,000 | SY | \$ 2.50 | \$ 37,500.00 | |
| 02 15 010 | S | Site Detention | | LS | | \$ - | |
| 02 15 012 | S | Embankment | | LS | | \$ - | |
| 02 20 000 | S | Asphalt | | | | | |
| 02 20 002 | S | Asphalt Paving | | SY | | \$ - | |
| 02 20 002 | S | Heavy Duty Asphalt w/stone base | 39,080 | SY | \$ 65.00 | \$ 2,540,200.00 | |
| 02 20 002 | S | Light Duty Asphalt w/stone base | 0 | SY | \$ 45.00 | \$ - | |
| 02 20 004 | S | Striping | 642 | EA | \$ 20.00 | \$ 12,840.00 | PARKING LOTS |
| 02 20 006 | S | Extruded Concrete Curbing | 0 | LF | \$ 26.00 | \$ - | \$ 2,556,540.00 \$ 3,982.15 |
| 02 20 008 | S | Concrete Parking Bumpers | 100 | EA | \$ 35.00 | \$ 3,500.00 | |
| 02 20 010 | S | Signage | 0 | LS | \$ 10,000.00 | \$ - | PATHWAYS |
| 02 20 012 | S | Asphalt Paths | 4,300 | LF | \$ 25.00 | \$ 107,500.00 | \$ 107,500.00 |
| 02 20 014 | S | Roadway & Street Improvements | 0 | LF | \$ 20.00 | \$ - | ROADWAYS |
| 02 20 014 | S | Roundabouts | 2 | EA | \$ 100,000.00 | \$ 200,000.00 | |
| 02 20 016 | S | Roadways curbs | 19,600 | LF | \$ 22.00 | \$ 431,200.00 | \$ 3,652,200 \$ 372.67 |
| 02 25 000 | S | Site Utilities | | | | | |
| 02 25 002 | S | Site Water | 6,800 | LF | \$ 100.00 | \$ 680,000.00 | WATER |
| 02 25 004 | S | Site Sanitary Sewer | 0 | LF | \$ 35.00 | \$ - | \$ 1,301,000.00 |
| 02 25 006 | S | Fire Main | 6,800 | LF | \$ 75.00 | \$ 510,000.00 | |
| 02 25 006 | S | Fire Hydrants | 70 | EA | \$ 1,500.00 | \$ 105,000.00 | |
| 02 25 006 | S | Post Indicator Valves | 4 | EA | \$ 1,500.00 | \$ 6,000.00 | |
| 02 25 008 | S | Underground Conduits | 6,800 | LF | \$ 25.00 | \$ 170,000.00 | |
| 02 25 010 | S | Utility Relocation | 0 | LS | | \$ - | |
| 02 25 012 | S | Primary Electrical Line | 0 | LS | \$ 250,000.00 | \$ - | |
| 02 25 014 | S | Gas Main | 0 | LF | \$ 250,000.00 | \$ - | |
| 02 25 016 | S | Street Boring | 1 | LS | \$ 50,000.00 | \$ 50,000.00 | |
| 02 25 018 | S | Site Lighting Systems | 68 | EA | \$ 10,000.00 | \$ 680,000.00 | |
| 02 25 020 | S | Sanitary Lift Station | 0 | LS | | \$ - | |
| 02 25 022 | S | Sanitary Forced Main | 0 | LF | | \$ - | |
| 02 30 000 | S | Storm Sewer | 0 | | | \$ - | STORM |
| 02 30 002 | S | Storm HDPE Drainage Pipe | 0 | LF | \$ 76.00 | \$ - | |
| 02 30 003 | S | Storm Sewer RCP PIPE | 12,804 | LF | \$ 100.00 | \$ 1,280,400.00 | |
| 02 30 010 | S | Bedding and backfill | 12,804 | LF | \$ 50.00 | \$ 640,200.00 | |
| 02 30 004 | S | Storm Drainage Structures | 80 | EA | \$ 5,000.00 | \$ 400,000.00 | \$ 2,790,600.00 #DIV/0! |
| 02 30 006 | S | Paved Concrete Ditch | 0 | LF | \$ 24.00 | \$ - | |
| 02 30 007 | S | Aqua Swirl | 5 | EA | \$ 75,000.00 | \$ 375,000.00 | |
| 02 30 008 | S | Rip Rap | 1 | LS | \$ 25,000.00 | \$ 25,000.00 | Total Site Utilities |
| 02 30 010 | S | Headwalls | 14 | EA | \$ 5,000.00 | \$ 70,000.00 | \$ 4,991,600 |
| 02 35 000 | S | Site Improvements | | | | | |
| 02 35 002 | S | Fencing & Gates | 0 | LF | \$ 100.00 | \$ - | |
| 02 35 004 | S | Guard House | 0 | LS | \$ 25,000.00 | \$ - | |
| 02 35 006 | S | Dock Steps | | EA | \$ 2,250.00 | \$ - | |
| 02 35 006 | P | Amphitheatre | 0 | LS | \$ 100,000.00 | \$ - | |
| 02 35 006 | M | Dock Steps | | LS | | \$ - | |
| 02 35 008 | S | Site Signage | 1 | LS | \$ 25,000.00 | \$ 25,000.00 | |
| 02 35 010 | S | Highway Guardrails | | LF | | \$ - | |
| 02 35 012 | S | Retaining walls | | LF | | \$ - | |
| 02 35 014 | S | Dumpster Enclosure | | LS | | \$ - | |
| 02 35 016 | P | Property Fixturing | | LS | | \$ - | |
| 02 35 018 | S | Monument Signage | 0 | LS | \$ 100,000.00 | \$ - | |
| 02 40 000 | S | Landscaping | | | | | |
| 02 40 002 | S | Seeding | 3,963,960 | LS | \$ 0.05 | \$ 198,198.00 | |
| 02 40 006 | S | Sod | | LS | | \$ - | |
| 02 40 008 | S | Plantings | 1 | LS | \$ 250,000.00 | \$ 250,000.00 | |
| 02 40 010 | S | Irrigation | 1 | LS | \$ 50,000.00 | \$ 50,000.00 | |
| 02 40 012 | S | Tree Mitigation | | LS | | \$ - | |
| 02 45 000 | S | Railroad Work | | | | | |
| 02 45 002 | S | Railroad Spur & Switch | | LF | | \$ - | |
| 02 50 000 | S | Traffic Signalization | | | | | |
| 02 50 002 | S | Traffic Signals | | EA | | \$ - | |
| 02 50 004 | S | Water Feature at Museum | 0 | LS | \$ 500,000.00 | \$ - | |
| 02 25 026 | S | Street Boring - Water Main | | LS | \$ 6,000.00 | \$ - | |
| 02 30 012 | S | French drain | | LF | \$ 5.00 | \$ - | |
| Total Division 2 | | | | | | \$ 11,478,061.25 | \$ 19.77 /GSF site allowance |

Dillon Construction Group

| | | | |
|---------------------------------------------|----------|------------------------|--------------------------------|
| Project: Andretti Autosport - SITE | | File Location: | |
| Location: Fishers, in | | Building Type: | |
| Estimate Date: 10/23/2022 | | | |
| COST CODE | Job Cost | | |
| CSI Task Item | Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE |
| | | | GRAND TOTAL NOTES |
| CONCRETE | | | |
| 03 00 000 | | Site Concrete | |
| 03 05 000 | | Sidewalk | SF |
| 03 05 004 | C | Sidewalk | 13.300 SF \$ 10.00 |
| Total Division 13 | | | \$ 133,000.00 |
| CONTINGENCY | | | |
| 17 00 000 | | Project Contingency | |
| 17 05 000 | | Project Contingency | 1 LS \$ 500,000.00 |
| 17 05 002 | O | Project Contingency | |
| Total Division 17 | | | \$ 500,000.00 \$ 0.86 /GSF |
| | | | TOTAL COST 12,468,029 |
| OVERHEAD & FEE | | | |
| 18 00 000 | | Project Overhead & Fee | |
| 18 05 000 | | Project Overhead & Fee | 12,468,029 PCT 5.5% |
| 18 05 002 | O | Project Overhead & Fee | |
| Total Division 18 | | | \$ 685,741.59 \$ 1.18 /GSF |
| Project Totals | | | \$ 13,153,770.53 \$ 22.65 /GSF |
| SPACE BELOW ALLOCATED FOR ADDITIONAL ITEMS: | | | |

Dillon Construction Group

| Project: | | Andretti Autosport - BUILDING | | File Location: | | | | | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------------------------------------|----------------------|----------------|---------------|-------------------------|----------------|-----|-------------------|----|----|--|--|--|--|--|
| Location: | | Fishers, In | | Building Type: | | | | | | | | | | | | |
| Estimate Date: | | 10/23/2022 | | | | | | | | | | | | | | |
| COST CODE | Job Cost | DESCRIPTION | QUANTITY | UNIT | UNIT PRICE | GRAND TOTAL | NOTES | | | | | | | | | |
| CSI Task Item | Category | | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td>Gross Building Size:</td> <td>580,614</td> <td>GSF</td> </tr> <tr> <td>Rentable Building Size:</td> <td>580,614</td> <td>RSF</td> </tr> <tr> <td>Project Duration:</td> <td>24</td> <td>MO</td> </tr> </table> | | | Gross Building Size: | 580,614 | GSF | Rentable Building Size: | 580,614 | RSF | Project Duration: | 24 | MO | | | | | |
| Gross Building Size: | 580,614 | GSF | | | | | | | | | | | | | | |
| Rentable Building Size: | 580,614 | RSF | | | | | | | | | | | | | | |
| Project Duration: | 24 | MO | | | | | | | | | | | | | | |
| 01 00 000 | | GENERAL CONDITIONS | | | | | | | | | | | | | | |
| 01 05 000 | | Permits/Insurance/Fees | | | | | | | | | | | | | | |
| | | State CDR - FIVE site/fdn/struc/MEP/final | 1 | | \$ 50,000.00 | \$ 50,000.00 | | | | | | | | | | |
| | | State CDR - EXPEDITE | 1 | | \$ 50,000.00 | \$ 50,000.00 | | | | | | | | | | |
| 01 05 002 | O | Building Permit | 0 | SF | \$ 0.15 | \$ - | | | | | | | | | | |
| 01 05 004 | O | Permit Services | | | | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 006 | O | Business License | | | | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 008 | O | Zoning Permit | 0 | LS | \$ 1,500.00 | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 010 | O | Tap Fees | 0 | SF | \$ 50,000.00 | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 012 | O | Impact/Capacity Fees | 0 | AC | \$ 1,200.00 | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 014 | O | Certificate of Occupancy | | | | \$ - | WAIVED BY CITY | | | | | | | | | |
| 01 05 016 | O | Bond Fees | | | | \$ - | | | | | | | | | | |
| 01 10 002 | O | Liability Insurance | 1 | LS | \$ 850,000.00 | \$ 782,500.00 | | | | | | | | | | |
| 01 10 004 | O | Builders Risk | 1 | LS | \$ 25,000.00 | \$ 25,000.00 | | | | | | | | | | |
| 01 10 006 | O | Additional Insurance | | | | \$ - | | | | | | | | | | |
| 01 10 008 | O | Legal Fees | 1 | LS | \$ 25,000.00 | \$ 20,000.00 | | | | | | | | | | |
| 01 10 010 | O | Brokerage/Realtor Fees | | | | \$ - | | | | | | | | | | |
| 01 15 000 | | Supervision | | | | \$ - | | | | | | | | | | |
| 01 15 002 | L | superintendent | 102 | WK | \$ 3,894.23 | \$ 350,480.77 | | | | | | | | | | |
| 01 15 004 | L | Asst. Superintendent | 0 | WK | | \$ - | | | | | | | | | | |
| 01 15 006 | L | Office Engineer | | | | \$ - | | | | | | | | | | |
| 01 15 008 | L | Field Engineer | 102 | WK | \$ 2,920.67 | \$ 262,860.57 | | | | | | | | | | |
| 01 15 010 | L | Project Manager | 102 | WK | \$ 3,894.23 | \$ 350,480.77 | | | | | | | | | | |
| 01 15 012 | L | Assistant Project Manager | | | | \$ - | | | | | | | | | | |
| 01 15 014 | L | Administrative Asst. | 102 | WK | \$ 2,920.67 | \$ 262,860.57 | | | | | | | | | | |
| 01 15 016 | O | Out-of-town Expense | | | | \$ - | | | | | | | | | | |
| 01 15 018 | O | Travel and Entertainment | 1 | LS | \$ 25,000.00 | \$ 25,000.00 | | | | | | | | | | |
| 01 20 000 | | Temporary Facilities | | | | \$ - | | | | | | | | | | |
| 01 20 002 | O | Office Trailer - REMODEL BULDG | 1 | LS | \$ 150,000.00 | \$ 150,000.00 | | | | | | | | | | |
| 01 20 004 | O | PROCORE SOFTWARE | 24 | MO | \$ 7,500.00 | \$ 172,500.00 | | | | | | | | | | |
| 01 20 006 | M | Office Supplies | 24 | MO | \$ 500.00 | \$ 11,500.00 | | | | | | | | | | |
| 01 20 006 | O | Office Supplies | | | | \$ - | | | | | | | | | | |
| 01 20 008 | O | Postage & Overnite Delivery | 1 | LS | \$ 2,300.00 | \$ 2,300.00 | | | | | | | | | | |
| 01 20 010 | M | Office Furniture & Equip. | 1 | LS | \$ 25,000.00 | \$ 25,000.00 | | | | | | | | | | |
| 01 20 010 | O | Office Furniture & Equip. | | | | \$ - | | | | | | | | | | |
| 01 20 012 | O | Mobilize / Demobilize | | | | \$ - | | | | | | | | | | |
| 01 20 014 | O | Set-up Inside Building | 1 | LS | \$ 15,000.00 | \$ 15,000.00 | | | | | | | | | | |
| 01 20 016 | M | Project Sign | | | | \$ - | | | | | | | | | | |
| 01 20 016 | S | Project Sign @ TWO ENTRIES | 1 | LS | \$ 10,000.00 | \$ 10,000.00 | | | | | | | | | | |
| 01 20 018 | M | Drawings & Blueprints | 1 | LS | \$ 10,000.00 | \$ 9,500.00 | | | | | | | | | | |
| 01 20 020 | M | Construction Fence | 4,500 | LF | \$ 20.00 | \$ 90,000.00 | | | | | | | | | | |
| 01 20 020 | O | Job Photos | 24 | MO | \$ 1,000.00 | \$ 23,500.00 | | | | | | | | | | |
| 01 20 022 | O | Construction Parking | 1 | LS | \$ 35,000.00 | \$ 30,000.00 | | | | | | | | | | |
| 01 20 024 | S | Security Guard | 24 | WK | \$ 3,000.00 | \$ 72,000.00 | | | | | | | | | | |
| 01 25 000 | | Temporary Utilities | | | | \$ - | | | | | | | | | | |
| 01 25 002 | O | Phone Service-Field Office | 102 | WK | \$ 150.00 | \$ 15,300.00 | | | | | | | | | | |
| 01 25 004 | O | Power-Field Office | 102 | WK | \$ 300.00 | \$ 30,600.00 | | | | | | | | | | |
| 01 25 006 | O | Power-Temp for Building | 1 | LS | \$ 35,000.00 | \$ 35,000.00 | | | | | | | | | | |
| 01 25 008 | O | Temporary Gas Service | 24 | MO | \$ 1,000.00 | \$ 24,000.00 | | | | | | | | | | |
| 01 25 010 | O | Temporary Water Service | 1 | LS | \$ 3,000.00 | \$ 3,000.00 | | | | | | | | | | |
| 01 25 012 | O | Job Toilets | 102 | WK | \$ 120.00 | \$ 10,320.00 | | | | | | | | | | |
| 01 25 014 | M | Ice & Water-Cups Etc | 24 | MO | \$ 65.00 | \$ 1,170.00 | | | | | | | | | | |
| 01 25 016 | M | Job Communication Equip | | | | \$ - | | | | | | | | | | |
| 01 25 018 | M | Pagers & Mobile Phone | 72 | MO | \$ 100.00 | \$ 6,900.00 | | | | | | | | | | |
| 01 25 020 | S | Temporary Lighting | 1 | LS | \$ 15,000.00 | \$ 15,000.00 | | | | | | | | | | |
| 01 30 000 | | Field Engineering | | | | \$ - | | | | | | | | | | |
| 01 30 002 | O | Engineering Equipment | | | | \$ - | | | | | | | | | | |
| 01 30 004 | O | Engineering Crew | 200 | HR | \$ 130.00 | \$ 23,400.00 | | | | | | | | | | |
| 01 35 000 | | Equipment Rental | | | | \$ - | | | | | | | | | | |
| 01 35 002 | O | Pick-Up Truck | 72 | MO | \$ 1,500.00 | \$ 103,500.00 | | | | | | | | | | |
| 01 35 004 | O | Other Equipment | | | | \$ - | Light Towers | | | | | | | | | |
| 01 35 006 | O | Hoists & Cranes | | | | \$ - | | | | | | | | | | |
| 01 35 008 | M | Small Tools | | | | \$ - | | | | | | | | | | |
| 01 35 008 | O | Small Tools | | | | \$ - | | | | | | | | | | |
| 01 35 010 | O | Tool Rental | | | | \$ - | | | | | | | | | | |
| 01 35 012 | M | Gas & Oil | 24 | MO | \$ 2,500.00 | \$ 52,500.00 | | | | | | | | | | |
| 01 40 000 | | Project Safety | | | | \$ - | | | | | | | | | | |
| 01 40 002 | M | Safety Equipment & OSHA | 1 | LS | \$ 25,000.00 | \$ 24,500.00 | | | | | | | | | | |
| 01 40 002 | O | Safety Equipment & OSHA | 24 | MO | \$ 1,350.00 | \$ 32,400.00 | | | | | | | | | | |
| 01 40 004 | M | First Aid Supplies | 1 | LS | \$ 400.00 | \$ 400.00 | | | | | | | | | | |
| 01 40 006 | M | Safety Signs | 1 | LS | \$ 2,500.00 | \$ 2,500.00 | | | | | | | | | | |
| 01 40 008 | M | Fire Extinguishers-Safety | 1 | LS | \$ 10,000.00 | \$ 10,000.00 | | | | | | | | | | |
| 01 45 000 | | Temporary Construction | | | | \$ - | | | | | | | | | | |
| 01 45 002 | S | Temporary Partitions | | | | \$ - | | | | | | | | | | |
| 01 45 004 | S | Temporary Roads maintenance | 1 | LS | \$ 50,000.00 | \$ 50,000.00 | | | | | | | | | | |
| 01 45 006 | S | Tree Protection | | | | \$ - | | | | | | | | | | |
| 01 45 008 | S | Barricades & Railings | | | | \$ - | | | | | | | | | | |
| 01 45 012 | S | Horizontal Protection | | | | \$ - | | | | | | | | | | |
| 01 45 014 | S | Covered Walkways | | | | \$ - | | | | | | | | | | |
| 01 45 016 | S | Weather Conditions | | | | \$ - | | | | | | | | | | |
| 01 45 018 | M | Temporary Heat | 5 | MO | \$ 15,000.00 | \$ 75,000.00 | | | | | | | | | | |
| 01 45 018 | O | Temporary Heat | | | | \$ - | | | | | | | | | | |
| 01 45 020 | S | Temporary Enclosures | | | | \$ - | | | | | | | | | | |
| 01 45 022 | S | Snow Removal | 1 | LS | \$ 15,000.00 | \$ 15,000.00 | | | | | | | | | | |
| 01 45 024 | O | Mucking & Dewatering | 1 | LS | \$ 1,500.00 | \$ 1,500.00 | | | | | | | | | | |
| 01 50 002 | S | Daily Clean Up | | | | \$ - | | | | | | | | | | |
| 01 50 004 | S | Final Clean Up | 580,614 | SF | \$ 0.10 | \$ 58,061.40 | | | | | | | | | | |
| 01 50 006 | S | Site Clean Up | 580,614 | SF | \$ 0.12 | \$ 69,673.68 | | | | | | | | | | |
| 01 50 008 | S | Glass Clean Up | | | | \$ - | | | | | | | | | | |
| 01 50 010 | O | Dumpster Rental | 360 | EA | \$ 500.00 | \$ 175,000.00 | | | | | | | | | | |
| 01 50 014 | S | Street Clean-Up | | | | \$ - | | | | | | | | | | |
| 01 55 000 | | Testing & Inspections | | | | \$ - | | | | | | | | | | |
| 01 55 002 | O | Soil Testing | 300 | HR | \$ 150.00 | \$ 37,500.00 | | | | | | | | | | |
| 01 55 004 | O | Asphalt Testing | 50 | EA | \$ 150.00 | \$ 2,250.00 | | | | | | | | | | |
| 01 55 006 | O | Concrete Testing | 365 | EA | \$ 250.00 | \$ 82,500.00 | | | | | | | | | | |
| 01 55 008 | O | Floor Flatness/Levelness Testing | 15 | EA | \$ 1,000.00 | \$ 15,000.00 | | | | | | | | | | |
| 01 55 010 | O | Steel Connections | 120 | HR | \$ 250.00 | \$ 30,000.00 | | | | | | | | | | |
| 01 55 012 | O | Roof Inspections | 25 | HR | \$ 200.00 | \$ 5,000.00 | | | | | | | | | | |
| 01 55 014 | O | Window System Testing/Fees | 1 | LS | \$ 10,000.00 | \$ 10,000.00 | | | | | | | | | | |

Dillon Construction Group

| Project: Andretti Autosport - BUILDING | | File Location: | | | |
|-----------------------------------------------|-------------------|-----------------------------------------|----------------------------------|-----------------|------------------------------|
| Location: Fishers, in | | Building Type: | | | |
| Estimate Date: 10/23/2022 | | | | | |
| COST CODE | Job Cost Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE | GRAND TOTAL | NOTES |
| 01 60 000 | | Design Fees | | | |
| 01 60 002 | O | Civil Design Fees | 1 LS \$ 75,000.00 | \$ 30,000.00 | TOTAL DES FEES |
| 01 60 004 | O | Topographic Survey | 1 LS \$ 15,000.00 | \$ 10,000.00 | |
| 01 60 006 | O | Pre/Post ALTA Survey | 1 LS \$ 39,500.00 | \$ 39,500.00 | \$ 1,755,600.00 |
| 01 60 008 | O | Soil Borings | 1 LS \$ 3,600.00 | \$ 3,100.00 | |
| 01 60 010 | O | Environmental Engineering | 1 LS \$ 10,000.00 | \$ 10,000.00 | |
| 01 60 012 | O | Architectural CDs - Museum | 1 LS \$ 750,000.00 | \$ 750,000.00 | |
| 01 60 014 | O | Architectural CDS - Main Building | 1 LS \$ 920,000.00 | \$ 920,000.00 | |
| 01 60 016 | O | Architectural CD's - f1 | 1 LS \$ 100,000.00 | \$ 100,000.00 | |
| 01 60 018 | O | Interior Space Planning | Included w/Arch LS \$ - | | |
| 01 60 020 | O | Structural Frame Design Fees | 1 LS \$ 95,000.00 | \$ 95,000.00 | |
| 01 60 022 | O | Structural Foundation Fees | Included w/Struc. LS \$ 6,000.00 | | |
| 01 60 024 | O | Mechanical Design Fees | 1 LS \$ 250,000.00 | \$ 250,000.00 | GENERAL CONDITIONS |
| 01 60 026 | O | Electrical Design Fees | 1 LS \$ 300,000.00 | \$ 300,000.00 | \$ 4,153,657.76 |
| 01 60 028 | O | Code Consultants | 1 LS \$ 10,000.00 | \$ 10,000.00 | |
| 01 60 030 | O | A&E Reimbursables | 1 LS \$ 20,000.00 | \$ 18,000.00 | |
| 01 60 032 | O | Blueprints/Printing Costs | 1 LS \$ 50,000.00 | \$ 45,000.00 | |
| 01 60 034 | O | Zoning Submittals | 1 LS \$ - | \$ - | 5,909,258 |
| 01 60 036 | O | Preliminary Engineering | 1 LS \$ - | \$ - | |
| 01 60 038 | O | Landscape Architect | In civil LS \$ - | | |
| 01 60 040 | O | Traffic Impact Studies | 1 LS \$ - | \$ - | |
| 01 60 042 | O | Wetlands Consultant | 1 LS \$ - | \$ - | |
| 01 60 044 | O | Geotechnical Engineer | 1 LS \$ 25,000.00 | \$ 25,000.00 | |
| 01 60 046 | O | Archeological Studies | 1 LS \$ - | \$ - | |
| 01 60 048 | O | Master Planning Fees | 1 LS \$ 50,000.00 | \$ 50,000.00 | |
| 01 60 050 | O | Unassigned Costs - Design Contingency | 1 LS \$ 50,000.00 | \$ 45,000.00 | |
| 01 20 003 | U | Office Trailer Security | 24 MO \$ 50.00 | \$ 1,200.00 | |
| Total Division 1 | | | | \$ 5,909,257.76 | \$ 10.18 /GSF |
| 02 00 000 | | SITWORK | | | |
| 02 05 000 | | Demolition | | | |
| 02 05 002 | S | Site Demolition/Clearing | LS \$ 2,000.00 | \$ - | |
| 02 05 004 | S | Building Demolition | SF \$ 5.00 | \$ - | |
| 02 05 006 | S | Interiors Demolition | SF \$ - | \$ - | |
| 02 05 008 | S | Haul Off Demo | LS \$ - | \$ - | |
| 02 10 000 | | Soil Treatment | | | |
| 02 10 002 | S | Termite Control | SY \$ - | \$ - | |
| 02 10 004 | S | Wetland Mitigation/Delineation | LS \$ - | \$ - | |
| 02 10 006 | S | Archeological Mitigation | LS \$ - | \$ - | |
| 02 10 008 | S | Environmental Remediation | LS \$ - | \$ - | |
| 02 15 000 | | Earthwork | | | |
| 02 15 001 | S | Clearing | 0 AC \$ 1,000.00 | \$ - | |
| 02 15 002 | S | Mass Earthwork | 66,000 CY \$ 4.00 | \$ 264,000.00 | |
| 02 15 002 | S | Strip Topsoil | 14,500 CY \$ 1.00 | \$ 14,500.00 | |
| 02 15 002 | S | Replace Topsoil | 7,250 CY \$ 2.50 | \$ 18,125.00 | EARTHWORK |
| 02 15 002 | S | Finish Grade | 500,000 SF \$ 0.15 | \$ 75,000.00 | \$ 1,646,347.00 \$ 18,091.73 |
| 02 15 004 | S | Lime Stabilization - Building pad | 1 LOT \$ 750,000.00 | \$ 750,000.00 | \$ 1,250,000.00 |
| 02 15 005 | S | Lime Stabilization Roadways | 0 LOT \$ 500,000.00 | \$ - | |
| 02 15 006 | S | Unsuitable Soil Conditions/Undercutting | 0 LS \$ 5,000.00 | \$ - | \$ 396,347.00 |
| 02 15 008 | S | Silt Fence & Erosion Control | 0 LF \$ 2.50 | \$ - | |
| 02 15 008 | S | Inlet protection | 0 EA \$ 250.00 | \$ - | \$ 2,279,943.00 |
| 02 15 008 | S | Construction Parking /Laydown area | 1 LS \$ 500,000.00 | \$ 500,000.00 | \$ (1,883,596.00) |
| 02 15 008 | S | Concrete washout | 1 LS \$ 2,500.00 | \$ 2,500.00 | |
| 02 15 008 | S | Temp seed and straw | 44,444 SY \$ 0.50 | \$ 22,222.00 | \$ 277,352.00 |
| 02 15 008 | S | Erosion Control Blanket | 0 SY \$ 2.50 | \$ - | |
| 02 15 010 | S | Site Detention | LS \$ - | \$ - | |
| 02 15 012 | S | Embankment | LS \$ - | \$ - | |
| 02 20 000 | | Asphalt | | | |
| 02 20 002 | S | Asphalt Paving | SY \$ - | \$ - | |
| 02 20 002 | S | Heavy Duty Asphalt w/stone base | 3,920 SY \$ 65.00 | \$ 254,800.00 | |
| 02 20 002 | S | Light Duty Asphalt w/stone base | 43,000 SY \$ 45.00 | \$ 1,935,000.00 | |
| 02 20 004 | S | Striping | 860 EA \$ 20.00 | \$ 17,200.00 | PARKING LOTS |
| 02 20 006 | S | Extruded Concrete Curbing | 1,000 LF \$ 26.00 | \$ 26,000.00 | \$ 2,257,000.00 \$ 2,624.42 |
| 02 20 008 | S | Concrete Parking Bumpers | 400 EA \$ 35.00 | \$ 14,000.00 | |
| 02 20 010 | S | Signage | 1 LS \$ 10,000.00 | \$ 10,000.00 | PATHWAYS |
| 02 20 012 | S | Asphalt Paths | 0 LF \$ 25.00 | \$ - | |
| 02 20 014 | S | Roadway & Street Improvements | 0 LF \$ 20.00 | \$ - | |
| 02 20 014 | S | Roundabouts | 0 EA \$ 100,000.00 | \$ - | ROADWAYS |
| 02 20 016 | S | Roadways curbs | 0 LF \$ 22.00 | \$ - | \$ 604,000 \$ 61.63 |
| 02 25 000 | | Site Utilities | | | |
| 02 25 002 | S | Site Water | 0 LF \$ 100.00 | \$ - | WATER |
| 02 25 004 | S | Site Sanitary Sewer | 0 LF \$ 35.00 | \$ - | |
| 02 25 006 | S | Fire Main | 0 LF \$ 75.00 | \$ - | |
| 02 25 006 | S | A Fire Hydrants | 0 EA \$ 1,500.00 | \$ - | |
| 02 25 006 | S | B Post Indicator Valves | 0 EA \$ 1,500.00 | \$ - | |
| 02 25 008 | S | Underground Conduits | 0 LF \$ 25.00 | \$ - | |
| 02 25 010 | S | Utility Relocation | 0 LS \$ - | \$ - | |
| 02 25 012 | S | Primary Electrical Line | 0 LS \$ 250,000.00 | \$ - | |
| 02 25 014 | S | Gas Main | 0 LF \$ 250,000.00 | \$ - | |
| 02 25 016 | S | Street Boring | 0 LS \$ 50,000.00 | \$ - | |
| 02 25 018 | S | Site Lighting Systems | 0 EA \$ 10,000.00 | \$ - | |
| 02 25 020 | S | Sanitary Lift Station | 0 LS \$ - | \$ - | |
| 02 25 022 | S | Sanitary Forced Main | 0 LF \$ - | \$ - | |
| 02 30 000 | | Storm Sewer | | | |
| 02 30 002 | S | Storm HDPE Drainage Pipe | 4,000 LF \$ 76.00 | \$ 304,000.00 | STORM |
| 02 30 003 | S | Storm Sewer RCP PIPE | 0 LF \$ 100.00 | \$ - | |
| 02 30 010 | S | Bedding and backfill | 4,000 LF \$ 50.00 | \$ 200,000.00 | |
| 02 30 004 | S | Storm Drainage Structures | 0 EA \$ 5,000.00 | \$ - | \$ 504,000.00 \$ 126.00 |
| 02 30 006 | S | Paved Concrete Ditch | 0 LF \$ 24.00 | \$ - | |
| 02 30 007 | S | Aqua Swirl | 0 EA \$ 75,000.00 | \$ - | |
| 02 30 008 | S | Rip Rap | 0 LS \$ 25,000.00 | \$ - | Total Site Utilities |
| 02 30 010 | S | Headwalls | 0 EA \$ 5,000.00 | \$ - | \$ 504,000 |
| 02 35 000 | | Site Improvements | | | |
| 02 35 002 | S | Fencing & Gates | 2,000 LF \$ 100.00 | \$ 200,000.00 | |
| 02 35 004 | S | Guard House | 1 LS \$ 25,000.00 | \$ 25,000.00 | |
| 02 35 006 | S | Dock Steps | EA \$ 2,250.00 | \$ - | |
| 02 35 006 | P | Amphitheatre | 0 LS \$ 100,000.00 | \$ - | |
| 02 35 006 | M | Dock Steps | LS \$ - | \$ - | |
| 02 35 008 | S | Site Signage | 0 LS \$ 25,000.00 | \$ - | |
| 02 35 010 | S | Highway Guardrails | LF \$ - | \$ - | |
| 02 35 012 | S | Retaining walls | LF \$ - | \$ - | |
| 02 35 014 | S | Dumpster Enclosure | LS \$ - | \$ - | |
| 02 35 016 | P | Property Fixturing | LS \$ - | \$ - | |
| 02 35 018 | S | Monument Signage | 1 LS \$ 100,000.00 | \$ 100,000.00 | |
| 02 40 000 | | Landscaping | | | |
| 02 40 002 | S | Seeding | 3,383,346 LS \$ 0.05 | \$ 169,167.30 | |
| 02 40 006 | S | Sod | LS \$ - | \$ - | |
| 02 40 008 | S | Plantings | 1 LS \$ 250,000.00 | \$ 250,000.00 | |
| 02 40 010 | S | Irrigation | 1 LS \$ 100,000.00 | \$ 100,000.00 | |
| 02 40 012 | S | Tree Mitigation | LS \$ - | \$ - | |
| 02 45 000 | | Railroad Work | | | |
| 02 45 002 | S | Railroad Spur & Switch | LF \$ - | \$ - | |
| 02 50 000 | | Traffic Signalization | | | |
| 02 50 002 | S | Traffic Signals | EA \$ - | \$ - | |
| 02 50 004 | S | Water Feature at Museum | 1 LS \$ 500,000.00 | \$ 500,000.00 | |
| 02 25 026 | S | Street Boring - Water Main | LS \$ 6,000.00 | \$ - | |
| 02 30 012 | S | French drain | LF \$ 5.00 | \$ - | |
| Total Division 2 | | | | \$ 5,751,514.30 | \$ 9.91 /GSF site allowance |

Dillon Construction Group

| Project: Andretti Autosport - BUILDING | | File Location: | | |
|-----------------------------------------------|----------|----------------------------------|--------------------------|--------------------------------|
| Location: Fishers, In | | Building Type: | | |
| Estimate Date: 10/23/2022 | | | | |
| COST CODE | Job Cost | | | |
| CSI Task Item | Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE | |
| | | | GRAND TOTAL | NOTES |
| CONCRETE | | | | |
| 03 05 000 | | Site Concrete | | |
| 03 05 002 | C | Horizontal Concrete Paving | SF | \$ - |
| 03 05 002 | S | Truck dock area | 67,500 SF | \$ 13.00 |
| 03 05 004 | C | Sidewalk | SF | \$ - |
| 03 05 004 | S | Sidewalk | 13,300 SF | \$ 7.00 |
| 03 05 006 | C | Concrete Retaining Walls | LF | \$ - |
| 03 05 006 | S | Concrete Retaining Walls | LF | \$ - |
| 03 05 008 | C | Stamped/Stained Concrete | SF | \$ - |
| 03 05 008 | S | Stamped/Stained Concrete | SF | \$ - |
| 03 05 010 | C | Concrete Curb & Gutter | LF | \$ 15.00 |
| 03 05 010 | S | Concrete Curb & Gutter | LF | \$ - |
| 03 05 012 | S | Miscellaneous Concrete Roads | LS | \$ - |
| 03 10 000 | S | Foundations | | |
| 03 10 002 | S | Strip Foundations | 0 CY | \$ 150.00 |
| 03 10 002 | S | Perimeter Grade Beam | 948 CY | \$ 150.00 |
| 03 10 002 | A | Trench Footings | CY | \$ 120.00 |
| 03 10 002 | S | Column Pad Footings | CY | \$ - |
| 03 10 002 | B | Column Pad Footings | 275 EA | \$ 1,800.00 |
| 03 10 004 | S | Elevator Pits | 3 EA | \$ 5,000.00 |
| 03 10 004 | S | Equipment Foundations & Pits | EA | \$ - |
| 03 15 000 | S | Deep Foundations | | |
| 03 15 002 | S | Caissons | | \$ - |
| 03 15 004 | S | Auger Cast | | \$ - |
| 03 15 004 | S | Auger Cast | | \$ - |
| 03 15 006 | S | Steel Piles | | \$ - |
| 03 15 006 | S | Steel Piles | | \$ - |
| 03 15 008 | S | Precast Piles | | \$ - |
| 03 15 008 | S | Precast Piles | | \$ - |
| 03 15 010 | S | Pile Caps/Grade Beams | | \$ - |
| 03 15 010 | S | Pile Caps/Grade Beams | | \$ - |
| 03 20 000 | S | Slab-on-grade | | |
| 03 20 002 | S | Slab-on-grade | SF | \$ - |
| 03 20 002 | S | Slab-on-grade | 468,892 SF | \$ 7.00 |
| 03 20 004 | S | Gravel Fill | 468,892 SF | \$ 2.00 |
| 03 20 004 | S | Gravel Fill | 0 SF | \$ 2.00 |
| 03 25 000 | S | Elevated Slabs | | |
| 03 25 002 | S | Slab on Metal Deck | 111,722 SF | \$ 8.00 |
| 03 25 002 | S | Slab on Metal Deck | SF | \$ - |
| 03 25 004 | S | Topping Slab - Double T deck | SF | \$ - |
| 03 25 004 | S | Topping Slab - Double T deck | SF | \$ - |
| 03 30 000 | S | Cast-in-place Concrete | | |
| 03 30 002 | S | Cast-in-place Concrete Frame | SF | \$ - |
| 03 30 002 | S | Cast-in-place Concrete Frame | SF | \$ - |
| 03 30 004 | C | CIP Reinforcing/P.T. | SF | \$ - |
| 03 30 004 | S | CIP Reinforcing/P.T. | SF | \$ - |
| 03 30 006 | S | CIP Formwork | SF | \$ - |
| 03 30 008 | C | CIP Place & Finish | SF | \$ - |
| 03 30 008 | S | CIP Place & Finish | 14,000 SF | \$ 35.00 |
| 03 30 010 | C | Cast-in-place Walls | SF | \$ - |
| 03 30 010 | S | Cast-in-place Walls | SF | \$ - |
| 03 35 000 | S | Structural Concrete Walls | 277 cy | \$ 750.00 |
| 03 35 002 | C | Tilt-up Walls | SF | \$ - |
| 03 35 002 | S | Tilt-up Walls | SF | \$ - |
| 03 35 004 | S | Structural Precast Walls | SF | \$ 25.00 |
| 03 35 004 | P | Structural Precast Walls | SF | \$ - |
| 03 35 006 | S | Wall Panel Erection | SF | \$ - |
| 03 40 000 | S | Architectural Precast | | |
| 03 40 002 | S | Architectural Precast | SF | \$ - |
| 03 45 000 | S | Structural Precast Frame | | |
| 03 45 002 | S | Structural Precast Frame | 0 SF | \$ 35.00 |
| 03 05 005 | S | Sidewalk w/ integral curb | SF | \$ 4.20 |
| 03 05 014 | S | Concrete Stoops | 8 EA | \$ 250.00 |
| 03 10 006 | S | Concrete Piers | 0 EA | \$ 500.00 |
| Total Division 3 | | | | \$ 7,550,154.00 \$ 13.00 /GSF |
| MASONRY | | | | |
| 04 05 000 | | Concrete Masonry Unit | | |
| 04 05 002 | S | Concrete Block | 32,100 SF | \$ 12.00 |
| 04 05 004 | M | Concrete Block - Sand | | \$ - |
| 04 05 006 | M | Concrete Block - Mortar | | \$ - |
| 04 05 008 | M | Concrete Block - Grout Fill | | \$ - |
| 04 10 000 | | Architectural Masonry Unit | | |
| 04 10 002 | S | Architectural Block | SF | \$ - |
| 04 10 004 | M | Architectural Block - Sand | | \$ - |
| 04 10 006 | M | Architectural Block - Mortar | | \$ - |
| 04 10 008 | M | Architectural Block - Grout Fill | | \$ - |
| 04 15 000 | | Brick | | |
| 04 15 002 | S | Brick Veneer | SF | \$ - |
| 04 15 004 | M | Brick Veneer - Sand | | \$ - |
| 04 15 006 | M | Brick Veneer - Mortar | | \$ - |
| 04 20 000 | | Specialty Masonry | | |
| 04 20 002 | S | Pavers | SF | \$ - |
| 04 20 004 | S | Exterior Stone Cladding | SF | \$ - |
| Total Division 4 | | | | \$ 385,200.00 \$ 0.66 /GSF |
| METALS | | | | |
| 05 05 000 | | Structural Steel | | |
| 05 05 002 | S | Structural Steel | 580,614 SF | \$ 20.00 |
| 05 05 002 | P | Structural Steel | SF | \$ - |
| 05 05 004 | S | Structural Joist/Girder & Deck | SF | \$ - |
| 05 05 004 | P | Structural Joist/Girder & Deck | SF | \$ - |
| 05 05 006 | S | Structural Steel Erect | 580,614 SF | \$ 2.00 |
| 05 10 000 | | Misc. Metals | | |
| 05 10 002 | S | Stairs & Railings | 3 FLR | \$ 27,500.00 |
| 05 15 000 | | Ornamental Architectural Metals | | |
| 05 15 002 | S | Ornamental Architectural Metals | LF | \$ - |
| 05 10 004 | S | Guard Post | 120 EA | \$ 350.00 |
| Total Division 5 | | | | \$ 12,898,008.00 \$ 22.21 /GSF |

Dillon Construction Group

| Project: Andretti Autosport - BUILDING | | File Location: | | |
|-----------------------------------------------|----------|----------------------------------|--------------------------|--------------------------------|
| Location: Fishers, In | | Building Type: | | |
| Estimate Date: 10/23/2022 | | | | |
| COST CODE | Job Cost | | | |
| CSI Task Item | Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE | |
| | | | GRAND TOTAL | NOTES |
| 06 00 000 | | CARPENTRY | | |
| 06 05 000 | S | Rough Carpentry/Blocking | | |
| 06 05 002 | S | Rough Carpentry/Blocking | 1 LS \$ 5,000.00 | \$ 5,000.00 |
| 06 05 002 | S | Wood Roof Blocking | 2,800 LF \$ 12.00 | \$ 33,600.00 |
| 06 05 002 | S | Office Building Misc. Blocking | FLR | \$ - |
| 06 05 002 | S | Overhead Door Blocking | 24 EA \$ 600.00 | \$ 14,400.00 |
| 06 05 002 | S | Exterior Window Blocking | 3,400 LF \$ 9.00 | \$ 30,600.00 |
| 06 10 000 | | Millwork | | |
| 06 10 002 | S | Millwork | 0 LS \$ 50,000.00 | \$ - |
| 06 15 000 | | Cabinetry | | |
| 06 15 002 | S | Cabinetry | | \$ - |
| 06 15 002 | S | A Base Cabinets | 200 LF \$ 500.00 | \$ 100,000.00 |
| 06 15 002 | S | B Counter Tops | 200 LF \$ 250.00 | \$ 50,000.00 |
| 06 15 002 | S | C Wall Cabinets | LF | \$ - |
| 06 15 002 | S | D Shelving | LF | \$ - |
| 06 20 000 | | Finish Millwork | 1 \$ 100,000.00 | \$ 100,000.00 |
| 06 20 002 | S | Finish Millwork | | \$ - |
| 06 20 002 | S | A Wood Paneling | SF | \$ - |
| 06 20 002 | S | B Wood Trim/Rail | LF | \$ - |
| Total Division 6 | | | | \$ 333,600.00 \$ 0.57 /GSF |
| 07 00 000 | | MOISTURE PROTECTION | | |
| 07 05 000 | | Waterproofing & Damproofing | | |
| 07 05 002 | S | Waterproofing & Damproofing | SF | \$ - |
| 07 10 000 | | Building Insulation | | |
| 07 10 002 | S | Building Insulation | 64,320 SF \$ 3.00 | \$ 192,960.00 |
| 07 15 000 | | EIFS | | |
| 07 15 002 | S | EIFS | SF \$ 7.00 | \$ - |
| 07 20 000 | | Fireproofing | | |
| 07 20 002 | S | Fireproofing | SF | \$ - |
| 07 25 000 | | Insulated Wall Panels | 117,600 SF \$ 25.00 | \$ 2,940,000.00 |
| 07 25 002 | S | Composite Panels | SF | \$ - |
| 07 30 000 | | Roofing | | |
| 07 30 002 | S | Roofing | 500,000 SF \$ 9.00 | \$ 4,500,000.00 |
| 07 30 004 | S | Penetrations | 24 EA \$ 400.00 | \$ 9,600.00 |
| 07 35 000 | | Metal Roofing | | |
| 07 35 002 | S | Metal Roofing | 1,000 SF \$ 30.00 | \$ 30,000.00 |
| 07 40 000 | | Canopies | | |
| 07 40 002 | S | Canopies | SF | \$ - |
| 07 45 000 | | Skylights | | |
| 07 45 002 | S | Skylights | EA | \$ - |
| 07 50 000 | | Sealant/Caulking | | |
| 07 50 002 | S | Sealant & Caulk Walls | SF | \$ - |
| 07 50 002 | S | A Exterior Caulking | 44,000 LF \$ 5.00 | \$ 220,000.00 |
| 07 50 002 | S | B Caulk Architectural Precast | SF | \$ - |
| 07 50 002 | S | C Caulk Glass System | 3,400 SF \$ 7.50 | \$ 25,500.00 |
| 07 50 002 | S | D Misc. Interior Caulking | 1 LS \$ 10,000.00 | \$ 10,000.00 |
| 07 50 004 | S | Sealant & Caulk Floors | LF | \$ - |
| 07 50 004 | S | A Fill Floor Slab Control Joints | 1 LS \$ 100,000.00 | \$ 100,000.00 |
| 07 50 004 | S | B Sidewalk Sealant | LF | \$ - |
| 07 50 004 | S | C Concrete Paving Sealant | 1,450 LF \$ 1.50 | \$ 2,175.00 |
| Total Division 7 | | | | \$ 8,030,235.00 \$ 13.83 /GSF |
| 08 00 000 | | DOORS & WINDOWS | | |
| 08 05 000 | | Pedestrian Doors | | |
| 08 05 002 | P | Hollow Metal Doors & Frames | 8 EA \$ 750.00 | \$ 6,000.00 |
| 08 05 004 | P | Wood Doors & Frames | EA | \$ - |
| 08 05 004 | S | Wood Doors & Frames | EA | \$ - |
| 08 05 006 | P | Hardware/Rekeying | EA | \$ - |
| 08 05 006 | S | Hardware/Rekeying | EA | \$ - |
| 08 05 008 | P | Special Doors | EA | \$ - |
| 08 05 008 | S | Special Doors | EA | \$ - |
| 08 10 000 | | Overhead Doors | | 1,650,000 |
| 08 10 002 | S | Sectional Insulated OH doors | 24 EA \$ 5,000.00 | \$ 120,000.00 |
| 08 10 004 | S | Coiling Steel Doors | EA | \$ - |
| 08 15 000 | | Interior Glazing | 20,000 \$ 20.00 | \$ 400,000.00 |
| 08 15 002 | S | Interior Windows | 1,600 SF \$ 20.00 | \$ 32,000.00 |
| 08 20 000 | | Glass & Glazing | | |
| 08 20 002 | S | Storefront/Glass & Glazing | 7,300 SF \$ 60.00 | \$ 438,000.00 |
| 08 20 002 | S | A Curtainwall System | 13,750 SF \$ 100.00 | \$ 1,375,000.00 |
| 08 20 002 | S | B Entry/Vestibule Framing System | 2,000 SF \$ 40.00 | \$ 80,000.00 |
| 08 20 004 | S | Mirrors | SF | \$ - |
| 08 10 003 | S | Drive Thru Door w/ Operator | 0 EA \$ 1,900.00 | \$ - |
| 08 20 006 | S | Entry Allowance | 3 EA \$ 150,000.00 | \$ 450,000.00 |
| 08 20 003 | S | 10'x10' punched openings | 0 SF \$ 1,960.00 | \$ - |
| Total Division 8 | | | | \$ 2,901,000.00 \$ 5.00 /GSF |
| 09 00 000 | | FINISHES | | |
| 09 05 000 | | Exterior Finishes | | |
| 09 05 002 | S | Exterior Painting/Staining | 25,000 SF \$ 2.50 | \$ 62,500.00 |
| 09 10 000 | | Interior Wall Systems | 1 \$ 273,000.00 | \$ 273,000.00 |
| 09 10 002 | S | Metal Stud & Drywall Partitions | LF | \$ - |
| 09 10 002 | S | Drywall Partitions - 2 sides | LF | \$ - |
| 09 10 002 | S | Drywall Partitions - 1 side | LF | \$ - |
| 09 10 002 | S | Shaft Wall Construction | 245 LF \$ 45.00 | \$ 11,025.00 |
| 09 10 002 | S | Knee Wall Construction | SF | \$ - |
| 09 10 002 | S | Top of Block Partitions | LF | \$ - |
| 09 10 004 | S | Demountable Partitions | LF | \$ - |
| 09 15 000 | | Interior Wall Finishes | | |
| 09 15 002 | S | Interior Painting | 80,000 SF \$ 1.20 | \$ 96,000.00 |
| 09 15 004 | S | Wallcovering | SF | \$ - |
| 09 15 006 | S | stained concrete | 15,000 SF \$ 5.00 | \$ 75,000.00 |
| 09 15 008 | S | Ceramic Tile | 5,000 SF \$ 8.00 | \$ 40,000.00 |
| 09 20 000 | | Build-out allowances | | |
| 09 20 002 | S | office | 111,722 SF \$ 75.00 | \$ 8,379,150.00 |
| 09 20 004 | S | Museum | 28,415 SF \$ 200.00 | \$ 5,683,000.00 |
| 09 25 002 | S | Atrium / Plaza area | 1 LS \$ 1,050,000.00 | \$ 1,050,000.00 |
| 09 25 004 | S | warehouse | SF | \$ - |
| 09 25 006 | S | truck bay | 23,180 SF \$ 10.00 | \$ 231,800.00 |
| 09 25 008 | S | assy. | SF | \$ - |
| 09 25 010 | S | eng | SF | \$ - |
| 09 25 012 | S | fab.,comp.,mach.,q/c. | SF \$ 20.00 | \$ - |
| 09 25 014 | S | Special Flooring | 400,000 SF \$ 5.00 | \$ 2,000,000.00 |
| 09 30 000 | | Office Finish Allowance | | |
| 09 30 002 | S | Office Finish Allowance | SF \$ 30.00 | \$ - |
| Total Division 9 | | | | \$ 17,901,475.00 \$ 30.83 /GSF |

Dillon Construction Group

| Project: Andretti Autosport - BUILDING | | File Location: | | | | |
|-----------------------------------------------|----------|-------------------------------|--------------------------|-----------------|---------------|--------------|
| Location: Fishers, In | | Building Type: | | | | |
| Estimate Date: 10/23/2022 | | | | | | |
| COST CODE | Job Cost | | | | | |
| CSI Task Item | Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE | GRAND TOTAL | NOTES | |
| 10 00 000 | | SPECIALTIES | | | | |
| 10 05 002 | P | Toilet Partitions/Accessories | | | \$ - | |
| 10 05 002 | S | Toilet Partitions/Accessories | | | \$ - | |
| 10 05 002 | P A | Toilet Partitions | 28 EA | \$ 500.00 | \$ 14,000.00 | |
| 10 05 002 | S A | Toilet Partitions | EA | | \$ - | |
| 10 05 002 | P B | Urinal Screens | 25 EA | \$ 300.00 | \$ 7,500.00 | |
| 10 05 002 | S B | Urinal Screens | EA | | \$ - | |
| 10 05 002 | P C | Toilet Accessories | 35 EA | \$ 500.00 | \$ 17,500.00 | |
| 10 05 002 | S C | Toilet Accessories | EA | | \$ - | |
| 10 10 000 | | Access Floors | | | | |
| 10 10 002 | S | Access Floors | 5,000 SF | \$ 50.00 | \$ 250,000.00 | |
| 10 15 000 | | Flagpoles | | | | |
| 10 15 002 | S | Flagpoles | 5 EA | \$ 5,000.00 | \$ 25,000.00 | |
| 10 20 000 | | Signage & Graphics | | | | |
| 10 20 002 | P | Directories | 1 EA | \$ 1,000.00 | \$ 1,000.00 | |
| 10 20 002 | S | Directories | EA | | \$ - | |
| 10 20 004 | P | Interior Building Signage | 1 LS | \$ 25,000.00 | \$ 25,000.00 | |
| 10 20 004 | S | Interior Building Signage | LS | | \$ - | |
| 10 20 006 | S | Exterior Building Signage | 1 LS | \$ 50,000.00 | \$ 50,000.00 | |
| 10 20 008 | S | Garage Signage | LS | | \$ - | |
| 10 25 000 | | Lockers | | | | |
| 10 25 002 | S | Lockers/Bases & Benches | 300 EA | \$ 250.00 | \$ 75,000.00 | |
| 10 30 000 | | Fire Extinguishers/Cabinets | | | | |
| 10 30 002 | P | Fire Extinguishers/Cabinets | 50 EA | \$ 200.00 | \$ 10,000.00 | |
| 10 30 002 | S | Fire Extinguishers/Cabinets | EA | | \$ - | |
| 10 35 000 | | Postal Specialties | | | | |
| 10 35 002 | S | Postal Specialties | 1 LS | \$ 5,000.00 | \$ 5,000.00 | |
| 10 40 000 | | Folding Partitions | | | | |
| 10 40 002 | S | Folding Partitions | 100 LF | \$ 800.00 | \$ 80,000.00 | |
| Total Division 10 | | | | | \$ 560,000.00 | \$ 0.96 /GSF |
| 11 00 000 | | EQUIPMENT | | | | |
| 11 05 000 | | Loading Dock Equipment | | | | |
| 11 05 002 | P | Dock Levelers & Bumpers | 0 EA | \$ 7,500.00 | \$ - | |
| 11 05 002 | S | Dock Levelers & Bumpers | EA | \$ 2,500.00 | \$ - | |
| 11 05 004 | P | Truck Restraints | EA | | \$ - | |
| 11 05 004 | S | Truck Restraints | EA | | \$ - | |
| 11 05 006 | P | Dock Seals | EA | | \$ - | |
| 11 05 006 | S | Dock Seals | EA | \$ 1,000.00 | \$ - | |
| 11 10 000 | | Theatre seating | 1 | \$ 300,000.00 | \$ 300,000.00 | |
| 11 10 002 | S | Food Service Equipment | 1 LS | \$ 75,000.00 | \$ 75,000.00 | |
| 11 15 000 | | AV Equipment | | | | |
| 11 15 002 | S | AV Equipment | 1 LS | \$ 250,000.00 | \$ 250,000.00 | |
| Total Division 11 | | | | | \$ 625,000.00 | \$ 1.08 /GSF |
| 12 00 000 | | FURNISHINGS | | | | |
| 12 05 000 | | Window Treatments | | | | |
| 12 05 002 | S | Window Treatments | SF | | \$ - | |
| 12 10 000 | | Floor Mats | | | | |
| 12 10 002 | S | Floor Mats | 1 EA | \$ 2,000.00 | \$ 2,000.00 | |
| 12 15 000 | | Owner FF&E | | | | |
| 12 15 002 | S | Owner FF&E | LS | | \$ - | |
| Total Division 12 | | | | | \$ 2,000.00 | \$ 0.00 /GSF |
| 13 00 000 | | SPECIAL CONSTRUCTION | | | | |
| 13 05 000 | | 600 Car SIP Garage | 0 pkg sp | \$ 35,000.00 | \$ - | |
| 13 05 002 | S | 200 unit apartments | 0 Units | \$ 230,000.00 | \$ - | |
| 13 10 000 | | Connector | 0 LS | \$ 1,500,000.00 | \$ - | |
| 13 10 002 | S | Metal Demising Walls | 17,000 SF | \$ 25.00 | \$ 425,000.00 | |
| Total Division 13 | | | | | \$ 425,000.00 | \$ 0.73 /GSF |
| 14 00 000 | | CONVEYING SYSTEMS | | | | |
| 14 05 000 | | Elevators | | | | |
| 14 05 002 | S | Elevators | FLR | | \$ - | |
| 14 05 002 | S A | Hydraulic Elevators | 12 FLR | \$ 40,000.00 | \$ 480,000.00 | |
| 14 05 002 | S B | Traction Elevators | FLR | | \$ - | |
| 14 05 004 | S | Cab Finishes | 6 EA | \$ 25,000.00 | \$ 150,000.00 | |
| 14 10 000 | | Escalators | | | | |
| 14 10 002 | S | Escalators | EA | | \$ - | |
| Total Division 14 | | | | | \$ 630,000.00 | \$ 1.09 /GSF |

Dillon Construction Group

| Project: Andretti Autosport - BUILDING | | File Location: | | |
|-----------------------------------------------|----------|------------------------------------|--------------------------|-------------------|
| Location: Fishers, In | | Building Type: | | |
| Estimate Date: 10/23/2022 | | | | |
| COST CODE | Job Cost | | | |
| CSI Task Item | Category | DESCRIPTION | QUANTITY UNIT UNIT PRICE | |
| | | | GRAND TOTAL | NOTES |
| 15 00 000 | | MECHANICAL | | |
| 15 05 000 | | Fire Protection System | | \$ - |
| 15 05 002 | S | Fire Protection System | SF | \$ - |
| 15 05 002 | S A | Fire Protection System - Warehouse | 580.614 SF | \$ 5.00 |
| 15 05 002 | S B | Fire Protection System - Office | 0 SF | \$ 2.50 |
| 15 05 002 | S C | Fire Protection System - Garage | SF | \$ - |
| 15 05 004 | S | Fire Pump | 1 LS | \$ 135,000.00 |
| 15 05 006 | S | Chemical Fire Protection System | SF | \$ - |
| 15 10 000 | | Plumbing System | | \$ - |
| 15 10 002 | S | Plumbing System | SF | \$ - |
| 15 10 002 | S | Plumbing System - Warehouse | 580.614 SF | \$ 15.50 |
| 15 10 002 | S | Plumbing System - Office | 0 SF | \$ 5.00 |
| 15 10 002 | S | Plumbing System - Garage | SF | \$ - |
| 15 15 000 | | HVAC System | | \$ - |
| 15 15 002 | S | HVAC System | SF | \$ - |
| 15 15 002 | S | HVAC System - Warehouse | 580.614 SF | \$ 16.00 |
| 15 15 002 | S | HVAC System - Office | 0 SF | \$ 8.50 |
| 15 15 004 | S | Humidification Control Systems | LS | \$ - |
| 15 15 006 | S | Energy Management System | 1 LS | \$ 250,000.00 |
| 15 20 000 | | Refrigeration System | | \$ - |
| 15 20 002 | S | Refrigeration System | SF | \$ - |
| Total Division 15 | | | \$ 21,577,411.00 | \$ 37.16 /GSF |
| 16 00 000 | | ELECTRICAL | | |
| 16 05 000 | S | Electrical System | | \$ - |
| 16 05 002 | S | Electrical System | SF | \$ - |
| 16 05 002 | S | Electrical System - Warehouse | 580.614 SF | \$ 17.50 |
| 16 05 002 | S | Electrical System - Office | 0 SF | \$ 6.50 |
| 16 05 004 | S | UPS/Generator Equipment | 1 LS | \$ 500,000.00 |
| 16 05 006 | S | Fire Alarm | 1 LS | \$ 125,000.00 |
| 16 10 000 | | Voice/Data Systems | | \$ - |
| 16 10 002 | S | Voice/Data Systems | 1 LS | \$ 150,000.00 |
| 16 15 000 | | Security System | | \$ - |
| 16 15 002 | S | Security System | 1 LS | \$ 250,000.00 |
| Total Division 16 | | | \$ 11,185,745.00 | \$ 19.27 /GSF |
| 17 00 000 | | CONTINGENCY | | |
| 17 05 000 | | Project Contingency | | \$ - |
| 17 05 002 | O | Project Contingency | 1 LS | \$ 2,000,000.00 |
| Total Division 17 | | | \$ 2,000,000.00 | \$ 3.44 /GSF |
| | | | TOTAL COST | 98,665,600 |
| 18 00 000 | | OVERHEAD & FEE | | |
| 18 05 000 | | Project Overhead & Fee | | \$ - |
| 18 05 002 | O | Project Overhead & Fee | 98,665,600 PCT | 5.5% |
| Total Division 18 | | | \$ 5,426,608.00 | \$ 9.35 /GSF |
| Project Totals | | | \$ 104,092,208.07 | \$ 179.28 /GSF |
| SPACE BELOW ALLOCATED FOR ADDITIONAL ITEMS: | | | | |

EXHIBIT F

DESIGN-BUILDER'S STANDARD RATE SCHEDULE

| | |
|--------------------------------------|-----------------------------------------------|
| Project Executive | \$250.00 per Hour |
| Project Manager | \$150.00 per Hour |
| Assistant Project Manager | \$125.00 per Hour |
| Superintendent | \$100.00 per Hour |
| Project Foreman | \$75.00 per Hour |
| Operations Personnel | \$75.00 per Hour |
| Insurance (excluding Builder's Risk) | 1% of the Cost of the Work |
| ProCore Software | \$1,085 per \$1,000,000 of construction costs |

These rates shall not be subject to open-book accounting or verification of actual compensation or benefits/burden paid, or costs incurred, by the Design/Builder.

23-cv-01058-Pl-004661
Exhibit B
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

[REDACTED]

From: Johnson, Ryan T. <rjohnson@robbinsdimonte.com>
Sent: Thursday, February 23, 2023 1:59 PM
To: Greg Easter <geaster@easterandcavosie.com>
Subject: Fishers Andretti Project Amendment

Hello Greg:

I am an attorney for Bradford Allen with respect to the Fishers Andretti project. Attached is a 3rd Amendment to the contract with Dillon Construction. Please take a look and provide me back any comments. Or if you want to discuss, give me a call. Thanks.

Ryan

Ryan T. Johnson
Robbins DiMonte, Ltd.
180 North LaSalle Street, Suite 3300

Chicago, Illinois 60601

(o) 312.782.9000 | (d) 312.456.0360 | (f) 312.782.6690

rjohnson@robbinsdimonte.com | www.robbinsdimonte.com | Bio | VCard



Robbins Dimonte, LTD. CONFIDENTIALITY NOTE: This electronic message is from a law firm. It is intended solely for the use of the recipient(s) to whom it is addressed and may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If the reader of this message is not an intended recipient, any dissemination, distribution or copying of this communication (including any attachments) is strictly prohibited. If you have received this communication in error, please delete it (including any attachments) from your system without copying or forwarding it, and notify the sender of the error by reply email.

THIRD AMENDMENT TO DESIGN BUILD AGREEMENT

This Third Amendment to the AIA Document A141 – 2014 Standard Form of Agreement Between Owner and Design Builder ("Amendment") is entered into as of the ____ day of February, 2023, by and between, Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC ("Owner") and Dillon Construction, Inc. d/b/a DCG Construction ("Design Builder").

RECITALS

- A. Owner and Design Builder are parties to a certain AIA Document A141 – 2014 Standard Form of Agreement Between Owner and Design Builder dated November 4, 2022 (the "Initial Contract") and Amended on December 12, 2022 (First Amendment) and December 13, 2022 (Second Amendment), providing for design build services related to the Andretti Global project in Fishers, Indiana. (the "Project").
- B. Subsequent to execution of the Initial Contract, First Amendment and Second Amendment, Owner requires this Third Amendment to: (1) Clarify of scope of work between Owner and Design Builder to include only Site Work (2) Identify the new Project Owner as Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC; and (3) include former owner Cardinal XLIII, LLC as an additional named insured.
- C. Owner and Design Builder wish to further amend the Initial Contract, First Amendment and Second Amendment as hereinafter provided.

AMENDMENTS

The Initial Contract, all exhibits, First Amendment and Second Amendment are hereby amended as follows (the Initial Contract, as amended by the First Amendment, Second Amendment, and this Third Amendment shall be the "Agreement"):

- 1. **RECITALS.** The above recitals are hereby incorporated into this Third Amendment and made a part hereof as if fully set forth herein.
- 2. **PROJECT SCOPE OF WORK.** The Project Scope of Work shall be amended as follows:

For the Purpose of this Agreement, the scope of Design Builder's services shall include up to the completion of Site Work as described on page 2 of Exhibit "E". For the Purpose of this Agreement, the scope of Design

Builder's services shall exclude services beyond completion of Site Work as described on page 2 of Exhibit "E". See pg. 2 of Exhibit "E" attached hereto as Exhibit "E-1". The Scope of Work shall also include General Conditions required for completion of the Site Work. See Exhibit E-1, pg 1.

3. **DEFINITION OF "OWNER"**. The definition of "Owner" anywhere in the Agreement shall be amended as follows:

The Owner shall be defined as: Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC; Motorsport Real Estate Ventures, LLC, Cardinal XLIII, LLC; Bradford Allen Investment Advisors LLC; BAIHP HOLDINGS LLC (an Illinois Limited Liability Company); Bradford Allen Capital Investments, LLC (a Delaware Limited liability Company); Bradford Allen Corporate Holdings LLC (a Delaware Limited liability Company); Bradford Development Company; BAIHP Management LLC (an Illinois Limited Liability Company)(all hereinafter "Owner").

4. **§ B.2.1.9 ADDITIONAL INSURED OBLIGATIONS**. The additional insureds as required in § B.2.1.9 of AIA Document A141 – 2014 Exhibit B of the Initial Contract shall be amended as follows:

Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC; Motorsport Real Estate Ventures, LLC; Cardinal XLIII, LLC; Bradford Allen Investment Advisors LLC; BAIHP HOLDINGS LLC (an Illinois Limited Liability Company); Bradford Allen Capital Investments, LLC (a Delaware Limited liability Company); Bradford Allen Corporate Holdings LLC (a Delaware Limited liability Company); Bradford Development Company; BAIHP Management LLC (an Illinois Limited Liability Company); Forge Projects, LLC; David Crowell, Sole Proprietor; Andretti Global, LLC; and Andretti Autosport Holding Company, LLC shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The Design Builder's coverage shall be primary and non-contributory to any of the Owner's and additional insured's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

This change reflects the following added as additional insureds under the Design Builder's primary and excess insurance policies for Commercial General

Liability, Automobile Liability and Pollution Liability: Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC; Motorsport Real Estate Ventures, LLC; Cardinal XLIII, LLC; Bradford Allen Investment Advisors LLC; BAIHP HOLDINGS LLC (an Illinois Limited Liability Company); Bradford Allen Capital Investments, LLC (a Delaware Limited liability Company); Bradford Allen Corporate Holdings LLC (a Delaware Limited liability Company); Bradford Development Company; BAIHP Management LLC (an Illinois Limited Liability Company); Forge Projects, LLC; David Crowell, Sole Proprietor; Andretti Global, LLC; and Andretti Autosport Holding Company, LLC.

- 5. **CONFLICT.** The Initial Contract, as amended by the First, Second and Third Amendments, shall continue in full force and effect. In the event of a conflict between the provisions of this Third Amendment and the provisions of the Initial Contract, the provisions of this Third Amendment shall control. Unless otherwise defined herein, all defined terms in this Third Amendment shall have the same meaning as defined in the Initial Contract.

IN WITNESS WHEREOF, the parties hereto have signed this Third Amendment as of the date and your first written above.

OWNER:

Bradford Allen Development Company, LLC as agent to Motorsport Real Estate Ventures, LLC; Motorsport Real Estate Ventures, LLC; Cardinal XLIII, LLC; Bradford Allen Investment Advisors LLC; BAIHP HOLDINGS LLC (an Illinois Limited Liability Company); Bradford Allen Capital Investments, LLC (a Delaware Limited liability Company); Bradford Allen Corporate Holdings LLC (a Delaware Limited liability Company); Bradford Development Company; BAIHP Management LLC (an Illinois Limited Liability Company)

By: _____

DESIGN BUILDER:

Dillon Construction, Inc. d/b/a DCG Construction

By: _____

EK2116

Exhibit C
29C01-2305-PL-004661
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana



February 26, 2023

VIA EMAIL & CERTIFIED MAIL

Ryan T. Johnson
Robbins DiMonte, Ltd.
180 North LaSalle Street, Suite 3300
Chicago, IL 60601
rjohnson@robbinsdimonte.com

Re: Andretti Global
Fishers, Indiana

Dear Mr. Johnson:

This firm represents Dillon Construction, Inc. d/b/a DCG Construction (“DCG”). You recently spoke with my partner, Greg Easter, about the Andretti Global project (the “Project”) in Fishers, Indiana. I write for three reasons.

First, last week you sent a draft “Third Amendment” to the November 4, 2022, AIA A141-2014 design build contract (the “Contract”) between DCG and Cardinal XLIII, LLC (“Owner”) for the Project. We also understand that the Owner has advised DCG of its intent to engage Clark Construction to replace DCG on the Project and has demanded that DCG participate in a meeting with the Owner and Clark at the Project site on February 27. Be advised that DCG will not sign the Third Amendment, which would eliminate nearly 90% of the scope of work that Owner contracted with DCG to design and construct. DCG also has no obligation to cooperate or work with Clark in connection with DCG’s scope of Work. Frankly, we are surprised by the Owner’s actions.

The Contract is binding and enforceable and was never intended to be limited to the sitework. This is obvious from the Project Description attached to the Contract as

Exhibit A

Exhibit C, which describes both the sitework and shell building, the Preliminary Project Schedule attached to the Contract as Exhibit D, which includes both the sitework and shell building, and the Schedule of Values attached to the Contract as Exhibit E, which sets forth the original budget for the sitework and shell building of \$117,456,979.40. DCG's pay applications (two of which the Owner has paid without objection) are consistent with the unambiguous terms of the Contract. Stated simply, DCG has an enforceable contract to design and construct the Project.

Under what authority does the Owner believe it can force DCG to meet or work with Clark or have Clark take over any of the scope for which the Owner has already contracted with DCG? Without terminating the Contract for convenience, the Owner's attempt to cut nearly 90% of the scope out of the Contract and give that scope to Clark amounts to a cardinal change and anticipatory breach. We demand, therefore, that the Owner reaffirm its intent to abide by the terms of the Contract. DCG remains ready, willing, and able to perform under the Contract.

Second, as of today, DCG has bid and/or subcontracted 67% of the original Project scope and is 7% under budget with the entirety of the \$2,500,000 contingency intact. Sitework was underway until the Owner instructed DCG to suspend Work on the site on January 20, 2023. Please consider this letter notice that the Owner's suspension of Work will have a material impact on the Project's schedule and budget, the extent of which will not be known until Work can resume.

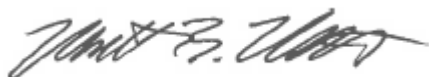
Third, we understand that the Owner has communicated directly with DCG's architect, Studio M, in an effort to convince Studio M to contract directly with the Owner and cut DCG out of this Project. Studio M is under contract with DCG. The Owner's communication with Studio M violates Section 7.2.8 of the Contract and amounts to tortious interference with DCG's contract with Studio M. We demand that Owner immediately cease and desist all communication with Studio M or any other subcontractor or design professional engaged by DCG in connection with this Project.

Furthermore, as I'm sure you know, DCG owns the design for this Project. The Owner only has a license to use the design, "provided that the Owner substantially performs its obligations ... under the Design-Build Documents." (See Contract, Section 12.3.) Should the Owner repudiate the Contract, this license would terminate.

In sum, we are surprised by the Owner's brazen disregard for the terms of the parties' written Contract. We hope to hear from you soon to better understand the Owner's stance and intent for the future of this Project.

A certified copy of this letter will be sent to your attention tomorrow.

Truly,

A handwritten signature in black ink, appearing to read "Matt E. Millis". The signature is fluid and cursive.

Matt Millis

mmillis@easterandcavosie.com

317-708-8829 (direct)

cc. Dale Dillon (via email)
Audie Tarpley (via email)
Greg Easter (via email)
Mike Cavosie (via email)

Exhibit D
29C01-2305-PL-004661
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana



March 1, 2023

VIA EMAIL ONLY

Ryan T. Johnson
Robbins DiMonte, Ltd.
180 North LaSalle Street, Suite 3300
Chicago, IL 60601
rjohnson@robbinsdimonte.com

Re: Andretti Global
Fishers, Indiana

Dear Ryan:

In follow up to our telephone conversation from yesterday morning, and in light of the positions taken by your clients at the meeting on Monday with Audie Tarpley, I want to make sure that DCG's position is clear. DCG has a binding and enforceable contract for the entire Project—not just the sitework. This is clear from the four corners of the Contract. DCG will not voluntarily agree to an amendment eliminating 90%+ of its scope. That would clearly be a cardinal change and amount to a constructive termination.

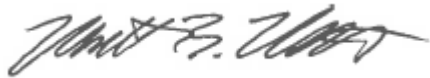
We demand that the Owner state its position in writing. Will the Owner affirm the Contract, or is it terminating the Contract? Is it the Owner's position that the Contract does not exist or is somehow unenforceable? The Owner cannot simply ignore the unambiguous contract and hire another contractor to perform DCG's Work.

I would also encourage your client to review Article 12 of the Contract. DCG owns the plans and specs. The Owner only has a license to use plans and specs for this Project, "provided that the Owner substantially performs its obligations, including promptly payment of all sums when due, under the Design-Build Documents." (See Section 12.3.) If the Owner repudiates or attempts to terminate without paying sums owed to our client, the license terminates.

Exhibit A

Until the Owner elects its position, neither DCG, nor its design team, will discuss alternative arrangements involving Clark Construction (or any other contractor wrongfully engaged by the Owner) with the Bradford Allen representatives. DCG will continue to perform the Work in accordance with the Contract, assuming that the Owner lifts the Work suspension directive it issued on January 20, 2023. If the Owner fails to make its position clear, and continues down the path with Clark, DCG will interpret the Owner's actions as a repudiation of the Contract and proceed accordingly.

Truly,



Matt Millis

mmillis@easterandcavosie.com

317-708-8829 (direct)

cc. Dale Dillon (via email)
Audie Tarpley (via email)
Greg Easter (via email)
Mike Cavosie (via email)

Exhibit F
29C01-2305-PL-004661
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana



March 9, 2023

VIA EMAIL ONLY

Ryan T. Johnson
Robbins DiMonte, Ltd.
180 North LaSalle Street, Suite 3300
Chicago, IL 60601
rjohnson@robbinsdimonte.com

Re: Andretti Global
Fishers, Indiana

Dear Ryan:

Neither you nor your client has responded to our communications dated February 26 and March 1, 2023. We have asked time and again for the Owner to state its position, but it refuses to do so. Instead, the Owner has continued to: (a) ignore the parties' Contract; (b) express its intention to proceed with Clark Construction to perform the very Work for which your client already contracted with DCG; and (c) insist that DCG work under Clark Construction pursuant to some kind of joint venture agreement—something DCG has repeatedly advised it has no intention of doing. Please consider this letter as notice of a Claim under the parties' Contract.

First, the Owner has made clear that it does not intend to honor its Contract with DCG and that it intends to proceed with Clark. DCG has a binding and enforceable Contract to design and build the entire Project. Instead of invoking any specific Owner right under that Contract, the Owner continues to insist that DCG must agree to work with or under Clark if it wants to remain a part of the Project. Such conduct amounts to an anticipatory breach, repudiation, and constructive termination of the Contract. As a result, the Contract entitles DCG to "payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not

Exhibit A

executed." (Contract, § 13.2.4.3 (emphasis added)). Based upon DCG's 5.5% fee and the current Project budget of \$189,134,540.90, (per budget sent to David Crowell 02/07/2023) the amount due and owing for unpaid fee in connection with the Owner's constructive termination would be \$9,717,243.48. Additionally, DCG's January invoice is already more than a week past due, and the invoice for February's work will be due 4/10/23. This brings the total due and owing to \$11,294,280.20, plus interest, calculated as follows:

| | |
|----------------------------------|------------------------|
| TOTAL FEE | \$9,860,094.55 |
| LESS FEE PAID TO DATE | (\$142,851.07) |
| PLUS JANUARY INVOICE (DUE 03/02) | \$ 565,574.54 |
| PLUS FEBRUARY INVOICE (DUE 4/10) | \$ 1,011,462.21 |
| TOTAL | \$11,294,280.20 |

Second, the Owner continues to tortiously interfere with DCG's contractual relationship with its design team by attempting to have those design professionals ignore their contracts with DCG and work directly for the Owner. The Owner's direct communication with DCG's design team also violates Section 7.2.8 of the Contract, which requires that all such communications go through DCG. We hereby demand that the Owner cease and desist all direct communications with DCG's design team.

Third, DCG owns the Project design. The Owner only has a license to use the design, "provided that the Owner substantially performs its obligations, including promptly payment of all sums when due, under the Design-Build Documents." (Contract, § 12.3.) The Owner's repudiation of the Contract without proper payment to DCG results in a termination of the Owner's license to use the design documents. The Owner's unauthorized use and distribution of such design documents to Clark violates DCG's intellectual property rights. We hereby demand that the Owner cease and desist its use and distribution of the design documents in violation of the Contract.

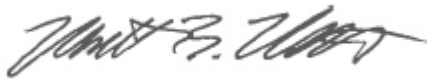
Fourth, as a direct result of the Owner's suspension of Work issued on January 20, 2023, DCG has incurred additional costs which are compensable under the Contract. In addition to these compensable costs, DCG is entitled to a day-for-day extension of the Contract Time for the duration of the work suspension.

Finally, DCG considers its recent discussions with Mr. Bernstein and others at Bradford Allen to satisfy the requirement in Section 14.2.6 of the Contract that the parties' executives meet to discuss this dispute as a condition to further dispute resolution proceedings. Such discussions have been fruitless, as your client refuses to engage in meaningful discussion of what the Contract actually says or requires.

Therefore, please consider this letter a demand for mediation under Section 14.2.6.1 of the Contract. If we do not receive a written response within the next ten days stating the Owner's intention with respect to the Contract and responding to DCG's Claims, DCG will file a demand for a mediation with the AAA.

During our telephone conversation on February 28, you repeatedly expressed the Owner's interest in avoiding a legal battle. If that remains true, I suggest the parties schedule an in-person meeting as soon as possible, with counsel, to discuss the future of this Project. We hope to hear from you soon.

Truly,



Matt Millis

mmillis@easterandcavosie.com

317-708-8829 (direct)

cc. Dale Dillon (via email)
Audie Tarpley (via email)
Greg Easter (via email)
Mike Cavosie (via email)

29C012305-PL0074661

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

DocuSign Envelope ID: F63E43CB-A7F0-47FB-954E-1240C08C4421
Hamilton Circuit Court

March 10, 2023

Dillon Construction, Inc.
Attn: Dale Dillon, Audie Tarpley via email to (ddillon@dilloncg.com, atarpley@dilloncg.com)
6828 Hillsdale Court
Indianapolis, Indiana 46256

RE: NOTICE OF TERMINATION OF CONTRACT PURSUANT TO § 13.2.2

Owner: Cardinal XLIII, LLC
Design Builder: Dillon Construction, Inc.
AIA Doc. A141 – 2014 Standard Form of Agreement Between Owner and Design
Builder dated November 4, 2022 (the Contract)
Project: Andretti Global, Fisher’s Indiana

Notice is hereby given to Design-Builder that the above referenced Contract is terminated with respect to all Work and services pursuant to Section 13.2.2. Pursuant to Section 13.2.2.2 Design-Builder’s employment will be terminated and Design-Builder will be excluded from the Project Site, effective seven (7) days from the date of this notice, specifically on March 17, 2023.

Design-Builder is aware of a stop work order it received on or about January 20, 2023. However, Owner is aware of Design-Builder continuing Work after that date. Accordingly, Design-Builder is again hereby directed to immediately discontinue any Work and place no further orders or subcontracts for materials, equipment, services or facilities. Pursuant to Section 13.2.2.2 Owner intends to do the following on March 15, 2023: (1) Exclude the Design-Builder from the Project Site and take possession of all materials and equipment purchased for the Project; (2) Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and (3) Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

Owner contends that Design-Builder has substantially breached the Contract due to Design-Builder’s consistent failure to comply with requirements, including but not limited to the following: the award of subcontracts without Owner approval, the preparation of shop drawings and ordering of materials without final design drawings or Owner approval, the lack of timely design drawings presented to Owner and the identification of significant omissions included in drawings that were provided to Owner. Owner has previously informed Design-Builder of its failure to comply with contract requirements and lacks confidence in the Design-Builder’s ability to execute Work. Design-Builder has rejected the repeated efforts of Owner to rectify these issues and keep Design-Builder under contract for the Project.

OWNER
Cardinal XLIII, LLC

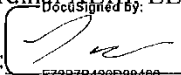
By: 
Name: Jeffrey Bernstein, Manager



Exhibit C
29COF-2305-PL-004661
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

Ryan T. Johnson | Chicago
D: 312.456.0360
E: rjohnson@robbinsdimonte.com

May 11, 2023

Fed. R. Evidence 408/Ind. R. Evidence 408 Communication


VIA EMAIL (geaster@easterandcavosie.com)

J. Greg Easter
Easter & Cavosie
10455 College Avenue
Carmel, Indiana 46280

RE: *Andretti Global Project, Fishers, IN*

Dear Mr. Easter:



 Pursuant to the written communications between myself and DCG attorney Matt Millis on March 28, 2023, the contract between Owner and DCG was terminated effective April 7, 2023 for cause. These issues have been discussed previously, but examples of DCG's material failure to competently execute this Project are as follows:

- **Failure to Submit Design Drawings for Approval.** DCG has submitted no design drawings to Owner for approval in violation of Article 4. Owner requested an approval matrix, which DCG never provided. DCG provided a 3-month decision matrix on December 5, 2022, which stated drawings would be sent for approval on December 15, 2022, which never occurred. Owner provided an approval matrix on January 9, 2023, which was not responded to by DCG.
- **Untimely and Erroneous Design Drawings.** The most recent drawings available to Owner via Procure are Permit Drawings dated January 31, 2023. These drawings are for core and shell only. These Permit Drawings were never submitted to Owner for approval and omit exterior wall daylighting, office mezzanines, mechanical mezzanines, loading docks and potentially capacities for mechanical, electrical and plumbing systems in

J. Greg Easter
 May 11, 2023
 2 | Page

violation of Article 4. DCG also applied for the building permit without Owner’s knowledge. The permit that was issued does not conform to the scope of the building requested by the Owner or Andretti.

- **Failure to Maintain Design Schedule.** Below is DCG’s “Preconstruction” schedule included in its contract. The provided bid schedules require virtually complete design for bidding. The design documents for Architectural trades and “Misc” have not been seen by the Owner and it is assumed they do not currently exist in violation of Article 4 and Article 8.

| Preconstruction | 170 days | Mon 8/1/22 | Tue 3/21/23 |
|------------------------------------|----------|--------------|--------------|
| Civil Design | 45 days | Mon 8/1/22 | Fri 9/30/22 |
| Architecture and Structural Design | 110 days | Mon 8/1/22 | Tue 12/27/22 |
| Bid Site work | 20 days | Sat 10/1/22 | Wed 10/26/22 |
| Bidding Design Build MEP | 20 days | Mon 10/3/22 | Thu 10/27/22 |
| Bidding Strutural and Concrete | 20 days | Mon 9/26/22 | Wed 10/19/22 |
| Bidding Architectural | 20 days | Wed 12/28/22 | Tue 1/24/23 |
| Bidding Misc. | 20 days | Wed 2/22/23 | Tue 3/21/23 |

- **Award of Subcontracts without Owner approval.** Owner is aware that DCG approved at least three subcontracts with Wilhelm (concrete), Lenex (steel) and DEEM (HVAC) without Owner being informed and having the opportunity to object in violation of Article 5.7.
- **Disregard of January 20, 2023 Stop Work Order.** DCG was issued a Stop Work Order by Owner on January 20, 2023. DCG and its attorney’s confirmed their understanding of this stop work order. Yet, DCG submitted Payment Application No. 3, which included work completed after January 20, 2023. Payment Application No. 4 included an invoice from DEEM for a total of \$554,000 for design of Core and Shell HVAC, electrical and plumbing. Owner was not notified of bidding for these services, has no understanding of these services and did not approve of this contract award in violation of Article 4 and Article 5.7. Owner would not have approved these services without an understanding about how the HVAC and plumbing would fit within the building, the design of which has not been completed, seen or approved of by Owner. Gradex Construction is also included in Payment Application No. 4, but no work of that nature should have taken place after the Stop Work Order of January 20, 23.
- **Failure to Understand Owner/Andretti Criteria.** DCG has failed to schedule and conduct meetings with Owner or Andretti representatives to understand their Project needs and criteria at a detailed level as required by Section 4.2.1. The result has been the design of a generic building that does not meet Owner and Andretti’s specific needs.
- **Shop Drawings Requested Without Owner approval.** Owner is aware that DCG requested the preparation of shop drawings and ordering of materials related to steel and concrete without approval of the design from the Owner in violation of Article 4 and Article 5.7.
- **Failure to provide Monthly Reports.** The first report from DCG was for February 2023. Accordingly, Owner was not informed about progress of work and other critical factors in violation of Article 3.1.8.

Chicago
 180 North LaSalle Street, Suite 3300, Chicago, Illinois 60601
 O: 312.782.9000 | F: 312.782.6690

Park Ridge
 216 West Higgins Road, Park Ridge, Illinois 60068
 O: 847.698.9600 | F: 847.698.9623 | F: 847.698.9624

J. Greg Easter

May 11, 2023

3 | Page

- **Unapproved budget increases.** Owner provided a written itemization of *potential* additions to the project. On March 9, 2023 DCG submitted documentation to Owner incorporating those unapproved additions, which substantially increased DCG's budget, scope and fee in violation of Article 5.1.2.
- **Communications with City of Fishers.** Owner is aware of ongoing communications between DCG and the City of Fishers regarding the development and the Project Agreement without Owner's knowledge or approval.

These are not the extent of the material issues Owner experienced during the contract with DCG. However, Owner has made numerous attempts to keep DCG involved with this project, all of which were rejected. Accordingly, pursuant to the termination of the contract and Section 3.1.15, Owner will be reviewing the various contracts and will issue correspondence to DCG through counsel to serve as notification regarding which contract assignments will be accepted.

While no further payments are required pending completion of the Work, Owner is not opposed to performing a project audit in the near term to determine a fair and reasonable resolution of any issues related to the project or the contract.

Very truly yours,

ROBBINS DIMONTE, LTD.

/s/ Ryan T. Johnson

RTJ/ij

Chicago

180 North LaSalle Street, Suite 3300, Chicago, Illinois 60601
O: 312.782.9000 | F: 312.782.6690

Park Ridge

216 West Higgins Road, Park Ridge, Illinois 60068
O: 847.698.9600 | F: 847.698.9623 | F: 847.698.9624

robbinsdimonte.com

Exhibit A

~~20230115887-004661~~
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

2023015887 ML \$29.00
05/04/2023 10:16:15AM 3 PGS
Trini Beaver
Hamilton County Recorder IN
Recorded as Presented



AMM

SWORN STATEMENT AND NOTICE OF INTENTION TO HOLD MECHANIC'S LIEN

Motorsport Real Estate Ventures LLC
300 S Wacker Dr Ste 3500
Chicago, IL 60606

Motorsport Real Estate Ventures LLC
c/o Registered Agent
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

Motorsport Real Estate Ventures LLC
10050 Hague Rd
Fishers, IN 46038

You are hereby notified that Dillon Construction, Inc. d/b/a DCG Construction, (hereinafter called "Claimant"), whose address is 6828 Hillsdale Ct., Indianapolis, Indiana 46256, intends to hold a Mechanic's Lien on the following described real estate, and any lease hold interest, located in Fishers, Hamilton County, Indiana described as follows:

See Exhibit A attached hereto

commonly known as 10050 Hague Road, Fishers, Indiana 46038, and improvements thereon, for the amount of One Million, Eleven Thousand, Four Hundred Sixty-Two Dollars and Twenty-One Cents (\$1,011,462.21) together with pre-judgment interest and attorneys' fees for work and labor done and materials furnished by Claimant for improvement of said real estate pursuant to that certain written design-build contract by and between Claimant and Cardinal XLIII, LLC, dated November 4, 2022.

The undersigned individual executing this instrument, having been duly sworn upon his oath, under the penalties of perjury, hereby states that the facts and matters set forth in the foregoing statement are true and correct.

THIS SECTION LEFT INTENTIONALLY BLANK;
SIGNATURE PAGE TO FOLLOW

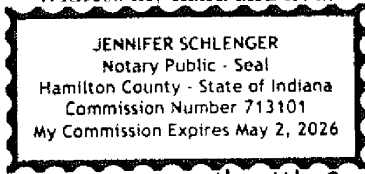
Dillon Construction, Inc. d/b/a DCG Construction

By: *Audie Tarpley*
Audie Tarpley, President

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said county and state, personally appeared Audie Tarpley, President for Dillon Construction, Inc. d/b/a DCG Construction, who acknowledged the execution of the foregoing Sworn Statement and Notice of Intention to Hold Mechanic's Lien, and who, having been duly sworn, under the penalties of perjury, stated that the facts and matters therein set forth are true and correct.

Witness my hand and notarial seal this 4 day of May 2023.



Signature: *Jennifer Schlenger*
Printed: Jennifer Schlenger

County of Residence: Hamilton

My Commission Expires: 5/2/2026

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law, Matthew M. Millis (Ind. Code §36-2-11-15(d)).

Prepared by/return to: Matthew M. Millis, Easter & Cavosie, 10455 College Ave., Carmel, IN 46280

EXHIBIT A

PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A HARRISON MARKER AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17, NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 11 MINUTES 46 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER 676.13 FEET TO THE NORTHWEST RIGHT OF WAY OF THE INDIANA HOOSIER PORT AUTHORITY RAILROAD, LOCATED 20 FEET OFFSET OF THE CENTERLINE OF THE RAILS; THENCE SOUTH 27 DEGREES 45 MINUTES 03 SECONDS WEST ALONG SAID NORTHWEST RIGHT OF WAY 1925.39 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 14 SECONDS WEST 2814.30 FEET TO THE WEST LINE OF THE SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 54.67 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER 386.70 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 27 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER 2478.19 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 11 MINUTES 56 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 386.70 FEET TO THE POINT OF BEGINNING. CONTAINING 97.645 ACRES, MORE OR LESS.

29C01-2307-PL-1004661
Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

2023017705 ML \$31.00
05/17/2023 12:01:58PM 5 PGS
Trini Beaver
Hamilton County Recorder IN
Recorded as Presented



**SWORN STATEMENT AND
NOTICE OF INTENTION TO
HOLD MECHANIC'S LIEN**

JMZ

May 17, 2023

| | | |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| To: | Motorsport Real Estate Ventures, LLC | Motorsport Real Estate Ventures, LLC |
| Address: | 300 South Wacker Drive, Suite 3500 Chicago, IL 60606 | 10050 Hague Road Fishers, IN 46038 |
| | Motorsport Real Estate Ventures, LLC c/o Corporation Service Company 135 North Pennsylvania Street, Suite 1610 Indianapolis, IN 46204 | Motorsport Real Estate Ventures, LLC 227 West Monroe Street, Suite 5000 Chicago, IL 60606 |

You are hereby notified that Studio M Architecture and Planning, LLC (hereinafter called "Claimant"), with an address of 275 Veterans Way, Suite 200, Carmel, Indiana 46032, intends to hold a Mechanic's Lien on the following described Real Estate, and any leasehold interests in the Real Estate, located in Fishers, Hamilton County, Indiana, described as follows:

See Exhibit A, attached hereto, and incorporated herein by reference;

commonly known as 10050 Hague Road, Fishers, Indiana 46038, and improvements situated thereon (the "Real Estate"), in the amount of Two Hundred Thirty-One Thousand Eight Hundred Dollars and zero cents (\$231,800.00) for architectural services provided by Claimant for the improvement of said Real Estate within the last ninety (90) days, which improvements and materials are more specifically described as follows:

Architectural services including but not limited to conceptual design, design development, construction drawings, master planning and producing renderings for the project at the Real Estate.

The undersigned individual executing this instrument, having been duly sworn upon his oath, under the penalties for perjury, hereby states that Claimant intends to hold a Mechanic's Lien upon the above-described Real Estate and the improvements thereon, including but not limited to any and all leasehold interests in the Real Estate, and that the facts and matters set forth in this foregoing statement are true and correct.

/s/ Grantland M. Clapacs
Grantland M. Clapacs, #18576-53
Attorney for Claimant, Studio M Architecture and Planning, LLC

EXHIBIT A

PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A HARRISON MARKER AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17, NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 11 MINUTES 46 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER 676.13 FEET TO THE NORTHWEST RIGHT OF WAY OF THE INDIANA HOOSIER PORT AUTHORITY RAILROAD, LOCATED 20 FEET OFFSET OF THE CENTERLINE OF THE RAILS; THENCE SOUTH 27 DEGREES 45 MINUTES 03 SECONDS WEST ALONG SAID NORTHWEST RIGHT OF WAY 1925.39 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 14 SECONDS WEST 2814.30 FEET TO THE WEST LINE OF THE SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 54.67 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER 386.70 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 27 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER 2478.19 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 11 MINUTES 56 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 386.70 FEET TO THE POINT OF BEGINNING. CONTAINING 97.645 ACRES, MORE OR LESS.

STATE OF INDIANA

SS:

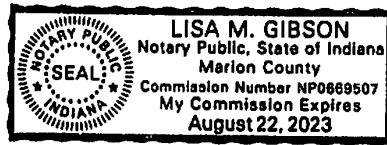
COUNTY OF Marion

Before me, a Notary Public in and for said County and State, personally appeared Grantland M. Clapacs, who acknowledged the execution of the foregoing Sworn Statement and Notice of Intention to Hold Mechanic's Lien, and who, having been duly sworn, under the penalties of perjury, stated that the facts and matters therein set forth are true and correct.

Witness my hand and Notarial Seal this 17th day of May, 2023.

My Commission Expires:
August 22, 2023

Signature: *Lisa M. Gibson*
Printed: Lisa M. Gibson
Notary Public
Residing in Marion County, Indiana



CERTIFICATE OF MAILING

The undersigned, as duly elected and acting Recorder of Hamilton County, Indiana, certifies that a duplicate copy of this Sworn Statement and Notice of Intention to Hold Mechanic's Lien was mailed by first class United States mail, postage prepaid, to the property owners named therein at the address set forth above.

Date: _____

Recorder of Hamilton County, Indiana

I affirm under the penalties for perjury that I have taken reasonable care to redact each Social Security Number in this document unless otherwise required by law.

/s/ Grantland M. Clapacs
Grantland M. Clapacs

This instrument was prepared by Grantland M. Clapacs, Attorney at Law, Dentons Bingham Greenebaum LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204.

22896956.v1

29 Exhibit PJ-004661

Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

2023017716 ML \$25.00
05/17/2023 12:22:17PM 3 PGS
Trini Beaver
Hamilton County Recorder IN
Recorded as Presented



JDB

**SWORN STATEMENT AND NOTICE OF INTENT
TO HOLD MECHANIC'S LIEN AND TO IMPOSE PERSONAL LIABILITY**

TO: Motorsport Real Estate Ventures LLC
300 South Wacker Drive, Suite 3500
Chicago, IL 60606

You are hereby notified that Gradex, Inc. ("Claimant"), whose address is 10220 North Illinois Street, Indianapolis, Indiana 46290, intends to hold a mechanic's lien on real estate located in Hamilton County, Indiana, described as Parcel No. 29-14-11-000-011.000-006 and further described on the attached Exhibit A, and improvements thereon, commonly known as the Andretti Motorsports Project located at 10050 Hague Road, Fishers Indiana (the "Project") for the principal amount of \$259,968.57, plus interest and attorneys' fees, which sum is owed by DCG Indiana, Inc. d/b/a Dillon Construction Group, whose address is 6828 Hillsdale Court, Indianapolis, Indiana 46250, for labor and materials furnished consisting of mass grading and building pad required for construction of the Project which work has been performed within the last 90 days.

You are further notified in accordance with Ind. Code § 32-28-3-9 that Claimant intends to hold you personally liable for the payment of this claim to the extent of any monies which may now be due or which may hereafter become due from you to or for DCG Indiana, Inc. d/b/a Dillon Construction Group, either directly or indirectly or through other contractors or parties.

The undersigned, having been duly sworn upon his oath under the penalties of perjury, states that Claimant intends to hold a mechanic's lien upon the above real estate and improvements and that the facts and matters set forth herein are true and correct to the best of his knowledge, information and belief.

GRADEX, INC.

By: _____

Thomas A. Pastore, #15239-49
Its Attorney

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Thomas A. Pastore, attorney for Gradex, Inc., who acknowledged the execution of this Sworn Statement and Notice of Intent to Hold Mechanics' Lien, and who, having been duly sworn, under the penalties of perjury, stated that the matters therein set forth are true and correct to the best of his knowledge, information and belief.

Witness my hand and notarial seal this 16th day of May, 2023.

Signature: Tina K. Carter
Tina K. Carter, Notary Public

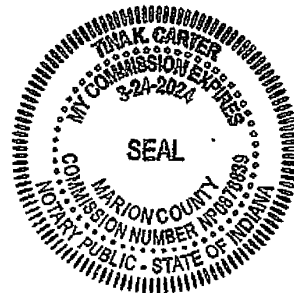


EXHIBIT A

LEGAL DESCRIPTION

PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A HARRISON MARKER AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17, NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 11 MINUTES 46 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER 676.13 FEET TO THE NORTHWEST RIGHT OF WAY OF THE INDIANA HOOSIER PORT AUTHORITY RAILROAD, LOCATED 20 FEET OFFSET OF THE CENTERLINE OF THE RAILS; THENCE SOUTH 27 DEGREES 45 MINUTES 03 SECONDS WEST ALONG SAID NORTHWEST RIGHT OF WAY 1925.39 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 14 SECONDS WEST 2814.30 FEET TO THE WEST LINE OF THE SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 54.67 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER 386.70 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 27 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER 2478.19 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 11 MINUTES 56 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 386.70 FEET TO THE POINT OF BEGINNING. CONTAINING 97.645 ACRES, MORE OR LESS.

Exhibit K-004661

Hamilton Circuit Court

Filed: 5/22/2023 4:30 PM
Clerk
Hamilton County, Indiana

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05/19/2023 11:29:37A 3 PGS
Trini Beaver
HAMILTON County Recorder IN
Recorded as Presented



731.00
③

**SWORN STATEMENT AND NOTICE
OF INTENTION TO HOLD MECHANIC'S LIEN**

Date: May 19, 2023

TO:

Motorsport Real Estate Ventures LLC
300 S. Wacker Dr, Suite 3500
Chicago, IL 60606

Motorsport Real Estate Ventures LLC
c/o Registered Agent
195 North Pennsylvania St., Suite 1610
Indianapolis, IN 46204

Motorsport Real Estate Ventures LLC
10050 Hague Rd.
Fishers, IN 46038

Dillon Construction, Inc. d/b/a DCG Construction
6828 Hillsdale Court
Indianapolis, IN 46256

CONTRACTOR:

Glenmark Construction Co., Inc.
951 Western Drive
Indianapolis, IN 46241

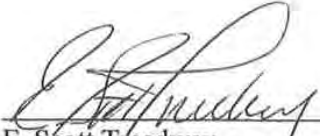
You are hereby notified that Glenmark Construction Co., Inc. (hereinafter "Claimant"), whose mailing and street address is 951 Western Drive, Indianapolis, IN 46241, intends to hold a Mechanic's Lien on the following described real estate:

See Exhibit "A" attached hereto

commonly known as **10050 Hague Road, Fishers, IN 46038**, and improvements thereon, for the amount of thirty-two thousand nine hundred three dollars and fourteen cents (**\$32,903.14**) for work and labor done and materials furnished by Claimant for improvements of said real estate within the last ninety (90) days, together with interest, costs and attorney's fees which improvements are more specifically described as:

All labor and materials related to the Andretti construction office, including but not limited to, metal framing, drywall, acoustical ceilings, design, specifications and bidding.

The undersigned individual executing this instrument, having been duly sworn upon his oath, under the penalties of perjury hereby states that Claimant intends to hold a mechanic's lien upon the above-described real estate and the described improvements, and that the facts and matters set forth in the foregoing statement are true and correct.

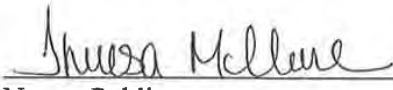
By: 
E. Scott Treadway
Attorney for Claimant,
Glenmark Construction Co., Inc.

STATE OF INDIANA)
) SS:
COUNTY OF Hamilton)

Before me, Theresa McClure, a Notary Public in and for the State of Indiana, personally appeared E. Scott Treadway, Attorney for Claimant, who acknowledged the execution of the foregoing Sworn Statement and Notice of Intention to Hold Mechanic's Lien, and who, having been duly sworn, under the penalties of perjury, stated that the facts and matters therein set forth are true and correct.

Witness my hand and Notarial Seal this 18th day of May, 2023.




Notary Public

Resident of Hamilton County, Indiana
My Commission Expires on November 18, 2029

This instrument was prepared by E. Scott Treadway, Attorney at Law.

Return to: E. Scott Treadway (#14675-49)
EST Law, LLC
9465 Counselors Row, Suite 200
Indianapolis, IN 46240
317-805-4762
scott@estlawllc.com

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ E. Scott Treadway

EXHIBIT A

PART OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A HARRISON MARKER AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17, NORTH, RANGE 4 EAST; THENCE SOUTH 00 DEGREES 11 MINUTES 46 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER 676.13 FEET TO THE NORTHWEST RIGHT OF WAY OF THE INDIANA HOOSIER PORT AUTHORITY RAILROAD, LOCATED 20 FEET OFFSET OF THE CENTERLINE OF THE RAILS; THENCE SOUTH 27 DEGREES 45 MINUTES 03 SECONDS WEST ALONG SAID NORTHWEST RIGHT OF WAY 1925.39 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 14 SECONDS WEST 2814.30 FEET TO THE WEST LINE OF THE SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 54.67 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 10 MINUTES 10 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER 386.70 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 27 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER 2478.19 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 11 MINUTES 56 SECONDS WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER 386.70 FEET TO THE POINT OF BEGINNING. CONTAINING 97.645 ACRES, MORE OR LESS.