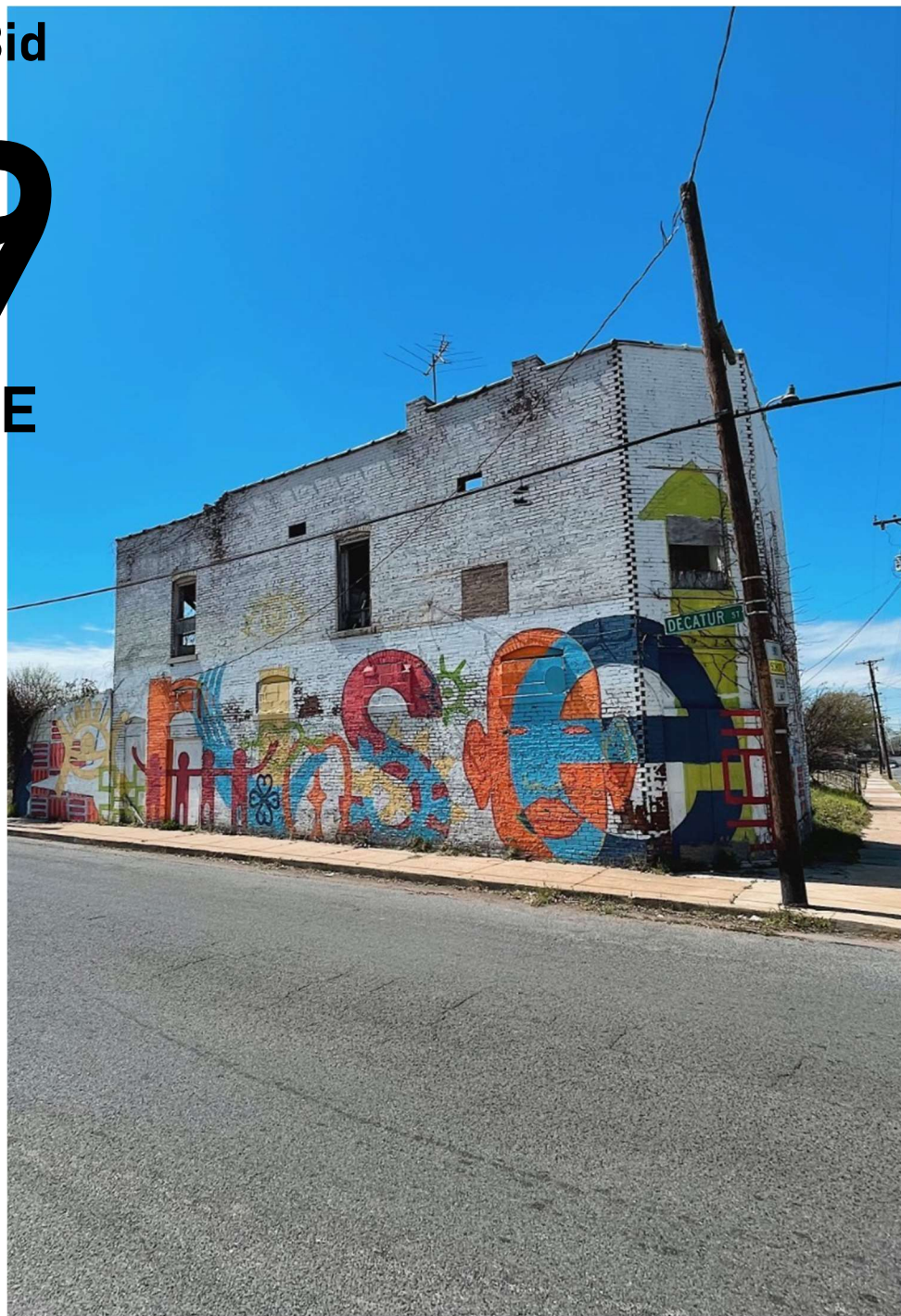


**Invitation to Bid**

**989**

**LOONEY AVE**

**STRUCTURAL  
RETROFIT**



# PROJECT QUICK REFERENCE

## GENERAL CONDITIONS:

Owned by the Community Redevelopment Agency (CRA), 989 Looney Ave is a 2-story masonry structure at the corner of Looney & Decatur in the Smokey City Neighborhood. Built in the 1900s the structure historically served as a sundry store to the 'Whitesides Subdivision.' Currently the building stands severely neglected and unstable due to its lack of seismic retrofits, and failed interior structure.

## OBJECTIVE AND DESCRIPTION OF WORK:

The CRA is soliciting bids for stabilization and building envelope rehabilitation.

## ELEMENTS OF SCOPE:

- Temporary Bracing of Masonry Structure
- Selective Demolition & Removal of Interior Debris
- CMU Wall Construction
- CFS Framing for Interior Bracing & Wall/Roof Connections
- Flat Roof Installation
- Parapet Bracing
- Exterior Brick Veneer Stabilization
- Temporary Window & Door Treatment

## ADD ALTERNATES

- Insulated Windows & Commercial Storefront Door
- Exterior masonry painting
- Steel Ladder Roof Access

## PROJECT TIMELINE:



## **IMPORTANT DATES:**

*PRE-BID MEETING / THURSDAY MAY 11, 2023 8:00AM AT CRA OFFICE*

*SITE VISIT / AT CONTRACTOR'S CONVENIENCE - GATE CODE WILL BE PROVIDED*

*SUBMISSION DEADLINE / FRIDAY JUNE 2<sup>ND</sup>, 2023 4:00PM*

*AWARD OF CONTRACT / WEDNESDAY JUNE 7<sup>TH</sup>, 2023*

## **CONCERNS & CONSIDERATIONS:**

- The building is in severe disrepair. Please exercise caution when conducting and participating in site visits. Contractors will be required to sign a waiver to receive code for gate lock.
- Age of structure and deferred maintenance creates elevated risk of unforeseen expenses and change orders as work progresses.
- Utilities are not available at the site and will need to be temporary by either having a pole set or utilizing generators.
- Illicit activity in the neighborhood can potentially affect the safety of contractors and security of materials. Materials should be stored with the contractor whenever possible. A temporary gate was installed at the building's rear to allow entry for authorized individuals. The gate is intended only to dissuade curious individuals from entering the property, not as a means of security.
- In addition to a small yard at the building's rear, CRA owns the adjacent vacant lot to the west. It can be utilized for staging of machinery, placing a dumpster. After construction, contractor shall restore lot to present condition.
- Alternate materials and value engineering options are welcome but should be notated as such on the Bid Worksheet. Alternate materials or construction methods will need approval from Engineer of Record.

# DUE DILIGENCE

## INSURANCE REQUIREMENTS:

1. General Liability
  - a. General Aggregate \$2,000,000.00
  - b. Product, Completed Operations Aggregate \$2,000,000.00
  - c. Personal injury \$1,000,000.00
  - d. Each Occurrence \$1,000,000.00
  - e. Fire Legal Liability Damage \$100,000.00
  - f. Medical Expense \$10,000.00
2. Automobile Liability
  - a. Combined Single Limit \$1,000,000.00
3. Excess Liability
  - a. Each Occurrence \$1,000,000.00
  - b. Aggregate \$2,000,000.00
  - c. Disease, Policy Limit \$500,000.00
  - d. Disease, Each Employee \$100,000.00

## BID BOND:

Bid security in the form of a Bid Bond or certified check in the amount of 5% of the bidder's proposed bid if the bid amount exceeds \$200,000.00



# ABOUT

CRA Mission and Goals: The City of Memphis and Shelby County Community Redevelopment Agency (CRA) was established to be a catalyst for the restoration of communities through removing blight and providing affordable housing. The CRA serves as a joint agency of Shelby County and the City of Memphis and was set up as an organization in 2017. Our community-based approach to the redevelopment of neighborhoods needing reinvestment relies on Tax Increment Financing (TIF) as an important and strategic tool for implementing the goals of the agency.

# CONTACT

## QUESTIONS/CLARIFICATION/SITE VISIT:

Any questions for clarification purposes, or appointments for site visits should be directed to:

Emma Turri, Project Manager [emma.turri@cramemphis.org](mailto:emma.turri@cramemphis.org)

Ben Knoernschild, Engineer of Record [benk@csaenginerringinc.com](mailto:benk@csaenginerringinc.com)

*With copy to:*

Kimani Shotwell, Director [kimani.shotwell@cramemphis.org](mailto:kimani.shotwell@cramemphis.org)

## AGENCY CONTACT INFORMATION:

City of Memphis and Shelby County Community Redevelopment Agency

Mailing Address: P.O. Box 70386 Memphis, TN 38107

Physical Address: 850 N. Manassas St Memphis, TN 38107

Office Phone: (901) 435-6992



# PROJECT MANUAL

**989 LOONEY STRUCTURAL RETROFIT**



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	00100 - Instructions to Bidders
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	00430 - Equal Business Opportunity Program
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	00643 - Final Release of Liens for General Contractors
	00710 - General Conditions of the Contract
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SEE CONSTRUCTION DOCUMENTS

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- A - Structural Site Plans
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- C - Waiver of Liability and Release for Site Visit
- D - Hazardous Materials Report

## SECTION 00010 - NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the Community Redevelopment Agency will receive bids electronically, until **4:00 PM on FRIDAY, JUNE 2<sup>nd</sup>, 2023** for:

The Construction of: Community Redevelopment Agency - 989 Looney Structural Retrofit

*All bids shall be submitted via email to Emma Turri at [emma.turri@cramemphis.org](mailto:emma.turri@cramemphis.org) and copy Kimani Shotwell [kimani.shotwell@cramemphis.org](mailto:kimani.shotwell@cramemphis.org) on the emailed bid submittal.*

Community Redevelopment Agency - 989 Looney Structural Retrofit includes temporarily bracing existing structure, select demolition of interior, permanent stabilization, seismic modifications, commercial roofing, and exterior masonry repairs.

The Information for Bidders, Form of Bid, Form of Agreement, General Conditions, Supplemental General Conditions, Drawings, Forms of Bid Bond, Performance & Payment Bond, and other Contract Documents may be obtained by contacting Emma Turri [emma.turri@cramemphis.org](mailto:emma.turri@cramemphis.org) or 901-435-6992.

A **mandatory pre-bid meeting** will be held virtually and at the Community Redevelopment Agency office, located at 850 N. Manassas, Memphis, TN 38107, at **8:00am on THURSDAY, MAY 11<sup>th</sup>, 2023**. It is required that all bidders RSVP to Emma Turri [emma.turri@cramemphis.org](mailto:emma.turri@cramemphis.org) in order to attend the meeting in person or virtually. Bidders participating in the meeting remotely must request virtual access at least two days in advance of the pre-bid meeting.

Each **bid must be submitted on forms provided in Bid Documents** and either accompanied by a Bid Bond, properly executed on the form provided, or Cashier's Check drawn on a National or Tennessee Bank in the amount of 5% of the Total Bid Price.

Bids filed as provided herein shall be opened and reviewed privately by the Community Redevelopment Agency after **4:00 PM on FRIDAY, JUNE 2<sup>nd</sup>, 2023**. Bids filed after the deadline set for receiving bids shall not be considered.

The Community Redevelopment Agency shall reserve the right to interview any of the bidders and to reject all bids if said body deems it necessary in the best interest of the citizens of the City of Memphis. For additional information call Emma Turri, Project Manager, 901-435-6992.

**END OF SECTION 00010**

# INSTRUCTIONS TO BIDDERS - 00100

## 1. PROJECT DESCRIPTION

989 Looney Avenue is a 2-story masonry structure that sits on the corner parcel of Decatur & Looney. Built in 1910 part of the 'Whitesides' subdivision in Smokey City, the structure is 2,176 sq. ft. and is a unreinforced masonry and wood framed structure. Architectural features of the structure include a true brick wall, slab foundation, wood joist that tie to the brick and create a second floor, parapet with terra cotta caps, and a flat roof.

The structure currently sits in a precarious & dilapidated state, with a failed roof, a compromised second floor, and a missing southern wall. To remedy this state, the CRA is requesting bids to perform the following work:

- Temporarily brace the structure for selective demolition of the structure's interior
- Remove interior debris
- Install cold form steel framing to brace the masonry walls and rebuild the second floor with steel joists
- Construct a rear concrete masonry unit (CMU) wall that ties back into the existing structure
- Brace parapet
- Install a new flat roof, downspouts, and gutters
- Stabilize brick veneer exterior
- Install temporary window coverings or Storefront windows and doors if budget allows

This initial round of stabilization will prepare the building for a future commercial RFP, activation of the space, and provide intermediary blight remediation.

## 2. BIDDING DOCUMENTS

For the mutual protection of the **Memphis and Shelby County Community Redevelopment Agency (herein called "CRA" or "Owner")**, **Engineer of Record: Chad Stewart and Associates (herein called "the EOR")**, and all subcontractors and material suppliers, partial sets of documents will not be issued. Therefore, all contractors intending to submit a bid shall obtain one (1) complete electronic set of documents from the **EOR** for their bid to be accepted. This will also place the Contractor on the mailing list for addenda issuance.

### PLAN ROOM DISTRIBUTION:

Complete sets of contract documents are available for download or review at the following locations:

- Online Mid-South Planroom: <https://www.midsouthplanroom.com/>
- Memphis Area Minority Contractors Association; 480 Dr. M.L. King Jr. Avenue, Memphis, TN 38103, Phone # 636-9300. (MAMCA\_1@hotmail.com)

## **INSTRUCTIONS TO BIDDERS - 00100**

### **3. ADDENDA**

The CRA will forward one (1) copy of all addenda to holders of each set of documents. All such addenda will become a part of the contract documents and subject to all conditions contained therein and must be listed on the Bid Form for the bid to be accepted. Note: no addendum shall be issued within seven (7) calendar days prior to the date set for opening of bids, unless said addendum, delays the opening of said bids.

### **4. INTERPRETATION**

Requests for interpretation should be addressed to the CRA & EOR either in writing or via telephone. No oral interpretation will be made to any bidder as to meaning of drawings and specifications. Requests for interpretation will be accepted up to seven (7) calendar days prior to the date set for opening of bids. All interpretations will be made as an addendum and issued as promptly as practicable to the Mid-South Planroom for accessibility.

*Note: no addendum shall be issued inside of seven (7) calendar days prior to the date set for opening of bids, unless said addendum delays the opening of said bids.*

### **5. PREPARATION OF BIDS**

- A. Each bid must be submitted using the forms attached hereto, and must include in the Bid Envelope the following fully executed items:
- B. The written bid on the form provided by the CRA. All spaces must be completed in ink or typewritten (Section 00310).
- C. Bid security in the form of a Bid Bond or Certified Check in the amount of 5% of the bidder's proposed bid if the bid amount exceeds \$200,000 (Section 00410).
- D. The Certificate of Non-discrimination on the form provided (Section 00420).
- E. The Equal Business Opportunity Compliance Form on the form provided (Section 00430).
- F. Good Faith Effort Documentation Form on the form provided, only if M/WBE goal not obtained (Section 00430).
- G. The Certificate of Drug Free Workplace on the form provided (Section 00440).

### **6. BIDS**

Bid Forms are incorporated herein. Bidder shall submit the forms and any corresponding documents as listed and described in Section 00100.5 Instructions to Bidders, Preparation of Bids.

### **7. BID EXCLUSIONS/QUALIFICATIONS**

Any bid that is unqualified in any way or which contains any exclusions will automatically be classified as non-conforming and shall not be given consideration for contract award.



## **INSTRUCTIONS TO BIDDERS - 00100**

### **8. BID GUARANTEE REQUIREMENTS**

Submit bid guarantee as a guarantee that:

- A. Bidder will not withdraw bid for ninety (90) days after opening of bids without Owner's written consent.
- B. If bid is accepted, the bidder will enter into formal contract with the Owner, within ten (10) days after receipt of contract documents for execution.
- C. If bid is accepted, the bidder will execute the required Payment & Performance Bond and will obtain required insurance coverage within ten (10) days after receipt of the contract.
- D. Contract between Owner and Contractor will be submitted to the Contractor for signature, then returned to the Owner for signature. Payment & Performance Bond and all certificates of insurance must be submitted by the Contractor at the same time as he returns the signed contract to the Owner.

For bid proposals which exceed \$200,000.00 a bidder's bond, or certified cashier's check made payable to the 'Community Redevelopment Agency' on a solvent bank will be provided in the amount of 5% of the base bid amount. Said instrument to remain in effect and will be returned only after the contract has been fully executed and secured.

Additionally, the successful bidder shall execute a Payment & Performance Bond in an amount equal to 100% of the contract sum as security for the faithful performance of the contract and for the payment of labor and material furnished and incorporated into the work. The only acceptable form of instrument for this bond is bound herein. Bond shall be furnished through an agent domiciled and legally authorized to do business in the State of Tennessee and delivered to the Owner not later than ten (10) calendar days after the date shown on written notice from the CRA. The proposed surety company must be one acceptable to the CRA. Bidder shall be liable to the Owner for full amount of bid guarantee as representing damage to the Owner on account of default of Bidder if:

- 1. Bid is withdrawn within ninety (90) days after receipt of bids without approval of Owner.
- 2. Bidder fails to enter contract with Owner and execute required Payment & Performance Bond and provide required insurance coverage within ten (10) calendar days subsequent to notice of award of contract.

### **9. EXAMINATION OF SITE**

Before submitting a bid, the bidder shall personally visit the site of the proposed work and arrive at a clear understanding of the conditions under which the work is to be performed. No consideration will

be allowed subsequently by reason of error or oversight on the part of the bidder or on account of interference by either the CRA or existing conditions. Neglecting any of the above requirements will not be acceptable as reason for delay in the work or for adjustments of the contract sum.

## **INSTRUCTIONS TO BIDDERS - 00100**

### **10. FIELD MEASUREMENTS**

The Contractor shall make his own measurements to verify square footage, dimensions and quantities to complete the project. The dimensions and areas indicated on the drawings are for reference only and are not to be construed as the actual dimensions and areas.

### **11. STATE OF TENNESSEE CONTRACTOR REQUIREMENTS**

If bid is \$25,000 or over, bidders must be licensed contractors in the State of Tennessee as required by Title 62, Chapter 6, of the Tennessee Code Annotated.

**CLASSIFICATION FOR THIS PROJECT SHALL BE: BC, BC-B, or BC-b(sm).**

### **12. SUBCONTRACTORS**

No less than thirty percent (30%) of the total contract cost of the work shall be performed by the Contractor's own organization, thus limiting the total allowable amount of subletting to no more than seventy percent (70%) of the total contract cost of the work to be performed.

All transactions, negotiations, and correspondence of the CRA shall be with the Contractor. The CRA will refer all matters regarding payments, changes, scheduling work progress, etc. of Sub-contractors to the Contractor.

Sub-contractors shall be recognized only in the capacity of employees or work crews of the Contractor and shall be subject to the same requirements as to character and competence. The Contractor shall not assign, transfer, convey, sell, or otherwise dispose of the whole or any part of the contract to any person, firm, or corporation without the written consent of the CRA. Subletting any part of the work to be done under the contract shall not, under any circumstances, relieve the Contractor of any liabilities or obligations. At pre-construction the Contractor shall submit copies of executed Sub-contracts to the CRA.

If the Contractor shall sublet any part of this contract, the Contractor shall be as fully responsible to the CRA for the acts or omissions of the Sub-contractor and of the persons either directly or indirectly employed by his Sub-contractor as he is for the acts and omissions of persons directly employed by himself. Within ten days (10) after bids are opened, the apparent low bidder, and any other bidder so requested, shall submit a list of all Sub-contractors he expects to use in the work. An experience statement with pertinent information as to similar projects and other evidence of qualifications shall be furnished for each named Sub-contractor, as requested by the CRA. If the CRA, after due investigation, has reasonable objection to any proposed Sub-contractor, the CRA may, before contract execution, request the apparent low bidder to submit an acceptable substitute without an increase in his bid. If the apparent low bidder declines to make any such substitution, he will not thereby sacrifice his bid security. Any Sub-contractor so listed and to whom the CRA does not make any written objection prior to contract execution will be deemed acceptable by the CRA.

## **INSTRUCTIONS TO BIDDERS - 00100**

Contractor shall not be required to employ any Sub-contractor against whom he has reasonable objection.

The use of Sub-contractors listed by the bidder and accepted by the CRA prior to contract execution will be required in the performance of the work.

### **13. CONTINGENCY ALLOWANCE**

All bidders are to include 10% contingency allowance in their bids. This contingency allowance is to be used for any possible construction change orders that occur during the life of the contract and shall be reflected as a separate line item on the schedule of values. Any unused portion of the contingency allowance remaining at the completion of the contract shall be deducted via Change Order.

While calculating bond and insurance costs for bid preparation purposes only, bidders should add 10% to their overall bid to accommodate the increase in the contract amount. Total dollar value of contingency allowance shall be reflected on Bid Form found in Section 00310.

### **14. EQUAL BUSINESS OPPORTUNITY PROGRAM (EBO)**

This contract will be subject to the requirements of the CRA's Equal Business Opportunity ("EBO") Program. It is up to the Respondent to ensure that all requirements of this Program are met. The intent of the EBO Program is to increase the participation of locally owned minority and women owned business enterprises ("M/WBE") in the CRA's purchasing activities.

Toward achieving this objective, the M/WBE participation goal for this solicitation is 40% combined for MBE and WBE participation. The percentage of M/WBE participation is defined as the dollar value of subcontracts awarded to certified minority and/or women business enterprises divided by the total proposed base bid amount.

#### **PARTICIPATION PLAN**

The Participation Plan must include: (1) Level and dollar amount of participation your firm anticipates achieving in the performance of contract resulting from this Project; (2) the type of work to be performed by the M/WBE participation; and (3) the names of the M/WBEs the Respondent plans to utilize in the performance of the contract resulting from this Project.

#### **ELIGIBLE M/WBE FIRMS**

It is the sole responsibility of the bidder to verify that any M/WBE firm(s) utilized to meet the participation goal are certified as a M/WBE firm. A listing of current M/WBE certified firms can be found on the City of Memphis web site home page <https://memphis.mwsbe.com/?TN=memphis> . Here, an entire listing of all certified MWBE and SBE firms can be found, or a search can be performed for a particular firm. One or a combination of several M/WBEs may be utilized to meet the established goal.

## INSTRUCTIONS TO BIDDERS - 00100

### a) BID SUBMITTAL REQUIREMENTS

1. The bidder shall include with his bid the form found in Section 00430 of this specification.
2. If the bidder is a certified M/WBE and approved by the City of Memphis, then the participation goal for the M/WBE classification of the bidder shall be deemed met.
3. If the bidder has not met the required participation goal (as stated above) in its bid, as documented on the Section 00430 form, then documentation of the bidder's "good faith effort" shall be submitted with its bid. The Good Faith Effort Documentation Form is included in Section 00430 of this specification. The determination of whether a bidder has made a good faith effort will be made by the CRA, prior to the award of the project.

### b) SUPPLEMENTAL SUBMITTAL REQUIREMENTS

1. Within **ten (10)** days after contract notification of award, the bidder shall submit Letters of Intent from the certified M/WBE Sub-contractors identified in the Section 00430 form submitted with its bid.
2. Within **ten (10)** days after receipt of an executed contract from the Owner, the contractor shall submit copies of executed subcontracts with the certified M/WBE's identified in the bid documents. The executed subcontract shall include the scope of work to be performed by the M/WBE subcontractor.
3. At the completion of the work, the Contractor shall submit to the Owner a final schedule of participating certified M/WBE's Sub-contractors, showing the final amount of each subcontract and payments.
4. With the submittal of Application for Payment, the Contractor shall provide certification that he has paid all previous progress payments to M/WBE Sub-contractors utilizing the form found in Section 00640 or Section 00641 (as appropriate) of the contract documents.

### c) CHANGES TO DESIGNATED M/WBE SUB-CONTRACTORS

1. Proposed changes to the designated participating of women or minority business enterprises in a bidder's bid, on any project, after submission of bids, including during performance of a contract, must be submitted to the Owner. Bidders and Contractors must make every effort to replace a woman or minority business enterprise Subcontractor with another certified woman or minority business enterprise, based on said enterprises' availability. All substitutes for women or minority business enterprise Subcontractors or joint ventures require prior approval of the Owner, not to be unreasonably withheld; and said approval may be granted for reasons including, but not limited to, the following.

- (1) Sub-contractor requests that its subcontract or joint venture agreement with the prime contractor be voided;
- (2) Sub-contractor is unable to perform the work;
- (3) Sub-contractor has consistently performed unacceptable work.

## **INSTRUCTIONS TO BIDDERS - 00100**

### **d) FAILURE TO SUBMIT REQUIRED INFORMATION**

A bidder's failure to submit any of the information required by this chapter may render the bid non-responsive and ineligible for consideration.

A determination by the Owner that the Bidder or Contractor has failed to comply with any provision of this chapter shall subject the offending party to any or all of the following penalties:

1. Declare the Bidder's bid nonresponsive and ineligible to receive the involved contract;
2. Withholding from the Contractor in violation ten (10) percent (%) of all future payments, in addition to retainage, under the involved project until it is determined that the contractor is in compliance;
3. Withholding from the Contractor in violation all future payments under the involved project until it is determined that the Contractor is in compliance;
4. Exclusion from submitting a bid for any future procurement by the CRA such time as the Contractor demonstrates that it will comply with all of the applicable provisions contained in this chapter;
5. Termination, by the CRA, of the contract.

### **15. PRE-BID CONFERENCE**

A Pre-Bid Conference will be held both virtually on Microsoft Teams and in-person at the CRA Office 850 North Manassas St Memphis, TN 38107. All parties interested in bidding on this project are hereby invited and urged to attend this meeting. Failure to attend the pre-bid meeting will count against said "good faith effort" as required by the M/WBE program.

### **16. POST BID OBJECTIONS**

No objections with regard to the application, meaning, or interpretation of these specifications will be considered after the opening of the subject bids.

### **17. RECEIPT AND OPENING OF BIDS**

The Community Redevelopment Agency (herein called the "Owner" or "CRA") invites bids on the forms attached hereto. All blanks must be appropriately filled in. The CRA will receive bids electronically until **4:00 PM on FRIDAY JUNE 2<sup>nd</sup>, 2023**, and then opened by the CRA office at the time and location of their choosing. All bids shall be submitted via email to Emma Turri [emma.turri@cramemphis.org](mailto:emma.turri@cramemphis.org) with copy to Kimani Shotwell [kimani.shotwell@cramemphis.org](mailto:kimani.shotwell@cramemphis.org) on the emailed bid submittal.

All bidders are required to submit bids with the following information provided:

- a) Name of Project:
- b) Contractor's Name:
- c) Contractor's Address:
- d) Contractor's License Number, expiration date, and that part of the classification

## **INSTRUCTIONS TO BIDDERS - 00100**

applying to the bid. This information shall also be provided for the contractor applying to the bid for electrical, plumbing, heating/ventilation/air conditioning, and masonry work.  
e) The above due date and bid opening time: **4:00 PM**.

If desired, the bid may be hand delivered or sent via courier. The sealed envelope containing the bid must be enclosed in another envelope and addressed to:

Emma Turri  
Community Redevelopment Agency  
850 N Manassas  
Memphis, TN 38107

Any bid may be withdrawn prior to the above scheduled time for opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. Bidders must comply with all applicable licensing requirements. The CRA reserves the right to reject any and all bids and to waive any informality in bidding in its sole discretion. The CRA shall reserve the right to interview any of the bidders.

The CRA reserves the right to delay award of this contract for a period of up to **ninety (90)** days after receipt of bids.

### **18. TIME OF COMPLETION**

The work shall begin immediately upon date indicated on the Notice-to-Proceed and shall be completed in accordance with the following schedule:

Work shall be completed within one hundred eighty (180) Calendar Days.

All time noted above is based upon consecutive calendar days (and the time allowed for each bid item is intended to be concurrent with the other bid items). Upon acceptance of this contract, the contractor agrees to pay the CRA the sum of (\$500) per day for liquidated damages for every calendar day that the work remains incomplete beyond 180 days from date of Notice-to-Proceed.

Construction time shall include all normal weather conditions, such as rain, snow, and freezing temperatures. Extension of time will not be allowed for normal inclement weather, as recorded by the Memphis Area Office of the National Weather Service. Claims for delay attributed to unusually severe weather must be supported by National Weather Service climatological data covering the period in question and the same calendar period for the five preceding years.

### **19. NONDISCRIMINATION**

All entities contracting with the Community Redevelopment Agency agree to abide by and to take affirmative action when necessary to ensure compliance with the non-discrimination clauses set out below and agree to show proof of non-discrimination upon request and to post in conspicuous places available to all associate agents and their employees. In the event of non-compliance with City



## **INSTRUCTIONS TO BIDDERS - 00100**

Nondiscrimination Clauses, or with provisions of Executive Orders 11141 (age), 11246, 11375 (women), 12086 (Vietnam veterans), 110478 (federal employees), 11625 (minority business) 11701 (veterans), Title 41, Chapter 60 (handicapped) and specifically the handicapped affirmative action clause in Section 60-741.6.9 of OFCCP Rules, and any and all other federal laws prohibiting discrimination, contracts may be canceled, terminated, or suspended in whole or in part by the CRA.

The bidder shall execute the specified Certificate of Non-discrimination agreeing that, if awarded the contract, he/she shall not discriminate against any Sub-contractor, employee, or applicant for employment on the grounds of race, color, national origin or sex, in accordance with the citations listed in the above paragraph; and shall require the execution of such a certificate for each subcontractor prior to award of any subcontract with the further requirement that each Sub-contractor shall include identical requirements in any lower tier subcontracts which might in turn be made. Failure to execute and submit such certificate with the bid shall cause the bid to be rejected as nonconforming. The successful bidder and all Sub-contractors under the general contract shall maintain copies of their payrolls and all subcontracts for each weekly payroll period for the life of the construction and for a period of five (5) years after final release and payment is made by the CRA to the Contractor.

**END OF SECTION 00100**

**BID FORM - 00310**

**Proposal**

\_\_\_\_\_ (herein after called "Bidder") organized and existing under the laws of the State of Tennessee doing business as (a corporation), (a partnership) or (an individual).

To the Memphis and Shelby County Community Redevelopment Agency (hereinafter called "Owner" or "CRA".)

To Whom It May Concern:

The Bidder, in compliance with your advertisement for Bids for the Community Redevelopment Agency - 989 Looney Structural Retrofit and having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the Contract Documents within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" issued by the Owner and to fully complete the project within 180 consecutive calendar days thereafter as stipulated in the General Conditions. Bidder further agrees to pay as liquidated damages the sum of **\$500.00** per day for each consecutive calendar day thereafter as provided in Article 3 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

Bidder acknowledges receipt of the following addendum:

Addendum Number	Received on	Acknowledged By
Addendum #1	_____	_____
Addendum #2	_____	_____
Addendum #3	_____	_____
Addendum #4	_____	_____

Bidder agrees to construct all improvements to the Community Redevelopment Agency - 989 Looney Structural Retrofit in Memphis, Tennessee as described in the specifications and shown on the plans. It is the intention of the CRA to award the contract on the Base Bid total amount. The Owner reserves the right to reject any bid that does not reasonably reflect the scope of the individual work items.

## BID FORM - 00310

### BASE PROPOSAL

Bidder agrees to construct all improvements for the Community Redevelopment Agency - 989 Looney Improvements as described in the specifications and shown on the plans, to include but not limited to:

Mobilization, traffic control, erosion control, interior demolition, deleterious material haul-off and disposal, grading, steel framing, concrete installation, wall construction, stairwell installation, seismic modifications, tuckpointing, temporary window coverings, commercial roofing, and required ancillary work for the following price:

For the Lump Sum of \_\_\_\_\_ (\$\_\_\_\_\_)

Show dollar amount in both words and figures. In case of discrepancy, the amount in words shall govern.

**ALLOWANCE 1:** Construction Contingency 10%

### UNIT PRICES

The Bidder proposes the following unit prices, in accordance with the General Conditions and the Section 9.3, "Changes in the Lump Sum" of this specification. Owner reserves the right to add or eliminate costs from the Lump Sum base bid price by utilizing the unit prices provided below.

#### UNIT PRICE WORK

ITEM NO.	DESCRIPTION	UNITS	UNIT PRICE
1	Brick Repair - Tuck Pointing	100 LF	_____

### ADD ALTERNATES

- A) WINDOWS & DOORS  
See construction drawings
- B) EXTERIOR PAINTING  
See construction drawings
- C) ROOF ACCESS LADDER  
See construction drawings

## BID BOND - 00410

The Bidder understands that the Owner reserves the right to reject any or all Bids and to waive any informalities in the Bidding, including but not limited to unbalanced bids.

The Bidder agrees that this Bid shall be valid and may not be withdrawn for a period of 90 calendar days after the schedule closing time for receiving Bids, except upon risk of forfeiture of Bid Bond.

Upon receipt of written notice of the acceptance of this Bid, the Bidder will execute the formal contract attached within **ten (10)** days and deliver a Surety Bond or Bonds as required by the Contract Documents.

The Bid security in the sum of 5%:

\_\_\_\_\_ (\$\_\_\_\_\_) is to become the property of the Owner in the event the Contract and Bond are not executed within the time set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

I certify the above prices include all labor, materials, profit and overhead required to complete the work as stated by the Contract Documents for this project.

RESPECTFULLY SUBMITTED:

\_\_\_\_\_

(Signature)

BY: \_\_\_\_\_  
(Typewritten or Printed)

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TN LICENSE #: \_\_\_\_\_

SEAL (IF BID IS BY CORPORATION)

**END OF SECTION 00310**

**BID BOND - 00410**

## BID BOND

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

BIDDER (Name and Address)

SURETY (Name and Address of Principal Place of Business)

**OWNER:** Memphis and Shelby County Community Redevelopment Agency  
P.O. Box 70386  
Memphis, TN 38107

**BID DUE DATE:** June 2, 2023 at 4:00 PM

PROJECT:  
Structural Retrofit of Un-Reinforced Masonry building at 989 Looney Ave Memphis, TN 38107

## BOND

Bond Number: \_\_\_\_\_

Date (Not later than Bid due date): \_\_\_\_\_

Penal sum: \_\_\_\_\_ (Words) \_\_\_\_\_ (Figures)

**BID BOND - 00410**

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

**BIDDER**

**SURETY**

\_\_\_\_\_(Seal)  
Bidder’s Name and Corporate Seal

\_\_\_\_\_(Seal)  
Surety’s Name and Corporate Seal

By: \_\_\_\_\_  
Signature and Title

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_  
Signature and Title

Note: Above addresses are to be used for giving required notice.



## **BID BOND - 00410**

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
  - 3.2 All Bids are rejected by Owner, or
  - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award, including extensions, shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

**END OF SECTION 00410**

## CONSTRUCTION CONTRACT CERTIFICATE OF NONDISCRIMINATION - 00420

As Bidder, Contractor, or Subcontractor on Community Redevelopment Agency Construction Contract,

### 989 Looney Structural Retrofit

The undersigned states that it does not discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, national origin or sex and, if awarded a contract for this project, agrees in performance of work:

1. Not to discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, national origin or sex;
2. To maintain payrolls of laborers and mechanics employed on this contract until five (5) years after final release and final payment by the Community Redevelopment Agency;
3. To require a similar certificate to be executed by each subcontractor at the time a subcontract is executed under the contract with the requirement that such subcontractor agrees to require a similar certificate of requirement on any lower tiers of subcontracts.
4. To conform with federal law, state statutes, executive orders, and local ordinances identified and listed under Non-discrimination, Section 00100, "Instructions to Bidders" paragraph 20 criteria.

---

Contractor's Name

---

Date

---

Signature

---

Signature

---

Printed or Typed Name and Title

**END OF SECTION 00420**

## **EQUAL BUSINESS OPPORTUNITY PROGRAM - 00430**

This contract will be subject to the requirements of the Memphis and Shelby County Community Redevelopment Agency's Equal Business Opportunity ("EBO") Program. It is up to the Respondent to ensure that all requirements of this Program are met. The intent of the EBO Program is to increase the participation of locally owned minority and women owned business enterprises ("M/WBE") and locally owned small businesses ("LOSB") in the CRA's purchasing activities. Toward achieving this objective, the M/WBE participation goal for this solicitation is **40%** combined for MBE and WBE participation and **10%** LOSB participation. The percentage of M/WBE participation is defined as the dollar value of subcontracts awarded to certified minority and/or women business enterprises divided by the total proposed base bid amount.

### **PARTICIPATION PLAN**

The Participation Plan must include: (1) Level and dollar amount of participation your firm anticipates achieving in the performance of contract resulting from this Project; (2) the type of work to be performed by the M/WBE/LOSB participation; and (3) the names of the M/WBE/LOSBS the Bidder plans to utilize in the performance of the contract resulting from this Project.

### **ELIGIBLE M/WBE FIRMS**

It is the sole responsibility of the Bidder to verify that any M/WBE firm(s) utilized to meet the participation goal are certified as a M/WBE firm. A listing of current M/WBE certified firms can be found on the City of Memphis web site home page ([www.cityofmemphis.org](http://www.cityofmemphis.org)). On the City's home page under "Doing Business with the City", go to the link entitled "Certified MWSBE Search". Here an entire listing of all certified MWBE and SBE firms can be found, or a search can be performed for a particular firm. One or a combination of several M/WBEs may be utilized to meet the established goal.

## EQUAL BUSINESS OPPORTUNITY PROGRAM - 00430

### EQUAL BUSINESS OPPORTUNITY PROGRAM COMPLIANCE FORM

#### PROJECT TITLE: COMMUNITY REDEVELOPMENT AGENCY - 989 LOONEY STRUCTURAL RETROFIT

The following sections must be completed by bidder. A certified Sub-contractor or supplier is defined as a firm from the list of certified firms provided on the City of Memphis web site.

---

BIDDER'S NAME

**SECTION A:** If the bidder is a certified firm, so indicate here with a check mark.

\_\_\_\_\_MBE    \_\_\_\_\_WBE    \_\_\_\_\_SBE/LOSB

**SECTION B:** Identify below those certified firms that will be employed as subcontractors of suppliers on this project. By submitting this bid, the bidder commits to the use of the firms listed below.

\$ = Show the dollar value of the subcontract to be awarded to this firm.

% = Show the percentage this subcontract is of your base bid.

M/WBE = Show by inserting **M** or **W** whether the subcontractor is an MBE or WBE

SBE/LOSB = Show by inserting **S**

FORM CONTINUES ON NEXT PAGE

**EQUAL BUSINESS OPPORTUNITY PROGRAM - 00430**

\$	%	M/W/SBE	CERTIFIED SUBCONTRACTOR NAME, ADDRESS, PHONE #

\$\_\_\_\_\_ = TOTAL MBE

\$\_\_\_\_\_ = TOTAL WBE

\$\_\_\_\_\_ = TOTAL SBE/LOSB

THIS FORM MUST BE SUBMITTED WITH THE BID OR THE BID WILL BE  
CONSIDERED NON-CONFORMING.

## EQUAL BUSINESS OPPORTUNITY PROGRAM - 00430

### GOOD FAITH EFFORT DOCUMENTATION FORM

If a Respondent proposes an M/W/SBE percentage less than the established goal, the Respondent must, at the time of the response, submit a Good Faith Efforts statement accompanied by the appropriate documentation justifying its submitted M/W/SBE percentage. The ability of the Respondent to perform the work with its own work force will not in itself excuse the Respondent from making good faith efforts to meet participation goals. The determination of whether a Respondent has made a good faith effort will be made by the Community Redevelopment Agency prior to the award of the project. The Good Faith Efforts statement must include the following documentation:

TO: Andrew Murray, Community Redevelopment Agency, President

FROM: \_\_\_\_\_  
(NAME & FIRM)

PROJECT TITLE: COMMUNITY REDEVELOPMENT AGENCY - 989 LOONEY STRUCTURAL RETROFIT

ENCLOSED PLEASE FIND THE REQUIRED DOCUMENTS:

\_\_\_\_\_ Said bidder \_\_\_\_\_ did/or \_\_\_\_\_ did not attend the project pre-bid meeting.

\_\_\_\_\_ Copies of all written notification to City of Memphis M/WBE listed firms. (Please attach List of all firms notified. Detail how they were notified and when).

\_\_\_\_\_ Said bidder \_\_\_\_\_ did/or \_\_\_\_\_ did not select economically feasible portions of the work to be performed by M/WBE firms.

\_\_\_\_\_ List all M/WBE firms with which negotiations took place. (Attach list. If no negotiations were held, please state so.) Provide names, addresses, and dates of negotiations.

\_\_\_\_\_ Statement of efforts to assist M/WBE firms, with bonding, insurance, financing, or with document review. (Attach list. If no assistance was provided, please state so.)

\_\_\_\_\_ The Bidder \_\_\_\_\_ did / or \_\_\_\_\_ did not use all M/WBE quotations received. If the Bidder did not use all M/WBE quotations received, list on attached sheets, as requires as to the reason those quotes were not used.

\_\_\_\_\_ List (on attached sheets as required) all M/WBE firms contacted that the bidder considered not to be qualified, and a statement of the reasons for the bidder's conclusions. If no firms were found to be non-qualified, please state so.

**EQUAL BUSINESS OPPORTUNITY PROGRAM - 00430**

**THIS SIGNED FORM MUST BE SUBMITTED WITH THE BID IF THE BIDDER DOES NOT MEET THE  
REQUIRED M/WBE PROJECT GOAL WITH THEIR BID. IF NOT SUBMITTED THE BID WILL BE  
CONSIDERED NON-CONFORMING.**

---

**(CONTRACTOR/FIRM)**

---

**(SIGNATURE)**

---

**(PRINTED NAME)**

**END OF SECTION 00430**

## CONSTRUCTION CONTRACT - 00510

As Bidder, Contractor, or Subcontractor on the Community Redevelopment Agency  
Construction Contract, **Community Redevelopment Agency - 989 Looney Structural Retrofit**

The undersigned states that it acknowledges and adheres to the City of Memphis Drug Free  
Workplace policy and if awarded a contract for this project, agrees in performance of work:

To require drug and alcohol screening (urine testing, breath analysis, or other testing  
procedures) in the following situations: Pre-Employment; Department of Transportation  
Commercial Drivers, Reasonable Suspicion; Post Accident and Follow Up Drug Testing as  
part of Substance Abuse Rehabilitation.

To operate a drug free workplace program or alcohol testing program with requirements at  
least as stringent as the City of Memphis.

---

Contractor's Business Name

---

Signature

Date

---

Printed or Typed Name and Title

**END OF SECTION 00440**



## CONSTRUCTION CONTRACT - 00510

### CONTRACT FOR: Community Redevelopment Agency - 989 Looney Structural Retrofit

This Agreement made and entered into as of this \_\_\_\_ day of \_\_\_\_, 2023 by and between (hereafter "Contractor"), and MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY, a quasi-government organization of Memphis, TN, hereafter known as the "Owner" or "CRA".

Whereas the CRA published a legal Notice to Bidders pursuant to Community Redevelopment Agency - 989 Looney Structural Retrofit and issued drawings and specifications for the construction and performance of specified incidental work; and

Whereas Contractor submitted a proposal dated June 2, 2023, in accordance with such Notice to Bidders, drawings and specifications; and such proposal was accepted by CRA as the best bid;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Contractor hereby agrees to construct the project in accordance with the drawings and specifications bid upon and provided hereto, and in accordance with all other documents incorporated herein as set forth in this Section, at the stipulated Lump Sum

Amount of:

\_\_\_\_\_ \$ (\_\_\_\_\_)

Contractor shall promptly begin construction on the date specified hereafter in the written Notice to Proceed provided by CRA and shall fully complete all work within one hundred eighty (180) calendar days.

Should Contractor fail to complete all work within one hundred eighty (180) calendar days, Contractor shall pay the CRA the sum of (\$500) per day for liquidated damages for every calendar day that the work remains incomplete beyond 180 days from date of Notice-to-Proceed.

A. Contractor agrees to execute a Construction Payment Bond and Performance Bond and, in an amount equal to 100% of the contract sum with Surety to be approved by the CRA, or their designated representatives, as security for full and faithful performance of the contract and for the payment of labor and material furnished.

B. CRA reserves the right to require that Contractor provide an additional bond or bonds in such form and amount, and with such surety or sureties as approved by CRA, should CRA determine that the surety or sureties provided by Contractor to be insufficient to cover the performance of Contractor's work. In such event, no further payment shall be due Contractor until such new or additional bonds shall be provided in the manner and form satisfactory to CRA. This Contract shall not take effect until such Bond has been executed and approved.

## CONSTRUCTION CONTRACT - 00510

C. Contractor agrees to maintain the different types of insurance deemed appropriate by CRA as expressly set forth in the Contract Specifications with insurance companies acceptable to CRA at Contractor's sole cost and expense and shall provide evidence of such insurance to CRA contemporaneous with the commencement of this Agreement.

Upon completion of all work to be performed under this Agreement, Contractor shall provide a written statement of all work performed. Any outstanding balance owed by CRA shall be paid to Contractor or Contractor's successors or assigns out of the funds designated by CRA for this project, excepting therefrom any sum to be lawfully retained under the terms of this Agreement, and all such funds as may be due the CRA.

The President of CRA or his/her designated representative shall have the right to suspend the work provided for herein due to any default by Contractor, and such suspension shall not affect the right of the CRA to any damages for such breach.

The President of CRA or his/her designated representative reserves the right to discharge the Contractor for breach of any provision of this Contract, and such discharge shall not affect the right of the CRA against Sureties on the bond provided.

It is agreed an enumeration of drawings, specifications and addenda which form a part of this Contract, as set forth in Article 2 of the General Conditions, "Contract Documents", is as follows:

**CONSTRUCTION CONTRACT - 00510**

**Witness the signatures of the parties hereto, by their duly authorized officers, on the day and year first written.**

**CONTRACTOR:**

\_\_\_\_\_  
Contractor's Company Name Corporate Secretary - Signature

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**COMMUNITY REDEVELOPMENT AGENCY:**

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**ATTESTED:**

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**END OF SECTION 00510**

## ESCROW AGREEMENT - SECTION 00520

This Agreement made and entered into as of this \_\_\_\_ day of \_\_\_\_, 2023 by and between (hereafter "Contractor"), and MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY, a quasi-government organization of Memphis, TN, hereafter known as the ("Owner"), and \_\_\_\_\_ hereafter known as the ("Bank").

### WITNESSETH:

WHEREAS, Owner and Contractor have entered into a contract dated \_\_\_\_\_, (the "Contract") for the construction of certain improvements to real property in connection with the 989 Looney Structural Retrofit project and

WHEREAS, Section 00710, Article 4.2 of the Contract provides for a certain percentage to be withheld by Owner from each progress payment made on account of the Contract price (hereinafter referred to as "Retainage"); and

WHEREAS, the Owner has selected the Bank to be "Escrow Agent" for said Retainage;  
NOW, THEREFORE it is mutually agreed among the parties hereto that:

1. Owner hereto shall cause a separate interest bearing Escrow Account, Account No. \_\_\_\_\_ {"the Escrow Account"} to be established with the Escrow Agent. The proceeds of the Escrow Account shall be the property of Contractor and shall be subject to the rights of Owner if Contractor defaults on or does not complete the Contract. All interest earned on deposited Retainage shall be paid to the Contractor in accordance with this Agreement. Contractor shall provide Bank with a W-9 and such other information as Bank may require in order to set up the Escrow Account. The Account will use Contractor's tax identification number.
2. Such Retainage shall not be released from the Escrow Account without the prior written approval of Owner (a letter bearing the signature of the Comptroller of the Owner must be presented to the Bank requesting such release of Retainage) with a copy of said letter to be sent to Contractor in the manner provided for transmission of notice as provided in the Contract between Owner and Contractor.
3. From and after the date hereof, as each progress payment is made pursuant to Section 00710, Article 4.2 of the Contract, the Retainage withheld by Owner pursuant to the provisions of the Contract shall be concurrently deposited to the Escrow Account.
4. Until satisfactory completion in full of the Contract, Owner has and shall retain a first lien on and security interest in the Escrow Account. This security interest shall terminate upon Owner's execution of a release, to the extent of such release. Upon request for partial reduction of retainage as provided in the contract, or upon satisfactory completion in full of the Contract by the Contractor, to be evidenced by a written release delivered to the Escrow Agent, said

## ESCROW AGREEMENT - SECTION 00520

release to be signed and executed by Owner, all funds accumulated in the Escrow Account, together with any accumulated interest or other earnings thereon, shall be paid promptly to the Contractor. Notwithstanding anything herein to the contrary, Contractor hereby agrees that the Escrow Account may be drawn against by Owner to pay any and all costs, including reasonable attorneys' fees and court costs arising out of any lien or claim for lien filed by anyone claiming by, through or under the Contractor in connection with the Contract and/or arising out of any breach of the Contract by Contractor.

5. In the event of any dispute regarding this Agreement, or in the event that any of the parties hereto do not agree as to the disposition of the funds in the Escrow Account, the parties hereto agree that the Escrow Agent shall be released of any further obligation under this Agreement by tendering the funds maintained in the Escrow Account into a court of competent jurisdiction in an action in the nature of an interpleader.
6. Owner may replace Escrow Agent by notifying Bank. Upon receipt of such notice, Escrow Agent shall transfer all funds then on deposit in the Escrow Account to such bank selected by Owner within 10 business days of such notice from Owner. Owner shall notify Contractor of the substitute escrow agent and related escrow account within 30 business days of such transfer of funds to said substitute escrow agent.
7. Escrow Agent may resign as Escrow Agent by notifying Owner and Contractor in writing of its intent to resign as Escrow Agent. Upon receipt of such notice, Owner and Contractor agree that Owner shall have the right to approve a substitute escrow agent within 10 business days of such notice from Escrow Agent. Escrow Agent shall transfer all funds then on deposit in the Escrow Account to such bank selected by Owner.
8. To the extent permitted by law, the parties hereto agree to Indemnify and hold the Escrow Agent harmless from any loss, damages, or liabilities of any kind whatsoever, whether foreseen or unforeseen, whether direct or indirect arising out of or in connection with this Agreement, the Escrow Account and the funds contained therein, or the performance of the Escrow Agent's obligations hereunder, except liability resulting from Escrow Agent's negligence or misconduct. The Escrow Agent may rely upon the signatures of any correspondence from either or both of Owner/Borrower and/or Contractor as being the authenticate signatures of persons duly authorized to act on behalf of the Owner/Borrower or Contractor.
9. Except for the expressed provisions made in this Agreement, nothing provided in this Agreement shall be construed to modify or to amend the terms and provisions of the Contract.

**ESCROW AGREEMENT - SECTION 00520**

**In witness thereof, the parties, by their signatures hereto have executed or approved this Escrow Agreement**

**CONTRACTOR:**

\_\_\_\_\_  
Contractor's Company Name Corporate Secretary - Signature

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY:**

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**BANK:**

\_\_\_\_\_  
Signature Printed or Typed Name

\_\_\_\_\_  
Title

**END OF SECTION 00520**

## CONTRACT PAYMENT AND PERFORMANCE BOND - 00610

### STATE OF TENNESSEE (SHELBY COUNTY)

Be it known that \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety(ies), all authorized to do business in the State of Tennessee, hereby bind themselves to the Memphis and Shelby County Community Redevelopment Agency (CRA), and other potential claimants, for all obligations incurred by the Principal under its contract with Memphis and Shelby County Community Redevelopment Agency (CRA), for the construction of the above identified contract; in the full contract amount of: \_\_\_\_\_ and no/100 \_\_\_\_ (\$\_\_\_\_\_) (Dollars) for the payment of which well and truly to be made, in lawful money of the United States we do hereby bind ourselves, successors, assigns, heirs and personal representatives.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

Whereas, the Owner has engaged the said Contractor, for the sum of: \_\_\_\_\_ and no/100 \_\_\_\_ (\$\_\_\_\_\_) (Dollars)

The obligations of the Principal and Surety(ies) under these payment and performance bonds shall continue in full force and effect until all materials, equipment and labor have been provided AND all requirements contained in the contract, plans and specifications have been completed in a timely, thorough and workmanlike manner. The parties agree that these bonds are statutory in nature and are governed by the provisions contained in Title 12, chapter 4 and Title 54, chapter 5 of the Tennessee Code Annotated relating to bonds required of contractors and that those provisions constitute a part of this bond.

By this instrument, the Principal and Surety(ies) specifically bind themselves, their heirs, successors, and assigns, in solido, under the following bonds:

**Payment Bond.** To the Memphis and Shelby County Community Redevelopment Agency (CRA) and all "Claimants," as contemplated by T.C.A. Title 54, chapter 5, in the full contract amount of \_\_\_\_\_ (\$\_\_\_\_\_), in order to secure the payment in full of all timely claims under the project.

**Performance Bond.** To the Memphis and Shelby County Community Redevelopment Agency (CRA) in the full contract amount of \_\_\_\_\_ (\$\_\_\_\_\_), in order to secure the full and faithful performance and timely completion of the project according to its plans and specifications, inclusive of overpayments to the contractor and liquidated damages as assessed.

Upon receipt of notice that the Principal is in default under the contract, the Surety(ies) shall undertake to complete performance, without regard to cost. If the Surety(ies) fail or refuse to complete performance of the contract, the Memphis and Shelby County Community Redevelopment Agency (CRA) may then proceed with the work in any lawful manner that it may elect until it is finally completed. When the work is thus finally completed, the total cost of the same will be computed. All costs and charges incurred by the Memphis and Shelby County Community Redevelopment Agency (CRA) in completing the Work will be deducted from any monies due or

## CONTRACT PAYMENT AND PERFORMANCE BOND - 00610

which may become due to the Principal. If the total costs of completion exceeds the sum which would have been payable under the Contract, then the Principal and the Surety(ies), in solido, shall be liable for and shall pay to the Memphis and Shelby County Community Redevelopment Agency (CRA) the amount of such excess.

Whereas Contractor submitted a proposal dated October 1, 2021, in accordance with such Notice to Bidders, drawings and specifications; and such proposal was accepted by the Memphis and Shelby County Community Redevelopment Agency as the best bid;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Contractor hereby agrees to construct the project in accordance with the drawings and specifications bid upon and provided hereto,

### CONTRACTOR:

---

Contractor's Company Name

---

Signature

---

Printed or Typed Name and Title

### SURETY:

---

Surety

---

Attorney in Fact (Signed)

---

Printed or Typed Name



**CONTRACT PAYMENT AND PERFORMANCE BOND - 00610**

**MEMPHIS AND SHELBY COUNTY  
COMMUNITY REDEVELOPMENT AGENCY**

**COUNTERSIGNED:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Tennessee Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Printed or Typed Name

**ATTEST:**

**ADDRESS & TELEPHONE NUMBER:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_

\_\_\_\_\_  
Printed or Typed name

**END OF SECTION 00610**

## PARTIAL RELEASE OF LIENS FOR SUBCONTRACTORS - 00640

### AFFIDAVIT AND PARTIAL WAIVER OF CLAIMS AND LIENS AND RELEASE OF RIGHTS FOR SUBCONTRACTORS

The undersigned, who is the \_\_\_\_\_ (designate title) of \_\_\_\_\_ which is the \_\_\_\_\_ (designate whether subcontractor, supplier or otherwise) for the \_\_\_\_\_ (designate the type of work, supplies or services rendered) on the improvements constructed on the premises hereafter identified, declares that his contract with \_\_\_\_\_ (General Contractor) is in the total amount of \$\_\_\_\_\_, which includes extras and all change orders to the date hereof.

The undersigned further states that as of \_\_\_\_\_ (date) the total value of work completed, and material stored is \$\_\_\_\_\_. Of this amount \$\_\_\_\_\_ has been received (the receipt and sufficiency of which is hereby acknowledged by the undersigned including \$\_\_\_\_\_ in payment of Payment Application or Invoice Number \_\_\_\_\_. A total of \$\_\_\_\_\_ is being held as retainage.

In consideration of the amounts and sums received, the undersigned does hereby waive and release to the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** (Owner) and to \_\_\_\_\_ (General Contractor) any and all claims and liens and rights to liens upon the premises described below and upon improvements now thereon, and upon the monies or other considerations (due as of the date of the aforesaid payment application or invoices from the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** (Owner) or \_\_\_\_\_ (General Contractor) or from any other person, firm or corporation), said claims and liens and rights to liens being on account of labor, services, materials, fixtures or apparatus heretofore furnished by or at the request of the undersigned. The premises as to which said claims and liens and rights to liens are hereby released are identified as follows:

**Project Name:** \_\_\_\_\_

**Address of Project:** \_\_\_\_\_

**City:** Memphis      **County:** Shelby      **State:** TN      **Zip Code:** \_\_\_\_\_

The undersigned further represents and warrants that he is duly authorized and empowered to sign and execute this waiver on his own behalf and on behalf of the company or business for which he is signing; that he has properly performed all work and furnished all the materials of the specified quality per plans and specifications and in a good and workmanlike manner through the date of said payment application or invoice; that he has paid for all the labor, materials, equipment, and services that he has used or supplied to the above premises through the date of said payment application or invoice; that he has no other outstanding and unpaid payment applications, invoices, retentions, holdbacks, chargebacks or unbilled work or materials against \_\_\_\_\_ (General Contractor) as of the date of the aforementioned payment application; and that any materials which have been supplied or incorporated into the above premises were either taken from his fully-paid or open stock or were fully paid for and supplied as stated on the payment application or invoice.

## PARTIAL RELEASE OF LIENS FOR SUBCONTRACTORS - 00640

The undersigned further agrees to reimburse and does hold harmless and fully indemnify the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** (Owner) and \_\_\_\_\_ (General Contractor) for any losses or expenses should any such claims, lien or right to a lien be asserted (by the undersigned or by any laborer, materialman or subcontractor of the undersigned), including, without implied limitation, attorneys' fees incurred in the defense thereof.

The undersigned further accepts and acknowledges the receipt of the aforesaid sums in full accord and satisfaction for the aforementioned claims with full knowledge that the contractors, **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** (Owner) and \_\_\_\_\_ (General Contractor), their successors and assigns, are relying thereon; and furthermore, the undersigned agrees to perform, now and in the future, each and every covenant and provision of this written contract or supplier's agreement (as the case may be) as modified or changed in writing with \_\_\_\_\_ (General Contractor) or any subcontractor of \_\_\_\_\_ (General Contractor) hereby acknowledging that said contract or supplier's agreement is now in full force and effect.

In addition, for and in consideration of the amounts and sums received, the undersigned hereby waives, releases and relinquishes any and all claims, rights or causes of action whatsoever arising out of or in the course of the work performed on the above-mentioned project, contract or event transpiring prior to the date hereof, excepting the right to receive payment for work performed and properly completed and retainage, if any, after the date of the above-mentioned payment application or invoices.

Signed and delivered the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Company \_\_\_\_\_

By: \_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Before me, the undersigned Notary Public in and for the said County and State, personally appeared \_\_\_\_\_ and acknowledged execution of the foregoing affidavit as his voluntary act and deed and further stated that the facts recited are true of his personal knowledge.

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

My Commission Expires: \_\_\_\_\_

Residence County/State: \_\_\_\_\_

**END OF SECTION 00640**

## FINAL RELEASE OF LIENS FOR SUBCONTRACTORS - 00641

### AFFIDAVIT AND FINAL WAIVER OF CLAIMS AND LIENS AND RELEASE OF RIGHTS FOR SUB-CONTRACTORS

The undersigned, who is the (designate title) of \_\_\_\_\_ which is the (designate whether subcontractor, supplier or otherwise) for the \_\_\_\_\_ (designate the type of work, supplies or services rendered) on the improvements constructed on the premises hereafter identified, declares that his contract with \_\_\_\_\_ (General Contractor) is in the total amount of \$ \_\_\_\_\_, which includes extras and all change orders to the date hereof.

The undersigned further states that as of \_\_\_\_\_ (date) all work on said project has been performed and completed in accordance with the plans and specifications for the project and said work has been accomplished in accordance with the terms and conditions of his subcontract and those documents which, by reference, are a part of said subcontract. The total value of work completed, and material stored is \_\_\_\_\_. Of this amount \$ \_\_\_\_\_ has been received (the receipt and sufficiency of which is hereby acknowledged by the undersigned including \$ \_\_\_\_\_ in payment of Payment Application or Invoice Number \_\_\_\_\_. A total of \$ \_\_\_\_\_ is being held as retainage.

In consideration of the amounts and sums received, the undersigned does hereby waive and release to the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** and to \_\_\_\_\_ (General Contractor) any and all claims and liens and rights to liens upon the premises described below and upon improvements now thereon, and upon the monies or other considerations (due as of the date of the aforesaid payment application or invoices from the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** or \_\_\_\_\_ (General Contractor) or from any other person, firm or corporation), said claims and liens and rights to liens being on account of labor, services, materials, fixtures or apparatus heretofore furnished by or at the request of the undersigned. The premises as to which said claims and liens and rights to liens are hereby released are identified as follows:

**Project Name:** \_\_\_\_\_

**Address of Project:** \_\_\_\_\_

**City:** Memphis

**County:** Shelby

**State:** TN

**Zip Code:** \_\_\_\_\_

The undersigned further represents and warrants that he is duly authorized and empowered to sign and execute this waiver on his own behalf and on behalf of the company or business for which he is signing; that he has properly performed all work and furnished all the materials of the specified quality per plans and specifications and in a good and workmanlike manner as required by the contract; that he has paid for all the labor, materials, equipment, and services that he has used or supplied to the above premises as required by the contract; that he has no other outstanding and unpaid payment applications, invoices, retentions, holdbacks, chargebacks or unbilled work or materials against \_\_\_\_\_ (General Contractor); and that any materials which have been supplied or incorporated into the above premises were either taken from his fully-paid or open stock or were fully paid for and supplied as stated on the payment application or invoice.

**FINAL RELEASE OF LIENS FOR SUBCONTRACTORS - 00641**

The undersigned further agrees to reimburse and does hold harmless and fully indemnify the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** and \_\_\_\_\_ (General Contractor) for any losses or expenses should any such claims, lien or right to a lien be asserted (by the undersigned or by any laborer, materialman or subcontractor of the undersigned), including, without implied limitation, attorneys' fees incurred in the defense thereof.

The undersigned further accepts and acknowledges the receipt of the aforesaid sums in full accord and satisfaction for the aforementioned claims with full knowledge that the contractors, **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** and \_\_\_\_\_

(General Contractor), their successors and assigns, are relying thereon; and furthermore, the undersigned agrees to perform, now and in the future, each and every covenant and provision of this written contract or supplier's agreement (as the case may be) as modified or changed in writing with \_\_\_\_\_

(General Contractor) or any subcontractor of \_\_\_\_\_ (General Contractor) hereby acknowledging that said contract or supplier's agreement is now in full force and effect.

In addition, for and in consideration of the amounts and sums received, the undersigned hereby waives, releases and relinquishes any and all claims, rights or causes of action whatsoever arising out of or in the course of the work performed on the above-mentioned project, contract or event transpiring prior to the date hereof, excepting retainage, if any, after the date of the above-mentioned payment application or invoices.

Signed and delivered the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Company \_\_\_\_\_

By: \_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Before me, the undersigned Notary Public in and for the said County and State, personally appeared \_\_\_\_\_ and acknowledged execution of the foregoing affidavit as his voluntary act and deed and further stated that the facts recited are true of his personal knowledge.

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

My Commission Expires: \_\_\_\_\_

Residence County/State: \_\_\_\_\_

**END OF SECTION 00641**

## PARTIAL RELEASE OF LIENS FOR GENERAL CONTRACTORS - 00642

### AFFIDAVIT AND PARTIAL WAIVER OF CLAIMS AND LIENS AND RELEASE OF RIGHTS FOR GENERAL CONTRACTORS

The undersigned, who is the (designate title) of (General Contractor) for the improvements constructed on the premises hereafter identified, declares that his contract with the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** is in the total amount of \$ , which includes extras and all change orders to the date hereof. The undersigned further states that as of \_\_\_\_\_ (date) the total value of work completed, and material stored is \$ \_\_\_\_\_. Of this amount \_\_\_\_\_ has been received (the receipt and sufficiency of which is hereby acknowledged by the undersigned including \$ \_\_\_\_\_ in payment of Payment Application or Invoice Number \_\_\_\_\_. A total of \$ \_\_\_\_\_ is being held as retainage.

In consideration of the amounts and sums received, the undersigned does hereby waive and release to the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** any and all claims and liens and rights to liens upon the premises described below and upon improvements now thereon, and upon the monies or other considerations (due as of the date of the aforesaid payment application or invoices from the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** or from any other person, firm or corporation), said claims and liens and rights to liens being on account of labor, services, materials, fixtures or apparatus heretofore furnished.

The premises as to which said claims and liens and rights to liens are hereby released are identified as follows:

Project Name: \_\_\_\_\_

Address of Project: \_\_\_\_\_

City: Memphis County: Shelby State: TN Zip Code: \_\_\_\_\_

The undersigned further represents and warrants that he is duly authorized and empowered to sign and execute this waiver on his own behalf and on behalf of the company or business for which he is signing; that he has properly performed all work and furnished all the materials of the specified quality per plans and specifications and in a good and workmanlike manner as required by the contract; that he has paid for all the labor, materials, equipment, and services that he has used or supplied to the above premises as required by the contract; that he has no other outstanding and unpaid payment applications, invoices, retentions, holdbacks, chargebacks or unbilled work or materials against the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY**; and that any materials which have been supplied or incorporated into the above premises were either taken from his fully paid or open stock or were fully paid for and supplied as stated on the payment application or invoice.

The undersigned further agrees to reimburse and does hold harmless and fully indemnify the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** for any losses or expenses should any such claims, lien or right to a lien be asserted (by the undersigned or by any laborer, materialman or subcontractor of the undersigned), including, without implied

**PARTIAL RELEASE OF LIENS FOR GENERAL CONTRACTORS - 00642**

limitation, attorneys' fees incurred in the defense thereof. The undersigned further accepts and acknowledges the receipt of the aforesaid sums in full accord and satisfaction for the aforementioned claims with full knowledge that the **MEMPHIS AND SHELBY COUNTY COMMUNITY**

**REDEVELOPMENT AGENCY (Owner)** is relying thereon; and furthermore, the undersigned agrees to perform, now and in the future, each and every covenant and provision of this written contract or supplier's agreement (as the case may be) as modified or changed in writing with the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)**.

In addition, for and in consideration of the amounts and sums received, the undersigned hereby waives, releases and relinquishes any and all claims, rights or causes of action whatsoever arising out of or in the course of the work performed on the above-mentioned project, contract or event transpiring prior to the date hereof, excepting retainage, if any, after the date of the abovementioned payment application or invoices.

Signed and delivered the \_\_\_\_ day of \_\_\_\_\_, 2023.

Company: \_\_\_\_\_

By: \_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Before me, the undersigned Notary Public in and for the said County and State, personally Before me, the undersigned Notary Public in and for the said County and State, personally appeared \_\_\_\_\_ and acknowledged execution of the foregoing affidavit as his voluntary act and deed and further stated that the facts recited are true of his personal knowledge.

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

My Commission Expires: \_\_\_\_\_

Residence County/State: \_\_\_\_\_

**END OF SECTION 00642**

## FINAL RELEASE OF LIENS FOR GENERAL CONTRACTORS - 00643

### AFFIDAVIT AND FINAL WAIVER OF CLAIMS AND LIENS AND RELEASE OF RIGHTS FOR GENERAL CONTRACTORS

The undersigned, who is the \_\_\_\_\_ (designate title) of \_\_\_\_\_ which is the \_\_\_\_\_ General Contractor for the improvements constructed on the premises hereafter identified, declares that his contract with the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY** is in the total amount of \$\_\_\_\_\_, which includes extras and all change orders to the date hereof. The undersigned further states that as of \_\_\_\_\_ (date) all work on said project has been performed and completed in accordance with the plans and specifications for the project and said work has been accomplished in accordance with the terms and conditions of his contract and those documents which, by reference, are a part of said contract. The total value of work completed and material stored is \$\_\_\_\_\_. Of this amount \$\_\_\_\_\_ has been received (the receipt and sufficiency of which is hereby acknowledged by the undersigned including \$\_\_\_\_\_ in payment of Payment Application or Invoice Number \_\_\_\_\_. A total of \$\_\_\_\_\_ is being held as retainage.

In consideration of the amounts and sums received, the undersigned does hereby waive and release to the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** any and all claims and liens and rights to liens upon the premises described below and upon improvements now thereon, and upon the monies or other considerations (due as of the date of the aforesaid payment application or invoices from the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** or from any other person, firm or corporation), said claims and liens and rights to liens being on account of labor, services, materials, fixtures, or apparatus heretofore furnished.

The premises as to which said claims and liens and rights to liens are hereby released are identified as follows:

Project Name: \_\_\_\_\_

Address of Project: \_\_\_\_\_

City: Memphis

County: Shelby

State: TN

Zip Code:

The undersigned further represents and warrants that he is duly authorized and empowered to sign and execute this waiver on his own behalf and on behalf of the company or business for which he is signing; that he has properly performed all work and furnished all the materials of the specified quality per plans and specifications and in a good and workmanlike manner as required by the contract; that he has paid for all the labor, materials, equipment, and services that he has used or supplied to the above premises as required by the contract; that he has no other outstanding and unpaid payment applications, invoices, retentions, holdbacks, chargebacks or unbilled work or materials against the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY**; and that any materials which have been supplied or incorporated into the above premises were either taken from his fully-paid or open stock or were fully paid for and supplied as stated on the payment application or invoice.



## FINAL RELEASE OF LIENS FOR GENERAL CONTRACTORS - 00643

The undersigned further agrees to reimburse and does hold harmless and fully indemnify the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** for any losses or expenses should any such claims, lien or right to a lien be asserted (by the undersigned or by any laborer, materialman or subcontractor of the undersigned), including, without implied limitation, attorneys' fees incurred in the defense thereof.

The undersigned further accepts and acknowledges the receipt of the aforesaid sums in full accord and satisfaction for the aforementioned claims with full knowledge that the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)** is relying thereon; and furthermore, the undersigned agrees to perform, now and in the future, each and every covenant and provision of this written contract or supplier's agreement (as the case may be) as modified or changed in writing with the **MEMPHIS AND SHELBY COUNTY COMMUNITY REDEVELOPMENT AGENCY (Owner)**. In addition, for and in consideration of the amounts and sums received, the undersigned hereby waives, releases and relinquishes any and all claims, rights or causes of action whatsoever arising out of or in the course of the work performed on the above-mentioned project, contract or event transpiring prior to the date hereof, excepting retainage, if any, after the date of the above-mentioned payment application or invoices.

Signed and delivered the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Company\_\_\_\_\_

By: \_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Title)

Before me, the undersigned Notary Public in and for the said County and State, personally appeared \_\_\_\_\_, and acknowledged execution of the foregoing affidavit as his voluntary act and deed and further stated that the facts recited are true of his personal knowledge.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

Residence County/State: \_\_\_\_\_

**END OF SECTION 00643**

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

### **ARTICLE 1 - SCOPE OF THE WORK**

#### Section 1.1 Scope of the Work

A. The Contractor shall provide for the Lump Sum Price set forth herein, all of the labor, supervision, materials, supplies, tools, equipment, appliances, and facilities necessary to construct the Project upon the real property owned by the Owner as described in the contract documents. Contractor agrees that the Project shall be constructed in accordance with the terms of this Agreement and the Contract Documents as defined in Article Two of this Agreement (herein the "Work"). The term "Work" includes, but is not limited to, all labor necessary to construct the Project as described in the Contract Documents, all materials and/or equipment incorporated or to be incorporated in the Project as described in the Contract Documents.

### **ARTICLE 2 - CONTRACT DOCUMENTS**

#### Section 2.1 Definition

A. The Contract Documents include the General Conditions of the Contract, the Construction Contract, the Drawings and Specifications, all Attachments, all Addenda, all Exhibits, or modifications to any of them, issued prior to or after execution of the Construction Contract, as well as each document as set forth in Section 00510-2 of the Agreement attached hereto. As used in this Agreement, a "modification" is either:

1. A written and signed amendment to the Agreement;
2. A Change Order or Construction Change Order (as defined in this Agreement);
3. A written interpretation issued by the Owner;
4. A Construction Change Directive issued by the Owner.

#### Section 2.2 Intent of Contract Documents

A. The intent of the Contract Documents is to include all materials, appliances, labor, and services of every kind necessary for the proper execution of the Work. The Contract Documents are to be considered as one document, and whatever is called for by any one of the documents shall be as binding as if called for by all.

#### Section 2.3 Errors in Contract Documents

A. If the Contractor finds any error, inconsistency, omission, discrepancy, or variance with any applicable laws in any respect in the Contract Documents, it shall notify the CRA in writing of any errors discovered within five working (5) calendar days of such discovery and before beginning the affected portion of the Work. The Owner will make any correction, interpretation, or clarification promptly, basing its decision on the intent of the Contract Documents. Failure of the Contractor to timely notify the CRA of any such error or inconsistency within the time provided by this paragraph shall bar the Contractor from making any claim for additional time or compensation caused by any such error or inconsistency even if the error or inconsistency caused the Contractor to incur additional expense or time of performance.

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

### **ARTICLE 3 - PROGRESS OF THE WORK**

#### **Section 3.1 Commencement and Completion**

- A. The Contractor shall commence the Work within seven (7) calendar days following receipt of a written Notice to Proceed from the CRA and shall substantially complete the work per Section 00510, the "Construction Contract". The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor warrants that it will deliver the Project to the Owner free from any and all liens or other encumbrances. Contractor further agrees to promptly (which is defined for purposes of this paragraph as no more than three calendar days from receipt of any lien or other notice) notify the CRA of the existence of any and all liens filed by any sub-contractors, materialmen, suppliers or sub-contractors. Time is of the essence, and the Substantial Completion Date may be altered only as provided in this Agreement.

By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work. For purposes of this Agreement, substantial completion shall occur when the Project has been constructed to the point that only minor or punch list items remain to be performed and the Work can be occupied by the Owner and used for the purpose for which it was intended ("Substantial Completion"). Owner and EOR will, upon request of the Contractor, issue a certificate establishing the Substantial Completion Date at any time after Substantial Completion has occurred.

#### **Section 3.2 The Progress Schedule**

- A. Prior to commencement of on-site construction activities and in any event within seven (7) calendar days from the receipt of the Notice to Proceed from CRA, Contractor shall submit to the CRA & EOR a preliminary progress schedule in the form of either a bar chart or Critical Path Method (CPM) schedule. Said preliminary progress schedule will be consistent with the information set forth in the bidding documents concerning the Substantial Completion Dates, the sequencing of activities and shall include, but not be limited to, the durations for all major items of work to be performed; the start and finish date of all such activities; the required submittals and shop drawings with product delivery times noted, and the Substantial Completion Date of the Project as set out in this Agreement. Within thirty (30) calendar days from the submission of the preliminary progress schedule, the Contractor shall submit to the EOR for approval, a more detailed progress schedule, which shall be either a bar chart or Critical Path Method (CPM) schedule depicting all activities which will occur on the Project; the duration of such activities; the start and finish dates of such activities; the final and Substantial Completion Date; and the inter-dependence of all such activities. The Contractor shall submit to the CRA updated progress schedules each month to reflect actual progress made and to forecast future progress of the Work. The Owner reserves the right to reasonably reschedule the Work or the sequence of the activities of the Contractor for no additional compensation should it deem such rescheduling to be in its best interest.

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

### **Section 3.3 Extension of Substantial or Final Completion Date**

A. The Substantial Completion Date or Final Completion Dates (which are defined in Sections 3.1A and 4.6B respectively of this Agreement) shall be extended only for such number of calendar days that the Work is actually delayed by a natural catastrophe, abnormal inclement weather, as defined in Section 3.3C and Technical Specification Section 012620, or by a Change Order or Change Order Directive (herein "Excusable Delays"). No extensions to the Substantial Completion Date shall be granted due to the negligence or fault of the Contractor or its Subcontractors. Non-availability of materials, non-availability of local labor, or inclement weather (normal precipitation and normal temperature variance) will not be considered cause for extension of the Substantial Completion Date. No extension to the Substantial Completion Date shall be granted for the period of time during a delay in the performance of the Work which is caused in part by the Owner or the EOR and in part by the Contractor or one for whom the Contractor is responsible ("Concurrent Delays").

B. In order to obtain an extension of the Substantial Completion Date or the Final Completion Date due to an Excusable Delay, the Contractor in each instance shall give written notice to the CRA within five (5) calendar days after the occurrence of each Excusable Delay, and upon the failure of the Contractor to do so, its right, if any, to an extension will be considered waived. The Owner shall render a written decision which shall be made in good faith and shall be conclusive upon the parties granting or refusing the request of the Contractor for an extension, within thirty (30) calendar days after receipt of the request for a time extension.

C. Construction time shall include all normal weather conditions, such as rain, snow, and freezing temperatures. Extension of time will not be allowed for the normal inclement weather, as recorded by the Memphis area office of the National Weather Service. Refer to specification Section 012620 for delays attributed to unusually severe weather.

### **Section 3.4 No Damage for Delay**

A. Contractor agrees to prosecute the Work and to require the sub-contractors to prosecute the Work in a timely and proper method so as to meet the dates reflected on the progress schedule. In the event that the Contractor is delayed in the prosecution of the Work through no fault of the Contractor or its sub-contractors, and for causes as set forth in Paragraph 3.3A of this Agreement, and defined therein as Excusable Delay, then the Contractor may seek a time extension in accordance with the provisions of Paragraph 3.3B. Contractor agrees that such time extension is its sole and exclusive remedy for any damages caused by delays to the Project and that the Owner shall not be liable for any monetary delay damages. Contractor also agrees that the Owner shall not be liable for any monetary damages, including but not limited to, home office overhead, sustained by Contractor for acceleration, disruption, suspension of the work or any other damages related to the progress schedule. The Owner shall not be liable for consequential damages of any nature for any reason at any time.

### **Section 3.5 Liquidated Damage**

A. In order to compensate the Owner for failing to achieve the Substantial Completion Date or Final Completion Date, as such date has been adjusted for Excusable Delays as defined

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

herein, the Contractor shall pay to the Owner as liquidated damages and not as a penalty the following amounts:

1. The Contractor agrees to pay the Owner the sum of \$500 per day for every calendar day the work remains incomplete until Substantial Completion is achieved.

### **ARTICLE 4 - PAYMENT**

#### **Section 4.1 Payment Procedure**

A. Progress payments shall be made by the Owner to the Contractor in accordance with the following procedure:

1. Within ten (10) calendar days from the Notice to Proceed, the Contractor shall send the CRA the completed schedule of values contained in the bidding document for approval by the CRA.
2. At least ten days before the date established for each progress payment, the Contractor shall submit to the CRA an itemized and notarized Application and Certificate for Payment, based on the Work completed during the current month, using AIA Document G702. Contractor shall not be paid any amounts exceeding the Lump Sum Price as set forth in the construction contract, Section 00510, unless modified by a properly executed written Change Order or Change Order Directive in accordance with the Provisions of Article 9 of this Agreement.

B. Each Application and Certificate for Payment, at the Owner's request, shall be accompanied by:

1. Payroll information.
2. Affidavit from each certified sub-contractor and supplier indicating they have been paid what is due them through the previous applications for payment utilizing the forms found in section 00640 or section 00642 as appropriate.
3. An approved updated progress schedule as required in Section 3.2.
4. Certification of M/WBE payments utilizing the forms found in section 00640 or section 00641 as appropriate.
5. Updated schedule of submittals/submittal status log per Section 15.6.
6. Updated RFI Log
7. Updated COR Log
8. Updated Submittal Log
9. Updated as-built plans for review by Owner
10. Other documentation as may be requested by the Owner for his proper review of the Application and Certificate for Payment.

C. The Owner shall promptly review each Application and Certificate for Payment and approve it for such amount as is properly due under the Contract Documents.

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

D. Payments by the Owner shall be made within thirty (30) calendar days after receipt of such Application by the Owner, subject to the Owner's right to withhold payments pursuant to Article 4, Section 4.7.

### **Section 4.2 Retainage**

A. In making progress payments pursuant to Section 4.1, the Owner shall retain five percent (5%) of the approved amount of any Application and Certificate for Payment. Such retained amounts shall not be due and payable to the Contractor until Final Completion of the Work by the Contractor and Final Acceptance, as defined in Section 4.6 of this Agreement, of the Work by the Owner. Periodic reductions in the amount of retainage will be permitted by the Owner if deemed appropriate to the state of contract completion. The Contractor may retain from each subcontractor a percentage no greater than that retained by the Owner.

B. For Contract values of \$500,000 or greater, the retained funds must be deposited in a separate interest-bearing escrow account with a third party providing proper security for the performance of the obligation of the Owner or the Contractor pursuant to T.C.A. 66-11-144. The Contractor must submit the signed document contained in Section 00520 "Escrow Agreement" at the time he submits his signed contract to the Owner. If the Contractor fails to submit the document at the time of contract submission to the Owner, the Owner will not execute a construction contract with the Contractor.

C. By signing this Agreement, the Contractor expressly waives (herein referred to as a "Waiver") all liens, claims, rights, encumbrances, security interests, any other benefit of, and all rights that might arise pursuant to T.C.A.' 66-11-101 et. seq. or any other Tennessee statute (herein referred to as a "Lien"). As a condition precedent to subcontracting any portion of the Work, the Contractor shall first obtain a similar universal Waiver of Lien in writing from each Sub-contractor, Sub-sub-contractor, materialman, supplier, lessor, vendor performing services or providing materials or labor in connection with the Work and any other person that could qualify for a Lien, claim, right or other security interest under Tennessee law.

### **Section 4.3 Payment for Material Stored On-Site**

A. Payment for the actual unit cost of materials suitably stored on the site of the Work and intended for incorporation in the Work will be made by the Owner to the Contractor upon storage subject to the provisions of Sections 4.1 and 4.2 and the following conditions:

1. The Contractor shall furnish supporting evidence satisfactory to the CRA evidencing the cost of the materials and shipment to the site of the Work;
2. The materials shall not be stored on the site of the Work for more than forty-five (45) calendar days before they are installed in place, without the written consent of Owner;
3. The materials shall be stored on-site in accordance with applicable recommendations of the manufacturer, and the instructions of the Owner;

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4. All materials delivered to the site of the Work shall be stored and handled so as to preclude inclusion of any foreign substances and to prevent any discoloration or damage which might reduce the effectiveness of the materials as part of the Work.
5. Payment for stored materials will be subject to retainage as defined in Section 4.2;
6. The representative of the Owner may inspect and inventory any stored materials;
7. No payment will be made for stored material unless such material is specially manufactured for the Project. For example, no payment will be made for material that is commercially available such as conduit, piping, sod, etc.
  - A. Payment will not be made for materials stored off the site of the Work without the written consent of Owner. In the event that the Owner consents to payment for materials stored off site, such payment shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the title of the Owner to such materials or equipment, and the submission of satisfactory insurance certificates for the stored materials.

### **Section 4.4 Use of Payments**

- A. The Contractor shall use all sums paid to it pursuant to this Agreement for the performance of the Work in accordance with the Contract Documents and Article 8 of this agreement. Upon the request of the CRA, the Contractor shall furnish satisfactory proof, including but not limited to partial releases of liens utilizing the form found in section 00640 of the contract documents, as to the disposition of any monies paid to the Contractor by the Owner; provided, however, no provision of this agreement shall be construed to require the Owner to be in any way responsible for the proper disposition or application of the monies paid to the Contractor.
- B. If any liens are at any time asserted or recorded against the Project as a result of activities of any of the Contractor, Subcontractor, Sub-subcontractor or supplier or any other person or entity making a claim by reason of having provided Work, and if the Contractor is owed and has been paid for the Work for which the lien is asserted or recorded, the Contractor, at its sole expense, shall promptly take and diligently prosecute appropriate action to have the lien discharged within 15 days after it is asserted or recorded, or any lesser period necessary to prevent judgment, execution, or foreclosure of the lien. If the Contractor fails to do so, the Owner may take any action reasonably necessary to protect its interests, including payment or settlement of the lien and any related legal action, and the Contractor shall reimburse the Owner, or the Owner may deduct from amounts it owes the Contractor under this Contract or otherwise, any amounts and damages the Owner pays or incurs, including attorneys' fees and expenses. Provided the Contractor is owed the amount at issue and the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all claims, losses, liabilities, damages and expenses, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. If permitted by Law, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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### Section 4.5 Payment Not a Waiver

- A. Neither the approval or making of any payment to the Contractor, nor the partial or entire use or occupancy of the Work by the Owner shall be an acceptance of any portion of Work.

### Section 4.6 Final Payment, Final Acceptance and Final Completion

A. Final Payment by the Owner shall constitute a waiver of all claims by the Owner for performance of the Work except for claims of the Owner arising from unsettled liens, incomplete or defective workmanship, defective materials, failure to perform in accordance with the progress schedule, or for the breach of this Agreement. Acceptance of the Final Payment by the Contractor shall constitute a waiver and release of any and all claims which the Contractor may have then or in the future have against the Owner arising from the Work or this Agreement.

B. Final Completion of the Work shall occur only after all Work (including punch list items) provided for in the Contract Documents has been finally completed ("Final Completion"). Final Acceptance of the Work shall occur when all Work has been accepted in writing by the Owner and the Contractor has provided the Owner with instructions and operating manuals, parts lists, modified construction documents approved by the EOR are suitable for preparing final "as-built" drawings, final release of liens by all sub-contractors utilizing the form found in section 00641 of the contract documents, final release of liens from the General Contractor utilizing the form found in section 00643 of the contract documents and all other items required by the Contract Documents and this Agreement ("Final Acceptance").

C. Within thirty (30) calendar days after Final Acceptance of the Work, the Final Payment of amounts found properly due under the Contract Documents, including amounts previously retained pursuant to Section 4.2, shall be paid to the Contractor.

D. Neither the Final Payment nor the remaining retainage shall become due until the Contractor submits to the CRA the following:

1. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or its property might in any way be responsible, have been paid or otherwise satisfied;
2. A consent of surety to Final Payment; and
3. Other data establishing payment or satisfaction of all such obligations, such as receipts, final release of liens by all sub-contractors utilizing the form found in section 00641 of the contract documents and final release of liens from the General Contractor utilizing the form found in section 00643 of the contract documents.

E. If any sub-contractor, sub-sub-contractor, laborer, vendor or materialman refuses to furnish a release or waiver required by the Owner, the Contractor shall furnish a bond satisfactory to the Owner to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the Owner may



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be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees incurred by Owner

F. The CRA shall issue a Certificate of Final Completion when, the Project has been completed and all conditions required by Paragraph 4.6 have been complied with by Contractor.

### **Section 4.7 The Right of Owner to Withhold Payment**

A. The Owner may withhold or, on account of subsequent discovered evidence, nullify the whole or part of any payment, including Final Payment, and withhold retainage, to such extent as may be necessary to reasonably protect itself from any of the following:

1. Defective work; or
2. Third-party claims filed or reasonable evidence indicating probable filing of such claims; or
3. Reasonable doubt that the Work will be substantially completed by the Substantial Completion Dates; or
4. Failure of the Contractor to make payments to sub-contractors or for equipment, materials or labor; or
5. Evidence of fraud, over-billing or overpayment; or
6. Failure of the Contractor to prosecute the Work in accordance with the Contract Documents; or
7. A reasonable doubt that the Work can be completed for the unpaid balance of the Lump Sum Price as defined herein; or
8. Damage to another contractor, sub-contractor or sub-sub-contractor caused by the Contractor; or
9. Failure to submit M/WBE Certificate of Payment; or
10. Failure of the Contractor to maintain monthly updates to the As-Built Drawings.
11. Failure of the Contractor to submit, RFI logs, COR logs, and Submittal Logs.
12. Failure of the Contractor to submit partial release of liens from all sub-contractors and suppliers utilizing the form found in section 00640 of the contract documents.

## **ARTICLE 5 - EQUIPMENT AND MATERIALS**

### **Section 5.1 Materials Provided by Contractor**

A. Unless otherwise provided in the Contract Documents or as may be agreed by the Parties in writing, the Contractor shall provide all equipment, materials, labor, tools, water, power to the site of the Work, and all other facilities necessary for the performance of the Work.

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B. All equipment, machinery, material, and articles incorporated in the Work shall be new and unused, and when not specified in detail in the Contract Documents, the same shall be of the most suitable grade and quality for the purpose intended.

### **Section 5.2 Type of Equipment Used**

A. When any equipment, material or article is referred to by trade name, make or catalog number, the reference shall be regarded as establishing the standard of quality and performance required and shall not be construed as limiting competition. The Contractor may, with the prior written approval of the Owner, use other equipment, materials or articles which are equal in quality and performance to that named in the Contract Documents; provided, however, that in no event shall such approval be construed as a waiver of the right of Owner to require equipment, materials or articles which conform to the standard of quality and performance established by reference to the trade name, make or catalog number of the equipment, materials or article for which the situation has been approved. Any cost of re-design and additional expense resulting from the substitution shall be at the sole expense of the Contractor.

### **Section 5.3 Non-Conforming Materials**

- A. Equipment, materials or articles installed or used in the Work which do not comply with the requirements of the Contract Documents, and which have not been previously approved in writing by the Owner shall be installed or used at the risk to the Contractor of subsequent rejection by the Owner.
- B. The Contractor shall be fully and solely responsible for quality control for all materials used in the performance of the Work.

### **Section 5.4 Owner Furnishing Equipment or Fixtures**

- A. The Owner may directly furnish any or all of the equipment or fixtures required for the Project. In the event the Owner elects to do so, the contract contingency shall be increased by the amount which was to be charged by the Contractor for such equipment or fixtures as set forth and included in the Contract Documents. A Construction Change Order increasing the contract contingency for that item of work shall be executed by Owner and Contractor to reflect an increase in the contract contingency for that item of Work. The Contractor shall assume responsibility for and be fully responsible for the care, custody and control of all Owner furnished equipment once said equipment arrives on the job site or in any approved off-site storage facility.

## **ARTICLE 6 - "AS BUILT" DRAWINGS AND DATA**

### **Section 6.1 "As Built" Drawings**

- A. A complete set of drawings shall be maintained by the Contractor at the construction site for the purpose of showing "as built" conditions. The drawings shall be kept up-to-date and marked each day to show all changes and variations and each entry shall be dated and

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verified as made. At the completion of the Work and prior to Final Payment, a complete set of modified construction documents approved by the EOR and suitable for preparing final "as built" drawings shall be submitted to the EOR.

### **Section 6.2 Operation Maintenance Data and Training**

A. The Contractor shall furnish complete and necessary data for the operation, repair and maintenance of each operating component of the Work (herein the "Data"). The Data shall include prints of shop drawings, "as-installed" conditions, sources of equipment and principal materials, specified tests and performance data, repair and maintenance data, lubrication instructions and recommendations, parts lists, and other catalog data or information required to operate and maintain any part of the Work. Care shall be taken to include all pertinent data and to exclude inapplicable or duplicate information. As specified in the Contract Documents, the Contractor shall also provide systems training of maintenance personnel.

B. Prior to Final Payment, Data shall be provided to the EOR in accordance with associated sections of the contract documents.

C. Installation information for all machinery and equipment also shall be kept on the site of the Work during construction but used or marked prints or data sheets are not to be used in assembling the final maintenance and operating manuals described in Paragraph (a).

### **Section 6.3 Information from Suppliers**

A. The Contractor shall make it a requirement or condition of purchase from its suppliers of equipment and/or materials,

(1) to furnish complete and adequate operating and maintenance data pertaining to their equipment,

(2) to assign to the Owner any warranty, express or implied, furnished by the manufacturer of the equipment, and

(3) to assign to the Owner any customary maintenance or repair service, spare parts supply service, or personnel support service furnished by the manufacturer of the equipment. If the terms and conditions of any warranty, maintenance or repair service, spare parts supply service, or personnel support service furnished by the manufacturer of the equipment are negotiable, they shall be negotiated by the Owner and the manufacturer. The Contractor shall also advise the CRA in advance of placing any order for equipment if the warranty furnished by the manufacturer commences upon purchase, shipment or installation of such equipment.

## **ARTICLE 7 - SUBCONTRACTS**

### **Section 7.1 Definition**

A. As used in the Contract Documents, a "Sub-contractor" is a person or organization that has a contract with the Contractor to perform any portion of the Work or to furnish any equipment or materials to the Project.

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B. As used in the Contract Documents, a "Sub-sub-contractor" is a person or organization that has a direct or indirect contract with the Sub-contractor to perform any portion of the Work, or to furnish any equipment or materials to the Project.

### **Section 7.2 No Contractual Relationship with Owner**

A. Nothing contained in the Contract Documents or otherwise shall create any contractual relationship between the Owner and any Sub-contractor or Sub-sub-contractor, and no subcontract or sub-subcontract shall relieve the Contractor of its responsibilities and obligations should any Sub-contractor or Sub-sub-contractor fail to perform its work in a satisfactory manner. The Contractor agrees to be as fully responsible to the Owner for the acts and omissions of its Sub-contractors and their Sub-sub-contractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by it. Section 7.3 Award of Subcontracts A. Unless otherwise specified in the Contract Documents, the Contractor, within ten (10) calendar days after bids are opened, the apparent low bidder, and any other bidder so requested, shall submit a list of all sub-contractors he expects to use in the work. An experience statement with pertinent information as to similar projects and other evidence of qualification shall be furnished for each named sub-contractor, as requested by the Owner. If the Owner or EOR, after due investigation, has a reasonable objection to any proposed sub-contractor, he may, before contract execution, request the apparent low bidder to submit an acceptable substitute without an increase in his/her bid. If the apparent low bidder declines to make any such substitution, he will not thereby sacrifice his/her bid security. Any sub-contractor so listed and to whom the Owner or EOR does not make any written objection prior to contract execution will be deemed acceptable to Owner and EOR. The Contractor shall not be required to employ any subcontractor against whom he has reasonable objection. The use of sub-contractors listed by the bidder and accepted by the Owner prior to contract execution will be required in the performance of the work. Every sub-contractor proposed for this project shall be required to execute the appropriate form entitled "Certificate of Non-Discrimination", Section 00420.

B. The Contractor shall not contract with any Sub-contractor or material supplier (nor shall they contract with any Sub-sub-contractor) or any person or organization (including those who are to furnish materials or equipment) proposed for portions of the Work designated in the Contract Documents or, if none is so designated, with any Sub-contractor proposed for principal portions of the Work who has not been previously approved in writing by the Owner.

C. If the Owner, for good cause, refuses to accept any Sub-contractor or material supplier (or Sub-sub-contractor) or person or organization on a list submitted by the Contractor, the Contractor shall submit an acceptable substitute. The Contractor shall indemnify, defend and hold harmless the Owner, its directors, officers and employees from all liabilities, claims or causes of action arising from the rejection of any Sub-contractor, Sub-sub-contractor or material supplier by the Owner.

### **Section 7.4 Change of Sub-contractors**

A. The Owner and EOR may require a change of any Sub-contractor. In such event, the Contractor shall submit a suitable substitute which is approved by the Owner and EOR.

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### **Section 7.5 No Substitution of Sub-contractors**

A. The Contractor shall not make any substitution for any Sub-contractor nor allow the substitution of any Sub-sub-contractor who has been accepted by the Owner and EOR unless the substitution is required and previously approved by the Owner and EOR. Acceptable reasons for substitution (other than where required by the Owner and EOR) shall be limited to the following:

1. Inability of the Sub-contractor or Sub-sub-contractor to provide bonds, if required;
2. Failure of the Sub-contractor or Sub-sub-contractor to perform according to approved schedules or other provisions of the Contract Documents; or
3. Other reasons which would reasonably render the Sub-contractor or Sub-sub-contractor unable to perform its work according to the Contract Documents as evidenced in writing by the Contractor.

### **Section 7.6 Subcontract Terms**

A. All portions of the Work performed by a Sub-contractor or Sub-sub-contractor shall be pursuant to an appropriate agreement between the Contractor and the Sub-contractor (and where appropriate between Sub-contractors and Sub-sub-contractors) which shall contain provisions that:

1. Preserve and protect the rights of the Owner under the Contract Documents with respect to the portion of the Work to be performed under the Subcontract (or Sub-subcontract) so that the subcontracting will not prejudice such rights;
2. Require that such work be performed in accordance with the requirements of the Contract Documents;
3. Require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party including a partial release of liens utilizing the form found in section 00640 of the contract documents;
4. Require that all requests for additional compensation, extensions of time or otherwise with respect to subcontracted portions of the Work shall be submitted to the Contractor (via any Sub-contractor or Sub-sub-contractor where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like requests by the Contractor upon the Owner; and
5. Obligate each Sub-contractor or Sub-sub-contractor specifically to consent to the provisions of this Agreement, including but not limited to Sections 3.2, 3.3, 3.4, 16.1, 24.2, 24.3, 26.10, and 29.

## **ARTICLE 8 - PAYMENT TO SUB-CONTRACTORS FROM CONTRACTOR**

### **Section 8.1 Payments to Sub-contractors From the Contractor**

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- A. The Contractor shall pay each Sub-contractor, no later than 7 days after receipt of payment from the owner, an amount equal to the percentage of completion allowed to the Contractor on account of the work of such Sub-contractor, less the percentage retained from payments to the Contractor. The Contractor shall also require each Sub-contractor to make similar payments to its Sub-sub-contractors.

### **Section 8.2 Withholding of Payment by the Owner**

- A. If the Owner withholds monies for any cause which is the fault of the Contractor and not the fault of a particular Sub-contractor, the Contractor shall pay that Sub-contractor on demand, made at any time after the progress payment by the Owner should otherwise have been issued, for its work to the extent completed, less the retained percentage. Notwithstanding this Section 8.2, Contractor may withhold funds from any Sub-contractor that is not performing its work in accordance with the Contract Documents. If the Owner has paid the Contractor for the work of a Sub-contractor, which is withheld by the Contractor, then the Contractor shall refund to the Owner all funds paid by the Owner for such Sub-contractor's work.

### **Section 8.3 Independent Obligation to Pay**

- A. The obligation of the Contractor to pay its sub-contractors (and their obligation to pay sub-subcontractors) is an independent obligation from the obligation of the Owner to make payment to the Contractor. The Owner shall have no obligation to pay or to see to the payment of any monies to any Sub-contractor or Sub-sub-contractor.

## **ARTICLE 9 - CHANGES**

### **Section 9.1 Changes in The Work**

- A. The Owner, without invalidating the Agreement, may order extra work or make changes by altering, adding to or deducting from the Work by executing a Change Order, Change Order Directive, Construction Change Order or Construction Change Order Directive in a form provided by the Owner. A Change Order/Change Order Directive is defined as any change to the contract which increases the lump sum contract amount or increases contract time. A Construction Change Order/Construction Change Order Directive is defined as any action taking place within the confines of the contract contingency fund. A Construction Change Order can not change the lump sum contract amount nor can it change contract time. All work performed pursuant to a valid Change Order/Change Order Directive or Construction Change Order/Construction Change Order Directive shall be performed under the conditions of this Agreement and the Contract Documents.
- B. The Owner shall have authority to make changes in the Work not involving extra cost, and not inconsistent with the purposes of the Work, but otherwise, no extra Work or change in the Work shall be made unless pursuant to a Change Order and no claim by Contractor for additional cost or fee or any extension of the Substantial Completion Date shall be valid unless so ordered in a written Change Order.

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### **Section 9.2 Change Order / Construction Change Order Procedure**

A. Upon receipt of a request from the Owner for extra Work or changes in the Work, the Contractor shall furnish to the CRA a statement setting forth in detail the proposal of the Contractor for performing the extra Work or changes and the effect of the extra Work or changes, if any, on the Lump Sum Price / Substantial Completion Date (Change Order) or changes in the contingency fund (Construction Change Order). If the Owner approves in writing the proposal of the Contractor, a Change Order or Construction Change Order in the form provided by the Owner shall be executed by the parties and the Lump Sum Price or Substantial Completion Date or the contingency fund shall be adjusted accordingly. Change Orders shall be limited to a fixed applied percentage of 10% for overhead and 5% for profit.

B. Change Order requests submitted by the Contractor to the Owner, shall include the following:

1. Date of request
2. Properly numbered in sequential order

C. Only the Owner and EOR can issue final approved Change Orders.

### **Section 9.3 Changes in the Lump Sum**

A. Decreases in the Scope: The decrease in the Lump Sum Price or deleting a portion of the Scope of Work shall equal the sum of the following:

1. The actual labor cost that the Contractor would have incurred to perform the Work deleted including the cost of overhead, profit, general conditions, insurance and taxes.
2. The actual unit cost of materials, supplies, products, equipment and rental equipment that the Contractor would have used in performing the Work deleted, including sales taxes;
3. The actual cost of Sub-contractors and Sub-sub-contractors that the Contractor would have incurred in performing the Work deleted, including overhead, profit, general conditions, insurance and taxes; and
4. The actual credit for the cost associated with the lower limits required for the bonds including Sub-contractor and Sub-sub-contractor bonds, if applicable, as a result of the reduction in the Scope of the Work.

### **Section 9.4 Force Account**

A. In the event that the Owner and the Contractor cannot agree on the amount or time extension, if any, due to the Contractor for a Change Order or Construction Change Order pursuant to this Agreement, the Owner and EOR may direct the Contractor to proceed with the performance of the Change Order or Construction Change Order by a Change Order Directive or Construction Change Order Directive as applicable. In such event, the Contractor's compensation will be calculated pursuant to the provisions of Section 9.3.

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### **Section 9.5 Unconditional Obligation to Proceed**

A. Notwithstanding anything herein to the contrary, the Contractor will proceed with the Work so as to complete the Work on or before the Substantial Completion Dates even if it has a dispute with the Owner concerning the amount to be paid under this Section or any extension of time which is or could be due to the Contractor pursuant to a Change Order/Construction Change Order or Change Order Directive/Construction Change Order Directive or otherwise.

## **ARTICLE 10 - THE UNDERSTANDING OF THE CONTRACTOR**

### **Section 10.1 Examination of Work Site**

A. The Contractor acknowledges that it has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality and quantity of the materials, equipment and facilities needed preliminary to and during the prosecution of the Work, the general and local conditions and all other matters which can in any way affect the Work.

B. If the Owner has obtained any geotechnical data, soil and subsurface tests and other soil engineering tests and reports in areas where the Work is to be performed for the purpose of study and design, which data, tests and reports will be made available to Contractor on request. The interpretation of such data, tests and reports shall be the sole responsibility of the Contractor. Owner does not assume any responsibility whatsoever in respect to the sufficiency or accuracy of such investigation, the reports thereof, or the interpretation set forth and there is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unforeseen developments may not occur, or that materials other than or in proportions different from those indicated may not be encountered. Notwithstanding anything herein to the contrary, should the Contractor encounter underground conditions which were unknown, unforeseen in the exercise of the Contractor's best professional judgment, and not reflected on the geotechnical data, the soils and subsurface tests or reports furnished to or available to the Contractor, the Contractor shall be reimbursed, pursuant to Section 9.3 of this Agreement, by the Owner for all actual documented additional costs incurred by the Contractor as a result of the unknown and unforeseen underground conditions.

### **Section 10.2 Sufficiency of Contract Documents**

A. The Contractor acknowledges that the Contract Documents are sufficient to enable it to determine the cost of all of the Work and that the Work can be completed in accordance with the Contract Documents for the Lump Sum Price. B. The Contractor acknowledges that any observed discrepancies, omissions, ambiguities or conflicts in the Contract Documents will be brought to the attention of the CRA & EOR as set forth in Section 2.3 "Errors in Contract Documents" of this Agreement, and in a timely manner in order to insure substantial completion of the Work by the Substantial Completion Dates. In addition, the Contractor acknowledges that the Owner has not made nor shall it be deemed to have made any warranties, guarantees or representations of any kind whatsoever regarding the sufficiency of



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the Contract Documents. C. The Owner shall not be responsible for any damages resulting from any errors, inconsistencies or omissions in the Contract Documents which were discovered or observed and not noted by the Contractor in accordance with Paragraph (B) and Section 2.3.

### **Section 10.3 No Oral Modification**

A. No oral agreement or conversation with any officer, agent or employee of the Owner or its representatives, including EOR, either before or after the execution of this Agreement shall affect or modify any of the terms or obligations contained in this Agreement or the Contract Documents. No extra compensation will be due from the Owner as a result of the Contractor not being aware of any matter which may affect the Work.

## **ARTICLE 11 - THE REPRESENTATIVE OF THE OWNER**

### **Section 11.1 The Representative of the Owner**

A. The Representative of the Owner (The Owner is defined as the Community Redevelopment Agency) will be Andrew Murray, President. The Owner shall have the right to replace the Representative of the Owner at any time with or without cause.

### **Section 11.2 Decisions of the Owner**

A. Initial Decision: The Representative of the Owner and/or the EOR shall decide meaning and intent of the technical specifications and any plan or drawing where same may be found obscure or to be in dispute.

B. Disputes: Any dispute arising from the execution of this contract shall be governed, construed and enforced according to the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, the construction, the interpretation, and the enforcement of this contract shall be instituted and litigated in courts of the State of Tennessee located in Shelby County, Tennessee, and in no other. In accordance herewith parties to this contract submit to the jurisdiction of the courts of the State of Tennessee, located in Shelby County, Tennessee

## **ARTICLE 12 - SUPERVISION OF THE WORK; SAFETY AND SECURITY**

### **Section 12.1 The Project Management of the Contractor**

A. The Contractor shall designate in writing to the CRA and keep on the Work during its progress a competent Project Management Team, including at a minimum a Project Manager and a Superintendent, satisfactory to the Owner. Any of these individuals shall be changed upon written request of the Owner but shall not be changed by the Contractor except with the consent of the Owner. These individuals shall represent the Contractor and all directions given to any of them by the Owner and EOR shall be as binding. These individuals shall devote their full time to the Work and shall maintain a temporary office facility, suitable for on-site and indoor meetings, on the site of the Work. They shall direct, coordinate and supervise all Work,

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inspect all materials delivered to the site of the Work to ascertain whether or not they comply with the requirements of the Contract Documents, and reject all non-conforming materials or workmanship.

B. The Superintendent shall be designated by the Contractor in writing at the time of submission of proposed sub-contractors and a list of work experience shall be submitted for the Superintendent. The Superintendent shall be subject to the approval of the Owner. The Owner shall be notified immediately in writing of any change in superintendent. A list of work experience shall be submitted for the newly designated superintendent.

### **Section 12.2 Order and Discipline**

A. The Contractor shall at all times be responsible for enforcing strict discipline and good order among its employees, and any employee of its sub-contractors and sub-sub-contractors. If any person on the site of the Work shall appear to be incompetent, disorderly or intemperate, in any way disrupts or interferes with the Work, or is in any other way disqualified for or unfaithful to the job entrusted to him, such person shall be discharged immediately, and he shall not again be employed on the Work without the prior written consent of the Owner.

### **Section 12.3 Cleaning Up**

A. During the performance of the Work, the Contractor shall keep the site of the Work clean and free of all rubbish, waste materials, debris and other materials in accordance with the instructions set forth in the Contract Documents. At the end of each working day the Contractor shall remove all waste materials, rubbish and debris from and about the Work as well as all surplus materials and will leave the site of the Work clean in accordance with the Contract Documents.

### **Section 12.4 Safety and Security**

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

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

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

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

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D. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such The Contractor shall promptly remedy all damage or loss to any property referred to in clause 12.4.A.2 activities under supervision of properly qualified personnel.

E. The Contractor shall promptly remedy all damage or loss to any property referred to in clause 12.4.A.2 and 12.4.A.3 caused in whole or in part by the Contractor, any Sub-contractor, and Subsub-contractor, anyone directly or indirectly employed by and of them, or by anyone for whose acts any of them may be liable, and for which Contractor is responsible under clause 12.4.A.2 and 12.4.A.3.

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

G. These construction documents and the construction hereby contemplated are to be governed at all times by applicable provisions of the Federal and Local Laws including but not limited to the latest amendments of the following:

1. William-Steiger Occupational Safety and Health Act of 1970 Public Law 91-596.
2. Part 1910 -Occupational Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.
3. Part 1518 - Safety and Health Regulations for Construction, Chapter XII of Title 29, Code of Federal Regulations.

H. Contractor alone shall be responsible for the safety, efficiency, and adequacy of his/her plant, appliances and methods; and for any damage which may result from their failure or their improper construction, maintenance or operation.

### **Section 12.5 Inspection of the Work**

A. The Owner, EOR, and persons designated by the Owner shall at all times have access to the Work whenever it is in preparation or progress and the Contractor shall provide proper facilities for such access and for inspection. If the Owner discovers any defective Work in connection with any inspection, it shall report such defective Work to the Contractor in writing and the Contractor shall, at its expense, correct it.

B. If the Contract Documents, the written instructions of the Owner and EOR, laws, ordinances, rules or regulations, or any public authority require any of the Work to be specifically tested or inspected, the Contractor shall give the EOR timely notice of its readiness for inspection and testing, and if the test or inspection is performed by an authority other than the Owner, of the date set for such test or inspection. Inspections by the Owner shall be promptly made and, where practicable, at the source of supply. If any of the Work should be covered up without the approval or consent of the Owner or any necessary authority, it shall be uncovered for examination, if required by the Owner or such other authority, at the sole expense of the Contractor.

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C. Re-examination of questioned Work that has been previously inspected by the Owner may be ordered by the Owner and, if so ordered, the questioned Work shall be uncovered by the Contractor. If such Work is found to be in compliance with the Contract Documents, the Owner shall pay the actual cost of the re-examination and repairs. If such Work is found not to be in compliance with the Contract Documents, the Contractor shall bear the costs of the re-examination and repairs.

## **ARTICLE 13 - PERMITS, LICENSES, LAWS AND REGULATIONS**

### **Section 13.1 Contractor to Secure all Permits**

- A. The Contractor shall secure and pay for all permits. Contractor shall be responsible for all inspections required by the City in conjunction with the issuance of said permits. Contractor shall secure and pay for all governmental fees, utilities, licenses and other permits necessary for the lawful and proper execution and completion of the Work. Contractor shall provide notice to Owner and EOR of any and all filings, inspections, grants/denials, and communications with any permitting authority.

### **Section 13.2 Compliance with Laws**

- A. The Contractor shall give all notices and shall comply with all laws, ordinances, rules, regulations and orders of any public authority having jurisdiction over the Work, which have any bearing on the execution of the Work. If the Contractor observes that any of the Contract Documents are at variance in any respect with any such laws, ordinances, rules, regulations and orders, it shall promptly notify the CRA & EOR in writing and any necessary changes shall be made. If the Contractor fails to give such notice or executes any of the Work when it knew or should have known such Work was contrary to any such laws, ordinances, rules, regulations or orders, it shall bear all resulting costs to correct said Work to comply with such laws and regulations and be liable for any resulting fines, penalties, judgments or damages imposed on or incurred by the Owner
- B. The Contractor certifies that it is qualified to do business in the State of Tennessee and that it shall take such action as, from time to time, may be necessary to remain so qualified and shall obtain and maintain, at its own expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Such permits and licenses shall be made available to the Owner, upon request.
- C. The Contractor is assumed to be familiar with and shall comply with all applicable federal, state, and local laws, ordinances, and regulations in performing any of its obligations under this Agreement, including but not limited to the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA), and the Americans with Disabilities Act (ADA). The Contractor shall promptly notify the CRA & EOR of any conflict discovered between this Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

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### **ARTICLE 14 - TAXES**

#### **Section 14.1 Payment of Taxes by Contractor**

A. Any and all taxes, excise, duties and assessments in any manner levied, assessed or imposed by any government or subdivision or agency having jurisdiction over the Work (other than taxes on the real property of Owner) shall be the sole responsibility and liability of the Contractor. The taxes to be paid by the Contractor are those legally enacted when bids are received, or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

B. The Contractor shall promptly pay and discharge when due, unless the validity or application is being contested by the Contractor in good faith, any and all taxes, excises, duties and assessments, together with any interest and penalties, if any, the responsibility and liability for which the Contractor has assumed pursuant to the provisions of Paragraph (a), unless any such tax, excise, duty or assessment is levied, assessed or imposed upon the Owner, in which case the Owner shall promptly give the Contractor notice of such levy, assessment or imposition, whereupon the Contractor shall promptly pay and discharge the same. Upon the written request and at the sole expense of the Contractor, the Owner shall assist the Contractor in contesting the validity or application of any such levy, assessment or imposition, and in the event a refund of all or any part of any tax, excise, duty or assessment (including interest and penalties, if any), said refund shall be refunded to the Contractor (less the amount of expenses associated with such contest not previously reimbursed by the Contractor to the Owner).

### **ARTICLE 15 - SHOP DRAWINGS AND SAMPLES; MATERIAL TESTING**

#### **Section 15.1 Definitions**

A. As used in this Agreement "Shop Drawings" are drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are prepared by the Contractor, any subcontractor, sub-sub-contractor, manufacturer, supplier or distributor, and which illustrates some portion of the Work. Two (2) copies of required shop drawings shall be submitted to the EOR for review approval or correction. One (1) copy shall be returned to the Contractor with approval or rejection.

B. As used in this Agreement, "Samples" are physical examples furnished by the Contractor to illustrate materials, equipment or workmanship.

#### **Section 15.2 Submissions**

A. Contractor shall review, stamp with its approval, and submit, in orderly sequence so as to cause no delay in the Work or the work of any other contractor, all Shop Drawings and Samples required by the Contract Documents or subsequently by the Owner. Shop Drawings and Samples shall be properly identified as specified in the Contract Documents, or as the Owner may require. At the time of submission, the Contractor shall inform the EOR in writing of any deviation in the Shop Drawings or Samples from the requirements of the Contract Documents.

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B. By approving and submitting Shop Drawings and Samples, the Contractor represents that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and other data, and that it has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

### **Section 15.3 Review by The Engineer of Record**

- A. The EOR will review and approve Shop Drawings and Samples within four (4) calendar days for conformance with the design concept of the Work and with the information given in the Contract Documents. The approval of the Owner and EOR of a given item shall not indicate approval of an assembly in which the item functions.
- B. The approval by the EOR of Shop Drawings or Samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has informed the EOR in writing of such deviation at the time of submission and the EOR has given written approval of the specific deviation, nor shall the approval of the EOR relieve the Contractor from responsibility for errors or omissions in the Shop Drawings or Samples.

### **Section 15.4 Corrections Made by Contractor**

- A. The Contractor shall make any corrections required by the EOR and shall submit the required number of corrected copies of Shop Drawings or new Samples until approved. The Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections requested by the EOR on previous submissions.

### **Section 15.5 Prior Approval Required**

- A. No portion of the Work requiring a Shop Drawing or Sample submission shall be commenced until the submission has been approved by the EOR. All such portions of the Work shall be performed in accordance with approved Shop Drawings and Samples and the Contract Documents.

### **Section 15.6 Submittal Schedule**

A. Within seven (7) calendar days after execution of this Agreement, the Contractor shall provide the Owner and EOR with a preliminary submittal schedule of the dates that each Shop Drawing or Sample will be submitted for approval. Within thirty (30) calendar days after execution of this Agreement, the Contractor shall provide the Owner and EOR with a final schedule of the dates that each Shop Drawing or Sample will be submitted for approval. The sequence of the submittals of the Contractor shall be scheduled so as to permit an orderly review by the Owner and EOR. The schedule shall allow reasonable added time according to the number or complexity of Shop Drawings in each submittal for the checking, correction and rechecking of corrections, as well as for return of approved or rejected Shop Drawings and Samples to the Contractor. The submittal schedule shall allow not less than five (5) calendar days for the Owner and EOR to review any Shop Drawing or Sample.

### **Section 15.7 Material Testing**

- A. If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or

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approved, the Contractor shall give the Owner and EOR timely notice of its readiness, so the Owner and EOR may observe such inspection, testing or approval. The Owner shall bear all costs of other inspection, tests or approvals.

B. If the Owner and EOR determine that any Work requires special inspection, testing or approval which paragraph 15.7(A) does not include, the EOR will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in paragraph 15.7(A). If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Owner's additional services made necessary by such failure; otherwise the Owner shall bear such costs, and an appropriate Change Order or Construction Change Order shall be issued.

## **ARTICLE 16 - THE RIGHT OF THE OWNER TO AUDIT**

### **Section 16.1 Right to Audit**

- A. The Contractor shall keep full and accurate records of all costs incurred and items billed in connection with the Work, which records shall be open to audit by the Owner, or any authorized representative for the Owner, during the course of the Work and until five (5) years after the Final Payment by Owner. In addition, the Contractor shall make it a condition of all subcontracts and sub-subcontracts entered into in furtherance of the Work that any and all Sub-contractors and Sub-sub-contractors will keep accurate records of costs incurred and items billed in connection with the subcontract (or sub-subcontract), and that such records shall be open to audit by the Owner, or any authorized representative of the Owner, during the course of the Work of the Subcontractor (or Sub-sub-contractor) and until five (5) years after Final Payment by the Owner to the Contractor. The failure of the Contractor to obtain such a clause in any subcontract (or sub-subcontract) shall be grounds for termination of this Agreement by the Owner.

### **Section 16.2 Review of Subcontracts**

- A. The Contractor shall provide the Owner and EOR with an executed copy of all subcontracts, sub-subcontracts and purchase orders entered into in furtherance of the Work, within seven (7) calendar days after the execution by Contractor of any and all subcontracts. Notwithstanding the provisions of this section, the Contractor shall furnish all M/WBE information, including copies of Subcontracts, in a timely manner and as set forth in Article 27.

## **ARTICLE 17 - SEPARATE CONTRACTS**

### **Section 17.1 The Right of The Owner to Award Separate Contracts**

- A. The Owner reserves the right to award other contracts in connection with work at or in the vicinity of the Work and the Contractor agrees to cooperate fully and not to unreasonably interfere with the work of such other contractors.

### **Section 17.2 Cooperation**

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- A. The Contractor shall afford the other contractors of Owner the opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall, in accordance with the Contract Documents, properly connect and coordinate the Work with their work.

### **Section 17.3 Inspection of Work of Other Contractors**

- A. If any part of the Work depends for proper execution or results upon the work of any other of the Contractors of Owner, the Contractor shall inspect and promptly report to the CRA & EOR any discrepancies or defects in such work that render it unsuitable for such proper execution or results. Failure of the Contractor to so inspect and report shall constitute an acceptance of the Work of the other contractor as fit and proper to receive the Work.

### **Section 17.4 Responsibility for Damage**

- A. Should the Contractor cause damage to the work or property of any other contractor of the Owner, including but not limited to, delay, disruption, suspension of work and/or acceleration damages, the Contractor shall settle with such other contractor by agreement or arbitration (if appropriate) if the other contractor will so settle. If such other contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall indemnify, hold harmless, and defend Owner against such proceedings at the expense of the Contractor, or provide counsel of Owner's choice for Owner at the expense of Contractor, and if any judgment or award against the Owner results, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and court costs which the Owner has incurred.

### **Section 17.5 Owner's Right to Clean Up**

- A. If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 12.3, the Owner may clean up and allocate the cost amount those responsible as determined by the Owner.

## **ARTICLE 18 - WARRANTIES OF THE CONTRACTOR**

### **Section 18.1 Warranty of Title**

- A. The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an Application and Certificate for Payment, whether incorporated in the Work or not, will pass to the Owner upon the receipt of payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances (herein "Liens") and that none of the Work, materials or equipment covered by an Application and Certificate for Payment will have been acquired by the Contractor, or by any other person performing any part of the Work or furnishing materials and equipment for the Work, subject to an agreement under which a Lien is retained by the seller or supplier.

### **Section 18.2 Special Warranties**



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- A. When special guarantees or warranties are required by the Contract Documents for specific parts of the Work, the Contractor shall procure certified copies of such guarantees or warranties, countersign them and submit them to the Owner in triplicate. Delivery of such guarantees or warranties will not relieve the Contractor from any obligations assumed under any provision of this Agreement of the Contract Documents

### **Section 18.3 Assignment of Warranties**

- A. The Contractor hereby assigns to the Owner any and all existing assignable warranties, service life policies and patent indemnities of manufacturers other than the Contractor of materials, equipment or item incorporated in the Work. Upon the request of the Owner, the Contractor shall give the Owner assistance in enforcing the rights of the Owner arising under such warranties, service life policies and patent indemnities. At the request of the Owner and EOR, the Contractor shall give notice (with copies to the Owner and EOR) to any such manufacturers of the assignment of such warranties, service life policies and patent indemnities.

### **Section 18.4 General Warranty and Correction of Work**

- A. In addition to any special guarantees or warranties contained in the Contract Documents, the Contractor warrants to the Owner that all materials and equipment furnished in performance of the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective.
- B. The Contractor shall promptly correct all defective Work whether observed before or after the Substantial Completion Dates and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such defective Work.
- C. If, within one (1) year after either Substantial Completion Date or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or warranty required by the Contract Documents, any of the Work is found to be defective and not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so.
- D. All defective or non-conforming Work shall be removed from the site of the Work if necessary, and the Work shall be corrected to comply with the Contract Documents without cost to the Owner. The Contractor also shall bear the cost of making good all work of other contractors destroyed or damaged by removal or correction of the defective Work of Contractor.
- E. If the Contractor fails to correct defective Work in accordance with this Section and the Contract Documents, the Owner may correct it and hold the Contractor liable for all costs, expenses and damages, including attorney's fees and litigation costs incurred by Owner in correcting it.
- F. In addition to the foregoing warranty, a warranty period of one (1) year shall apply to workmanship under the same terms and conditions as the original warranty, to any work, supplied in correction of the defective work under warranty or the property of the Owner pursuant to the provisions of this Section 18.4 and the Contractor shall assign to the Owner

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any warranties, including extended warranties, as to materials or designs furnished in the performance of such correction of defective Work.

G. The Contractor shall furnish a written guarantee that all work executed under this contract shall be free from defects of materials and workmanship for a period of one year from date of acceptance of such work by the Owner. This shall be understood to mean the replacement or correction of such defective work and material, together with the correction of damage to other work, occasioned by the defect, at the Contractor's expense. Where guarantees and/or warranties are written in the specification (or offered by the manufacturer at no additional cost) for a longer period than one year, such longer terms shall apply.

H. Where a guarantee and/or warranty is required covering the results obtained from the use of a proprietary product or from installation, detail or method of application shown in the drawings or specified, if the Contractor is of the opinion that he will not be able to produce the required results, he shall file a written objection with the CRA and await further instructions before proceeding with this part of the work.

I. A Manufacturer's Warranty shall not relieve the contractor from his/her full responsibilities under guarantees and/or warranties called for in these specifications.

J. The Contractor and/or the Manufacturer, depending which warranty is in effect, shall respond to a request for warranty work within one (1) working day of written notification by the Owner and EOR. Required repairs shall be initiated immediately upon response and proceed continuously until satisfactorily completed.

K. It is understood that the Owner will perform or have performed emergency repairs as necessary, and that such work will in no way void the Contractor's and/or the Manufacturer's responsibilities under the warranty.

## **ARTICLE 19 - RIGHT OF THE OWNER TO DO WORK**

### **Section 19.1 Right of The Owner to Do Work**

A. If the Contractor should neglect to prosecute the Work properly or fail to do anything required by the Contract Documents, and the CRA does not receive assurances from the Contractor of due performance reasonably satisfactory to the Owner within seven (7) calendar days after written demand is made, then the Owner may, without prejudice to any other remedy it may have under this Agreement or at law or in equity, make good any deficiencies in the Work, including but not limited to, supplementing the forces of the Contractor and deduct all costs of doing so from the payment then due and any payment thereafter due the Contractor.

### **Section 19.2 Deduction for Uncorrected Work.**

A. If the Owner deems it inexpedient to correct deficiencies in the Work pursuant to Section 19.1, the Owner may deduct the reasonable cost of doing so from the payment then due or any payment thereafter due the Contractor, but the making of such a deduction shall in no way be deemed an election of remedies by the Owner.

### **Section 19.3 Correction of Work Before Final Payment**

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A. The Contractor shall promptly remove from the site of the Work all materials, equipment or other items rejected by the Owner as failing to conform to the Contract Documents, whether incorporated in the Work or not, and the Contractor shall promptly replace and re-execute its original work to comply with the Contract Documents and without expense to the Owner. In addition, the Contractor shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

B. If the Contractor does not remove rejected material, equipment or other items within a reasonable time (as fixed by written notice from the CRA) the Owner may remove such items and store them at the expense of the Contractor, or dispose of such material, equipment or other items at the sole discretion of Owner. If the Contractor does not pay the expense of such removal within ten (10) calendar days, the Owner may, upon ten (10) calendar days written notice, sell such items at auction or at private sale and shall account for the net proceeds of such sale, after deducting all the costs and expenses of removal that should have been borne by the Contractor.

### **ARTICLE 20 - INSURANCE**

#### **Section 20.1 Owner Controlled Insurance Program**

A. If the Owner is utilizing an Owner Controlled Insurance Program for the Work, substitution insurance language will be provided by the Owner.

#### **Section 20.2 Contractor's Liability Insurance**

A. The Contractor shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the contractor allow any sub-contractor to commence work on his sub-contract until all similar insurance required of the sub-contractor has been so obtained and approved by the Owner.

B. Before commencing any work, the Contractor shall furnish the Owner and EOR with Certificates of Insurance attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in force and effect. The theme/title of the project shall also be specified on the Certificate of Insurance.

C. The Contractor shall be responsible from the time of signing the Contract or from the time of the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from this work to persons or property. In addition to the liability imposed upon the Contractor on account of bodily injury (including death) or property damage suffered through the Contractor's negligence, which liability is not impaired or otherwise affected hereby, the Contractor assumes the obligation to protect, defend, indemnify and hold the City of Memphis and Community Redevelopment Agency, its officers and directors, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of any kind and character in connection with or arising directly or indirectly out of this contract and/or the performance hereof by act or omission of the Contractor or sub-contractor, or anyone either (1) directly or indirectly employed or (2) under the supervision of any of them in the prosecution of the work included in this contract.

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D. The Contractor, upon award of the contract, shall provide at his own cost and expense the following insurance to the Owner utilizing insurance companies acceptable to the Owner and licensed in the State of Tennessee, which insurance shall be evidenced by certificates and/or policies as determined by the Owner. Each certificate of policy shall require and contain verbatim the following clauses:

- a. "THE COMMUNITY REDEVELOPMENT AGENCY AND CITY OF MEMPHIS, INCLUDING THEIR RESPECTIVE OFFICIALS, AGENTS, EMPLOYEES, AND REPRESENTATIVES ARE NAMED ADDITIONAL INSURES" (The additional insured endorsement stating that the Community Redevelopment Agency and City of Memphis, including their respective officials, agents, employees and representatives are additionally insured shall be attached to the Certificate of Insurance and will apply to both General Liability and Automobile Liability.)

E. If any of the Insurance Requirements are not complied with at their renewal dates, payment to the Contractor may be withheld until those requirements have been met, or at the option of the Owner, the Owner may pay the renewal premiums and withhold such payments from any monies due the contractor.

F. Workers Compensation Insurance: The Contractor shall maintain in force Workers' Compensation coverage in accordance with the Statutory Requirements and Limits of the State of Tennessee and shall require all sub-contractors to do likewise.

G. General Liability

- a. General Aggregate \$2,000,000.00
- b. Product, Completed Operations Aggregate \$2,000,000.00
- c. Personal injury \$1,000,000.00
- d. Each Occurrence \$1,000,000.00
- e. Fire Legal Liability Damage \$100,000.00
- f. Medical Expense \$10,000.00

H. Automobile Liability

- a. Combined Single Limit \$1,000,000.00

I. Excess Liability

- a. Each Occurrence \$1,000,000.00
- b. Aggregate \$2,000,000.00
- c. Disease, Policy Limit \$500,000.00
- d. Disease, Each Employee \$100,000.00

J. Property Insurance: Contractor shall be responsible for maintaining any and all property insurance on their own equipment and shall require all sub-contractors to do likewise.

K. Builder's Risk Coverage: To be taken out in the name of the Community Redevelopment Agency and City of Memphis and of Contractor as their interest may appear.

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- L. An "All Risk" installation floater in the amount of the Contract endorsed to contain the following condition: "It is understood and agreed that coverage will cease only when the new construction (including building materials) is accepted by the Owner.
- M. Additional coverage and limits may be required based upon the particular services contracted. If such additional coverage is required for a specific contract, those requirements will be described in the "Special Conditions" of the contract specifications.
- N. The Contractor is required to provide copies of the insurance policies upon request.
- O. The Contractor shall provide notice to the Owner within three (3) business days following receipt of any notice of cancellation or material change in the Contractor's insurance policy from Contractor's insurer. Such notice shall be provided to the Owner by registered mail, return receipt requested, to the following addresses:

Mr. Andrew Murray, President  
City of Memphis and Shelby County Community Redevelopment Agency  
P.O. Box 70386  
Memphis, TN 38107

## **ARTICLE 21 - SURETY BONDS**

### **Section 21.1 Contract Payment and Performance Bonds Required**

A. The Contractor shall furnish a Contract Payment and Performance Bond in an amount equal to 100% of the contract sum as security for the faithful performance of the contract for the payment for labor and material furnished and incorporated into the work. The only acceptable form of instrument for this bond is bound herein (see Section 00610). Bond shall be furnished through an agent domiciled and legally authorized to do business in the State of Tennessee and delivered to the CRA not later than ten (10) calendar days after the date shown on written notice from the Community Redevelopment Agency or its EOR. Surety company proposed shall be one acceptable to the Owner.

## **ARTICLE 22 - INDEMNIFICATION**

### **Section 22.1 Indemnification of the Contractor**

A. To the fullest extent permitted by law, Contractor, on behalf of itself, its Sub-contractors their agents, their employees or any entity or person for which the Contractor is or may be responsible, (all of said parties are herein sometimes collectively referred to as the "Indemnitors"), shall fully indemnify, defend, save and hold Owner, the City of Memphis, the EOR and the Project Manager, their agents, employees, officers, directors, partners and related entities, (all of said parties are herein collectively referred to as the "Indemnitees") harmless from and against all liability, damage, loss, claims, demands, actions and expenses of any nature whatsoever, including, but not limited to reasonable attorney's fees which arise out of or are connected with: (i) any negligent act, error or omission by any Indemnitor in the performance of this Agreement; or (ii) the failure of the Indemnitor in the performance of this Agreement to comply with the laws, statutes, ordinances or regulations of any governmental

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authority; or (iii) the material breach of any term or condition of this Agreement by any of the Indemnitors.

B. Without limiting the generality of the foregoing, the indemnity herein above set forth shall include all liability, damages, loss, claims, demands and actions on account of personal injury, death or property loss to any third party, any Indemnatee, any of Indemnatee's employees, agents, licensees or invitees which arose out of or in connection with the work.

C. The indemnity set forth in this Article shall survive any termination of this Agreement for the applicable statute of limitations period.

### **Section 22.2 Labor Indemnity**

A. The Contractor shall indemnify, defend and hold harmless the Owner and City of Memphis from any and all administrative and judicial actions (including reasonable attorney's fees related to any such action) incurred by the Owner in connection with any labor related activity arising from the performance of the Work of the Contractor. As used in this Agreement, "labor related activity" includes, but is not limited to, strikes, walk-outs, informational or organizational picketing, use of placards, distribution of hand-outs, leaflets or in the vicinity of any facility where the Owner conducts business. The Owner shall advise the Contractor if any labor related activity occurs and the Contractor shall arrange for the legal representation necessary to protect the Owner, provided such representation is previously approved by the Owner.

### **Section 22.3 Royalties and Patents**

A. The Contractor shall pay all royalties and license fees in any way relating to the Work, shall defend all suits or claims for infringement of any patent rights, and shall indemnify and hold the Owner and City of Memphis harmless from loss on account of any such suit or claim.

### **Section 22.4 Attorneys' Fees**

A. In the event it becomes necessary for Owner to employ an attorney to enforce any provision of this Agreement, then the Contractor shall be liable for all attorneys' fees and litigation expense of Owner.

## **ARTICLE 23 - RIGHT TO OCCUPY BY OWNER**

### **Section 23.1 Early Occupancy by Owner**

A. The Owner has the right to occupy or use ahead of schedule, at no additional cost to Owner, all or any substantially completed or partially completed portion of the Work when such occupancy and use are in its best interest, notwithstanding the time of completion for all of the Work.

### **Section 23.2 Corrections After Occupancy**

A. During the performance of the Work and after the Owner has taken occupancy of all or any substantially completed portion of the Work, the Contractor shall not disrupt the use and

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occupancy of the Owner to perform the Work or to make corrections in the Work but shall, at the discretion of the Owner, make such corrections at the expense of Contractor after normal working hours.

### **ARTICLE 24 - DEFAULT; RIGHT TO TERMINATE OF OWNER**

#### Section 24.1 Event of Default

- A. For the purposes of this Agreement, an Event of Default shall be if:
- i. At any time, there is a filing by or against the Contractor, in any court, a petition of bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or a portion of the property of the Contractor, and within twenty (20) calendar days from the filing date the Contractor fails to secure a discharge; or
  - ii. The Contractor makes an assignment for the benefit of creditors or petitions for or enters into an agreement or arrangement with its creditors; or
  - iii. The Contractor fails to timely and properly prosecute the Work, or fails to complete the work, or any portion thereof, entirely on or before any date established for partial, substantial or final completion; or
  - iv. The Contractor fails to make prompt payment to its Sub-contractors, or for materials, or labor used in the Work; or
  - v. The Contractor fails to supply sufficient labor, material and/or equipment so as to complete the Work timely and in accordance with the Contract Documents including, but not limited to the progress schedule; or
  - vi. The Contractor performs defective work and fails to promptly and properly correct such defective work; or
  - vii. Without limitation, the Contractor fails to perform any provision of this Agreement or the Contract Documents.
  - viii. The Contractor persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction.
- B. Upon the occurrence of an Event of Default, the Owner, by giving seven (7) calendar days prior written notice to the Contractor, and without prejudice to any other remedy the Owner may have, may provided such Event of Default has not been cured, terminate this Agreement and take possession of all or some of the materials, tools, equipment and appliances of the Contractor, and complete the Work by such means as the Owner deems fit. In such case, the Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Lump Sum Price shall exceed the aggregate of (1) the expense of the Owner of completing the Work, including compensation for additional managerial and administrative services, and (2) the losses and damages of Owner, including reasonable attorneys' fees and litigation expense because of the default of Contractor, such excess shall be paid to the Contractor. If the expense of completing the Work and the losses and damages of Owner shall exceed the unpaid balance of the Lump Sum Price, the Contractor and its Surety shall pay the difference to the Owner promptly on demand.

#### Section 24.2 Suspension by the Owner for Convenience

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

- A. The Owner may order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine (herein referred to as "Suspension").
- B. Provided the Suspension lasts for more than one hundred twenty (120) calendar days, an adjustment to the Lump Sum Price ("Adjustment") shall be made for the increased costs set forth in Section 24.2(c) which were incurred because of the Suspension. No Adjustment shall be made nor, shall the date of Substantial Completion be extended except by written Change Order. No Adjustment shall be made to the extent: 1. That performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is in full or in part responsible; or 2. That an equitable adjustment is made or denied under another provision of this Agreement.
- C. The amount of the Contractor's compensation for a Suspension pursuant to this Section shall be limited to any properly documented costs of maintaining personnel and equipment in the field provided such costs are pre-approved by the CRA in writing. The Owner shall not be liable at any time for home office overhead expense or consequential damages. At the Owner's option, the Contractor may be ordered to demobilize its forces because the Project is suspended. In such event, the Owner will reimburse the Contractor for the reasonable cost of demobilization and remobilization.

### **Section 24.3 Termination Without Cause**

- A. The Owner may terminate this Agreement without cause by giving seven-(7) calendar days' prior written notice to the Contractor. In such event, the Owner will pay the Contractor for that portion of the Lump Sum Price, less the aggregate of previous payments, allocable to the Work completed by the Contractor as of the date of termination. The Owner also will reimburse the Contractor for all documented costs necessarily incurred by the Contractor for organizing and carrying out the stoppage of the Work which are paid directly by the Contractor. The Owner will not compensate the Contractor for any loss of its own profits or any consequential damages or the profits of its Sub-contractors, suppliers, vendors and materialmen. The Owner will not be responsible to reimburse the Contractor for any of its continuing contractual commitments to subcontractors, suppliers, vendors and materialmen or for penalties or damages for canceling such contractual commitments, and the Contractor shall make all of its subcontracts and other commitments subject to this provision.

### **Section 24.4 Assignment of Subcontracts**

- A. In the event of termination by the Owner pursuant to this Article 24, the Owner may require the Contractor to promptly assign to it all or some subcontracts, materials, tools, equipment to be installed under this Agreement, or rental agreements, and any other commitments which the Owner, in its sole discretion, chooses to take by assignment. In such event, the Contractor shall promptly execute and deliver to the Owner written assignments of such commitments.

## **ARTICLE 25 - HAZARDOUS MATERIALS COVENANTS**



## GENERAL CONDITIONS OF THE CONTRACT - 00710

### Section 25.1 Hazardous Materials Covenants

A. Contractor hereby represents and warrants to and for the benefit of Owner that the Project or Project Site will not be used or operated in any manner that will result in the storage, use, treatment, manufacture and disposal of any Hazardous Materials (hereinafter defined) upon the Project or Project Site or any portion thereof or which will result in Hazardous Materials contamination (hereinafter defined). For purposes hereof, the term "Hazardous Materials" shall mean and refer to

(i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. ' 6901 et. seq.), as amended from time to time, and regulations promulgated thereunder,

(ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. ' 9601 et. seq.) (CERCLA), as amended from time to time, and regulations promulgated thereunder.

(iii) asbestos;

(iv) polychlorinated biphenyls;

(v) urea formaldehyde;

(vi) any substance the presence of which on the premises is prohibited by any applicable environmental laws or regulations ("Laws") or by any other legal requirements affecting the Project or the Project Site;

(vii) petroleum based materials (with the exception of times affixed to vehicles); and

(viii) any other substance which is defined as hazardous, toxic, infectious or radioactive by any Laws or by any other legal requirements affecting the Project or Project Site. The term "Hazardous Materials Contamination" shall mean and refer to the contamination of the Project or Project Site, soil, surface water, ground water, air, or other elements on, or of, the buildings, facilities, soil, surface water, ground water, air, or other elements on, or of, any other property as a result of Hazardous Materials at any time emanating from the Project or Project Site.

B. In addition to and without limiting the generality of any other provision of this Contract, Contractor shall and hereby does indemnify and hold Owner and City of Memphis harmless from and against any and all losses, damages, expenses, fees, claims, demands, causes of action, judgments, costs and liabilities, including, but not limited to, attorney's fees and costs of litigation, and costs and expenses of response, remedial and corrective work and other clean up activities, arising out of or in the manner connected with

(i) the "release" or "threatened release" (as those terms are defined in CERCLA and the rules and regulations promulgated thereunder, as from time to time amended) by Contractor or Contractor's employees, agents, delegees, invitees, licensees, concessionaires, sub-contractors or representatives, of any Hazardous Materials, or

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

(ii) any occurrence of Hazardous Materials Contamination affecting the Project or Project Site. The provisions of this paragraph shall survive any payment or satisfaction of the Contract and such provisions shall remain in full force and effect.

### **ARTICLE 26 - MISCELLANEOUS**

#### Section 26.1 No Waiver

A. No consent or waiver, express or implied, by either party to or of any breach or default by the other in the performance of any of its obligations shall be deemed or construed to be a consent or waiver to or of any other breach or default by such party. Failure on the part of either party to complain of any act or failure to act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party.

#### Section 26.2 Conflicts

A. In the event of any conflict between the terms or provisions expressed in this Agreement and any term or provision in any of the other Contract Documents, the term or provision of this Agreement shall govern to the extent of the conflict.

#### Section 26.3 Assignment

A. This Agreement shall not be assigned, delegated or transferred in whole or in part by the Contractor nor shall the Contractor assign any monies due or to become due to it without the prior written consent of the Owner.

#### Section 26.4 Governing Law

A. This Agreement is entered into in Tennessee and shall be governed by and construed according to the Laws of Tennessee. Any and all disputes arising out of this Agreement, and/or the Project shall be decided by a state or federal court of competent jurisdiction in Memphis, Shelby County, Tennessee.

#### Section 26.5 Counterparts

A. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

#### Section 26.6 Article and Section Headings

A. Article and Section headings contained in this Agreement are for ease of reference only and shall not affect the interpretation or meaning of this Agreement.

#### Section 26.7 Notice and Communications

A. It is the intention of the Parties that any and all communications between Owner and Contractor shall be made through the EOR, and the provisions of this Agreement and the Contract Documents will be so construed. Notwithstanding the foregoing, Contractor may elect to provide any communication demanded by the Contract Documents to both Owner and EOR.

#### Section 26.8 Parties in Interest

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

- A. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, assigns and legal representatives.

### **Section 26.9 Severability**

- A. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but it shall be construed as if such invalid, illegal or unenforceable provision had never been contained in it.

### **Section 26.10 Sub-contractor Relations Requirements**

- A. By appropriate written agreement, the Contractor shall require each Sub-contractor, to the extent of the Work to be performed by the Sub-contractor, to be bound to the Contractor by the obligations, terms and conditions of this Agreement and the Contract Documents, and to assume toward the Contractor the obligations, terms, conditions and responsibilities which the Contractor, by this Agreement and these Contract Documents, assumes toward the Owner. Each Subcontractor agreement shall preserve and protect the rights of the Owner under this Agreement and the Contract Documents which respect to the Work to be performed by the Sub-contractor so that subcontracting thereof will not prejudice the rights of the Owner. The Contractor shall require each Sub-contractor to enter into similar agreements with Sub-sub-contractors. The Contractor shall make available to each proposed Sub-contractor prior to the execution of the Subcontract agreement, copies of this Agreement and the Contract Documents to which the Sub-contractor will be bound. Sub-contractors shall similarly make copies of this Agreement and the Contract Documents available to their respective Sub-sub-contractors.

### **Section 26.11 Third Party Beneficiary**

- A. This Agreement shall not be deemed to create any other relation between Contractor and Owner other than as expressly provided herein and shall not be for the benefit of any third party.

### **Section 26.12 Entire Agreement**

- A. This Agreement, together with the other Contract Documents, constitutes the entire agreement between the Owner and the Contractor and supersedes all prior written or oral agreements, understandings, representations, negotiations and correspondence between the parties. This Agreement shall not be supplemented, amended or modified by any course of dealing, course of performance or usage of trade and may only be amended or modified by a written instrument duly executed by officers of both parties.

## **ARTICLE 27 - NON-DISCRIMINATION**

- A. Contractor agrees that it will not discriminate upon the basis of race, color, creed, religion, national origin, age, disability or sex in the performance of the Work and that each solicitation or advertisement for employees, and each Agreement to which Contractor is a party, including without limitation, Sub-contractors, shall specifically contain a provision to this effect. The Contractor shall, upon request, show evidence of such non-discrimination and shall post notices of non-discrimination in conspicuous places available to all employees and applicants.

## **GENERAL CONDITIONS OF THE CONTRACT - 00710**

B. The Contractor shall execute the specified Certificate of Non-discrimination at the time he executes the formal bid form and includes it in the bid envelope.

C. The Contractor and all sub-contractors under general contract shall maintain copies of every subcontract awarded and their own payrolls, for each weekly payroll period for the life of the construction contract and for a period of five (5) years after final release and payment is made by the Community Redevelopment Agency to the Contractor.

D. Each contractor's request for payment, including final payment and each partial payment, if permitted by the contract, shall contain a certification by the Contractor that the performance by the contractor and sub-contractor for the period of work covered by the payment request has been in accordance with the clauses of the contract and the requirements with respect to nondiscrimination.

E. Representatives of the State of Tennessee, Department of Labor, and the Community Redevelopment Agency shall have the right to inspect the Contractor's facilities and payroll records during the life of the construction contract and for a period of five (5) years after final release and final payment by the City for the purposes of verifying nondiscrimination in employment and payment of prevailing wages as appropriate.

F. The Contractor shall incorporate the same requirements set forth in paragraphs A, B, C, D and E above, in all subcontracts awarded by him with the further requirement that each subcontract include identical requirements to be included in any lower tier subcontracts, together with the requirement to include it in any further subcontracts that might be made.

## **ARTICLE 28 - SUSPENSIVE LIABILITY AGREEMENT**

### **Section 28.1 Suspensive Liability Condition**

A. Notwithstanding any term, condition, obligation or provision in this Agreement, any other writing, any other agreement, any oral understanding or agreement, or any conduct or failure to act by the Owner, Contractor stipulates and agrees conclusively that Contractor has against the Owner no right, entitlement or claim for any payment, compensation, cost or remuneration of any type other than pursuant to the terms of this Agreement.

## **ARTICLE 29 - EMPLOYMENT OF ILLEGAL IMMIGRANTS**

A. The Contractor hereby certifies to comply with all applicable federal and state laws prohibiting the employment of individuals not legally authorized to work in the United States. Contractor shall not knowingly (i) utilize the services of illegal immigrants; or (ii) utilize the services of any subcontractor who will utilize the services of illegal immigrants in the performance of the contract. In the event the Contractor fails to comply with any and all local, state and federal laws prohibiting the employment of individuals not legally authorized to work in the United States, this agreement may be canceled, terminated or suspended in whole or in part by the Owner, and the Contractor may be prohibited from contracting to supply goods and/or services to the Owner for a period of one (1) year from the date of discovery of the usage of illegal immigrant services in the performance of a contract with the Owner.

**END OF SECTION 00710**

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**A2.2 ROOF PLAN**

**A3.1 EXTERIOR ELEVATIONS**

**A4.1 BUILDING SECTIONS**

**A6.1 DOOR SCHEDULE**

#### **STRUCTURAL**

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**S2.0 FOUNDATION PLAN**

**S2.1 SECOND FLOOR PLAN**

**S2.2 ROOF FRAMING PLAN**

**S2.3 DEMO PLAN**

**S3.0 SECTIONS**

## **ALLOWANCES - 01020**

### **ALLOWANCES**

#### **PART 1 - GENERAL**

##### **1.01 RELATED DOCUMENTS**

A. Drawings and general provisions of the Contract, including General Conditions of the Contract and other Division 1 Specification Sections, apply to work of this Section.

##### **1.02 SUMMARY**

A. This Section includes administrative and procedural requirements governing allowances and unit prices.

B. Allowance may be removed from the contract at the discretion of the owner.

#### **PART 2 - PRODUCTS**

(Not applicable)

#### **PART 3 - EXECUTION**

##### **3.01 EXAMINATION**

A. Examine products covered by the allowance promptly upon delivery for damage or defects.

##### **3.02 PREPARATION**

A. Coordinate materials and their installation for the allowance with related materials and installations to ensure that the allowance item is completely integrated and interfaced with related work.

##### **3.03 SCHEDULE OF ALLOWANCES**

A. 10% Contingency

**END OF SECTION 01020**

## WEATHER DELAYS - 012620

### PART 1 - GENERAL

#### 1.01 EXTENSIONS OF CONTRACT TIME

If the basis exists for an extension of time in accordance with paragraph 8.3 of the Conditions, an extension of time on the basis of weather may be granted only for the number of Weather Delay Days in excess of the number of days listed as the Standard Baseline for that month.

#### 1.02 STANDARD BASELINE FOR AVERAGE CLIMATIC RANGE

A. The Owner has reviewed data available from the National Oceanic and Atmospheric Administration (NOAA) and determined a Standard Baseline of average climatic range from the State of Tennessee.

B. Standard Baseline is defined as the normal number of calendar days for each month during which construction activity exposed to weather conditions is expected to be prevented and suspended by cause of adverse weather.

C. Standard Baseline is as follows:

JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEP	OCT	NOV	DEC
12	11	8	7	7	6	7	5	4	5	6	11

#### 1.03 ADVERSE WEATHER AND WEATHER DELAY DAYS

A. Adverse Weather is defined as the occurrence of one or more of the following conditions within a twenty-four (24) hour day that prevents construction activity exposed to weather conditions or access to the site:

- Precipitation (rain, snow, or ice) in excess of one-tenth inch (0.10" liquid measure;
- Temperatures that do not rise above that required for the day's construction activity, if such temperature requirement is specified or accepted as standard industry practice; and/or;
- Sustained wind in excess of twenty-five (25) miles per hour.

B. Adverse Weather may include, if appropriate, "dry-out" or "mud" days:

- Resulting from precipitation days that occur beyond the standard baseline;
- Only if there is a hindrance to site access or sitework and Contractor has taken all reasonable accommodations to avoid such hindrance; and,
- At a rate no greater than one (1) make-up day for each day or consecutive days of precipitation beyond the standard baseline that total one (1) inch or more, liquid measure, unless specifically recommended otherwise by CRA.

C. A Weather Delay Day may be counted if adverse weather prevents work on the project for fifty percent (50%) or more of the Contractor's schedule work day and critical path construction activities

## **WEATHER DELAYS - 012620**

were included in the day's schedule, including a weekend day or holiday if Contractor has scheduled construction activity that day.

D. Contractor shall take into account that certain construction activities are more affected by adverse weather and season conditions than other activities, and that "dry-out" or "mud" days are not eligible to be counted as a Weather Delay Day until the standard baseline is exceeded. Hence, Contractor should allow for an appropriate number of additional days associated with the Standard Baseline days in which such applicable construction activities are expected to be prevented and suspended.

### **1.04 DOCUMENTATION AND SUBMITTALS**

A. Submit daily jobsite work logs showing which and to what extent critical path construction activities have been affected by weather on a bi-weekly basis.

B. Submit actual weather data to support claim for time extension obtained from nearest NOAA weather station or other independently verified source approved by CRA at beginning of project.

C. Use Standard Baseline data provided in this Section when documenting actual delays due to weather in excess of the average climatic range.

D. Organize claim and documentation to facilitate evaluation on a basis of calendar month periods and submit in accordance with the procedures for Claims established in paragraph 3.3 off the General Conditions of the Contract (Section 00710).

E. If an extension of the Contract Time is appropriate, such extension shall be made in accordance with the provisions of Article 3 of the General Conditions, of the Contract (Section 00710).

**END OF SECTION 012620**



## TESTING LABORATORY SERVICES 014100

### PART 1 - GENERAL

#### 1.01 DESCRIPTION

A. Work Included From time to time during progress of the work, the Owner may require that testing be performed to determine that materials provided for the work meet the specified requirements. Such testing includes but is not necessarily limited to the following: The Contractor will employ and pay for services of an independent testing laboratory, acceptable to the Owner/Engineer to perform specified services. 1. Soil Compaction Tests 2. Cast-in-Place Concrete Tests

B. Related Work Described Elsewhere: Requirements for testing may be described in various sections of these specifications. Where no testing requirements are described but the Owner decides that testing is required, the Owner may require testing to be performed under current pertinent standards for testing.

#### 1.02 QUALITY ASSURANCE

A. Qualifications of Testing Laboratory The testing laboratory will be qualified to the Owner's approval in accordance with ASTM E 329-70 "Recommended Practice for Inspection and Testing Agencies for Concrete and Steel Used in Construction."

B. Codes and Standards Testing, when required, will be in accordance with all pertinent codes and regulations and with selected standards of the American Society for Testing and Materials.

#### 1.03 PRODUCT HANDLING

A. Promptly process and distribute all required copies of test reports and related instructions to ensure all necessary retesting and/or replacement of materials with the least possible delay in progress of the work.

#### 1.04 AUTHORITY AND DUTIES OF LABORATORY PERSONNEL

A. Inspectors shall inspect the materials and the manufacture of concrete as specified and shall report to the CRA & EOR the progress thereof.

B. When it appears that the material furnished, and the work performed by the Contractor, fails to fulfill the Contract and specification requirements, the inspector shall direct the attention of the Contractor to such failure or infringement. Such inspector shall not relieve the Contractor of any obligation to furnish acceptable materials. The inspectors are not authorized to revoke, alter, relax, enlarge, or release any requirements of the specifications, nor to approve or accept any portion of the work, but in case of any dispute arising between the inspector and the Contractor as to materials furnished or in the manner of performing the work, the inspector shall have the authority to reject materials or suspend the work until the question at issue can be referred to the EOR. The inspector shall not act as foreman or perform other duties for the Contractor. In no case shall any advice or omission on the part of the inspector relieve the Contractor of responsibility for completing the work in accordance with the plans and specifications and the fulfillment of the Contract. The work will be inspected as to progresses, but failure to reject any defective work or materials shall not in any way

## **TESTING LABORATORY SERVICES 014100**

prevent later rejections when such defect is discovered or obligate the CRA & EOR for final acceptance. Any expense incident to the investigation and the determination of actual quality of any questionable materials shall be borne by the Contractor.

### **PART 2 - PRODUCTS**

#### **2.01 PAYMENT FOR TESTING SERVICES**

A. Initial Services 1. The Contractor will pay for all testing services required by these specifications.

B. Retesting When initial tests indicate non-compliance with the Contract Documents, all subsequent retesting occasioned by the non-compliance shall be performed by the same testing laboratory and the costs thereof will be paid by the Contractor.

C. Pay laboratory travel and labor costs if laboratory personnel come to the job site and find work not ready for testing.

#### **2.02 CODE COMPLIANCE TESTING**

Inspections and tests required by codes and ordinances, or by a plan approval authority, and made by a legally constituted authority, shall be the responsibility of and shall be paid for by the Owner, unless otherwise provided in the Contract Documents.

#### **2.03 CONTRACTOR'S CONVENIENCE TESTING**

Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

### **PART 3 - EXECUTION**

#### **3.01 COOPERATION WITH TESTING LABORATORY**

Representatives of the testing laboratory shall have access to the work at all times; provide facilities for such access in order that the laboratory may properly perform its functions.

#### **3.02 CONCRETE TESTS**

A. Prior to starting concrete operations, the Contractor shall submit his materials list and shall submit representative samples for testing.

B. Preliminary Mix Design:

1. For each class of concrete specified, a preliminary mix design shall be made.
2. The Contractor shall submit copies of the mix designs he proposed to use to the EOR for his approval.
3. The laboratory service in no way relieves the Contractor of his responsibility for the quality of the concrete.

C. Concrete Testing Services:

## **TESTING LABORATORY SERVICES 014100**

1. Cement and Aggregates: a. Test cement and aggregates in accordance with ASTM physical test requirements. b. One test shall be made for each carload of cement (no cement shall be used until a satisfactory 3-day physical test has been made).
2. Cylinders: a. Cast and test a set of at least three (3) field and three (3) control cylinders for each day's pour and for each 25 cubic yards or major fraction thereof. b. Cylinders shall be cured and tested in accordance with ASTM Specifications for "field" and "control" tests and shall be tested at ages 7 and 28 days, or as otherwise directed by the EOR. Tests shall be judged according to ACI 318-77 and appropriate ASTM tests.
3. Immediately submit two (2) copies of laboratory reports on all strength tests to the CRA & EOR, the local building authority, if required, and the concrete contractor and supplier. Reports shall be made on a form acceptable to the CRA & EOR and shall indicate strength, slump, air entrainment, concrete temperature, pour location, date, age, remarks on properties changes, yardage of pour, proportions, class of concrete used and the weather conditions.
4. Determine air content of concrete twice per day's pour.
5. Perform slump tests once per day's pour and when directed.
6. Storage of test Cylinders: The Contractor shall provide insulated storage room with head when necessary to store control cylinders, and a protected, fenced-in space for storage of field cylinders, which approximates the condition of curing of the concrete being sampled.

### **3.03 SOIL TESTS**

A. General All gradation and compaction tests shall be in accordance with the latest ASTM standards. All compaction tests that fail will be retested at the Contractor's expense.

### **3.04 SCHEDULE FOR TESTING**

#### **A. Establishing Schedule**

1. By advance discussion with the Testing Laboratory selected by the Owner, determine the time required for the laboratory to perform its tests and to issue each of its findings.
2. Provide all required time within the construction schedule.

B. Revising Schedule When changes of construction schedule are necessary during construction, coordinate all such changes of schedule with the testing laboratory as required.

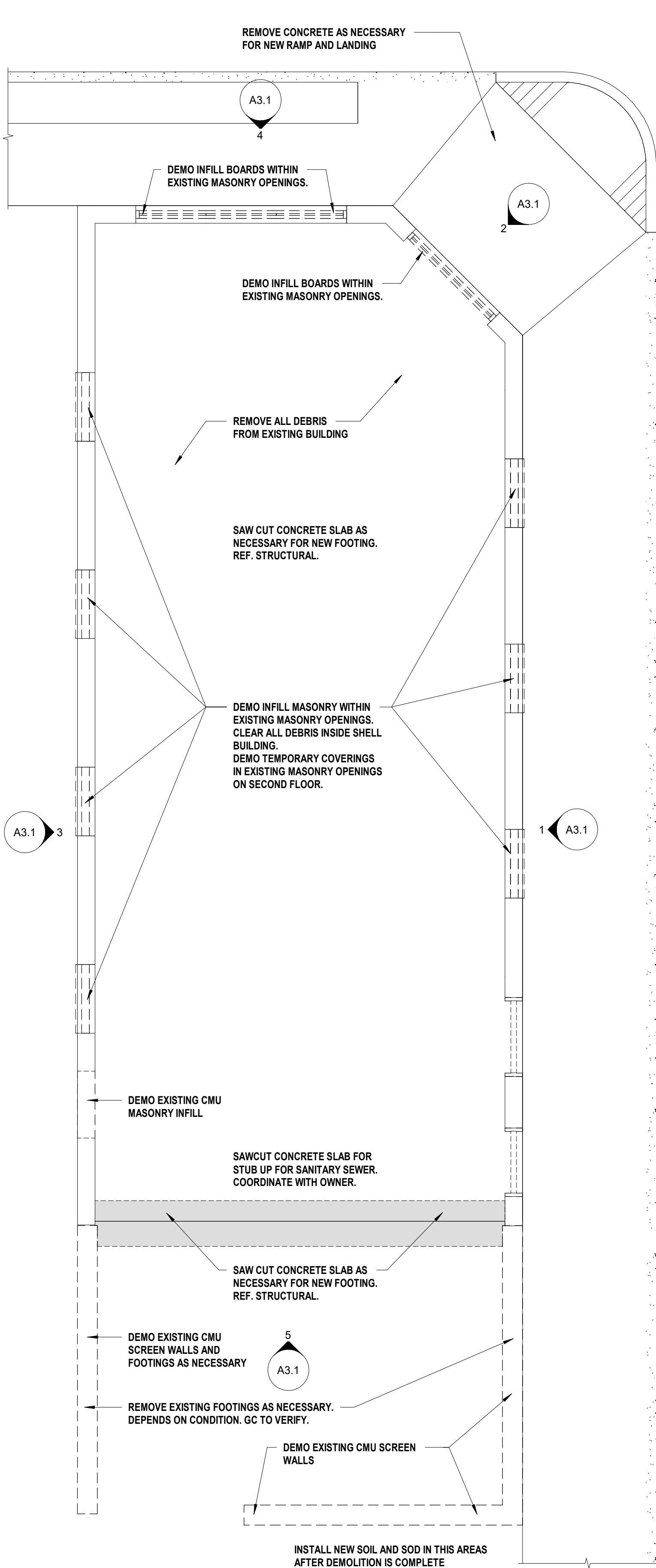
3.05 TAKING SPECIMENS All specimens and samples for testing, unless otherwise provided in these Contract Documents, will be taken by the Testing Laboratory; all sampling equipment and personnel will be provided by the Testing Laboratory.

**END OF SECTION 014100**

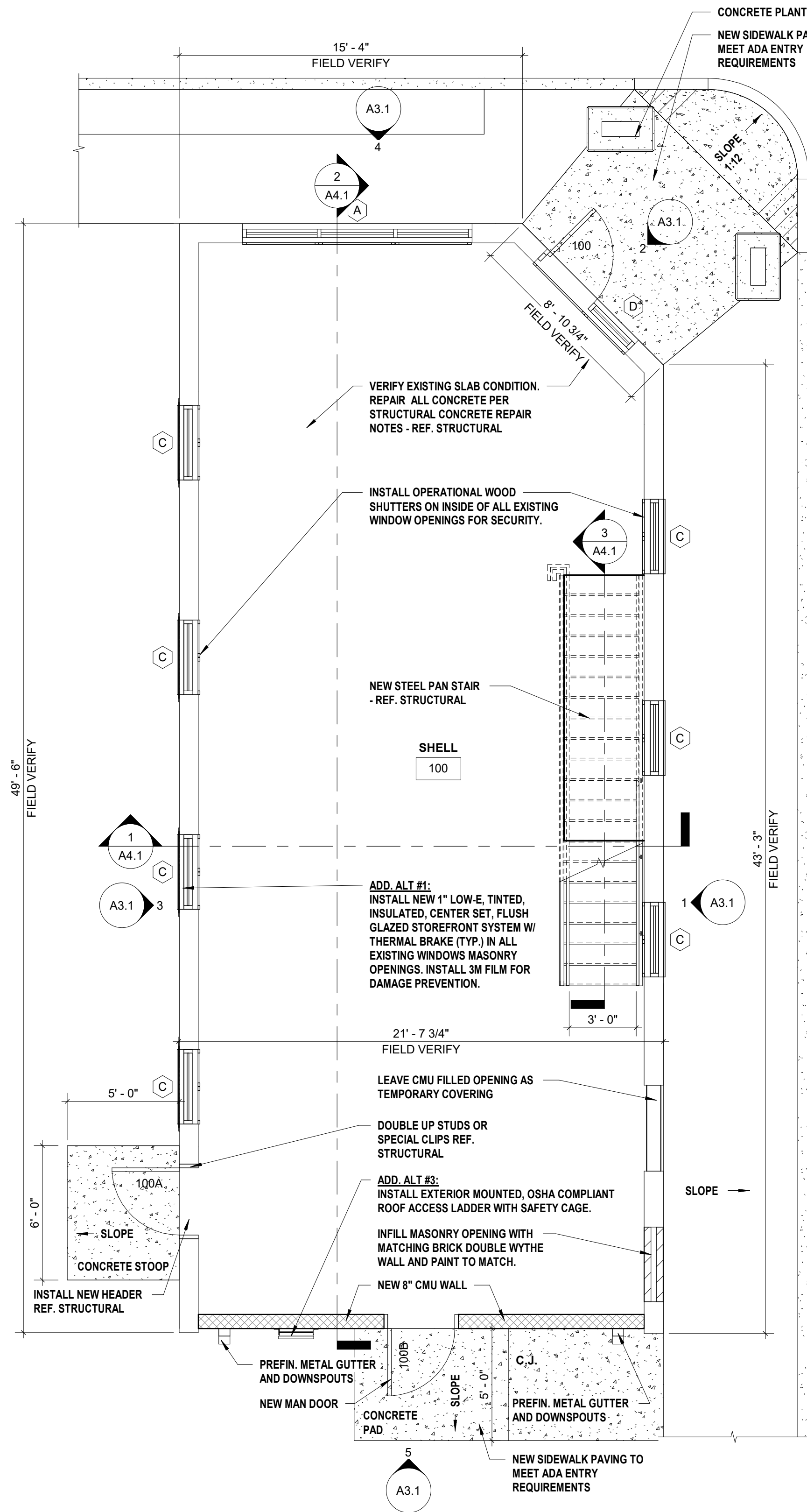




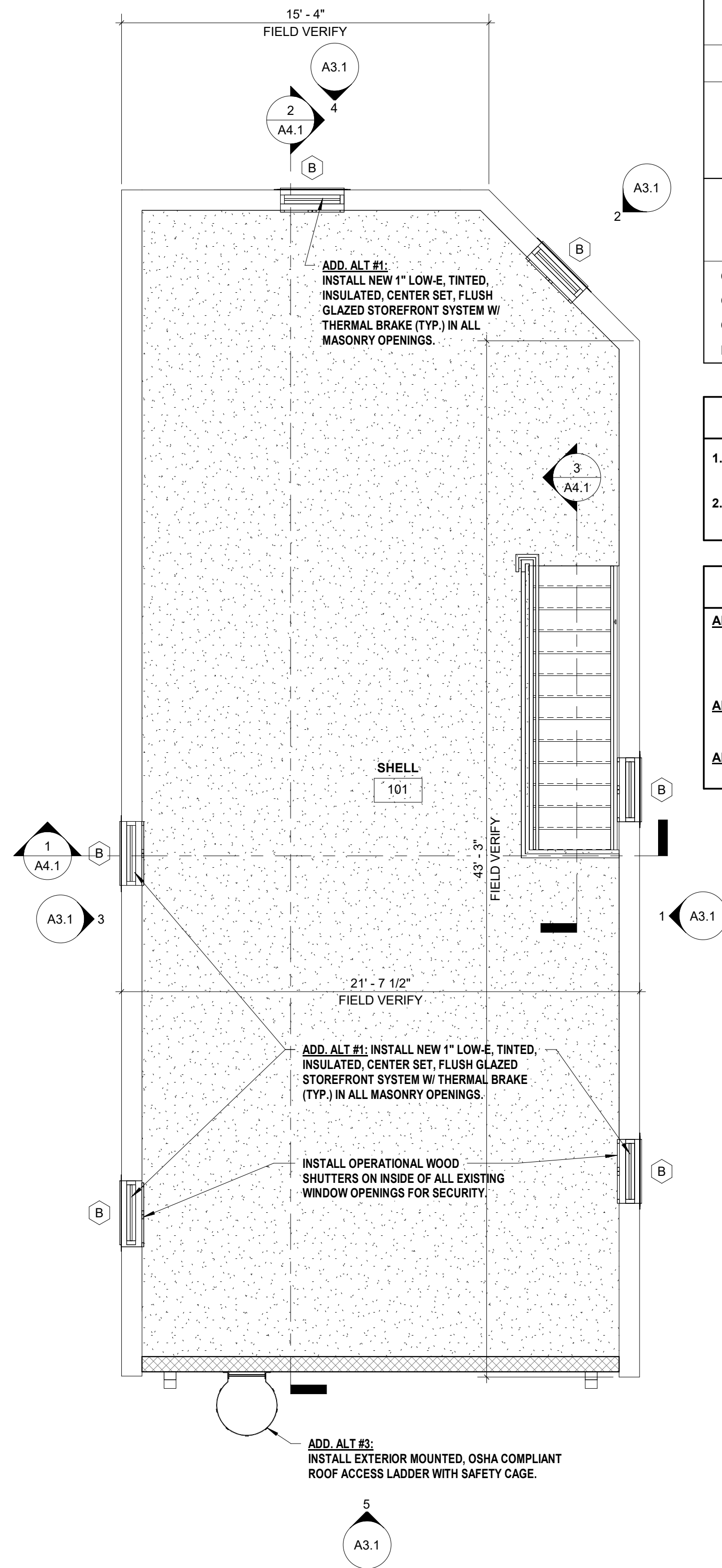




1 DEMO FIRST FLOOR PLAN  
1/4" = 1'-0"



2 FIRST FLOOR PLAN  
1/4" = 1'-0"



3 SECOND FLOOR PLAN  
1/4" = 1'-0"

SYMBOLS LEGEND	
	DOOR WITH DOOR NUMBER KEY
	ROOM NUMBER
	ELECTRIC DRINKING FOUNTAIN - REF. PLUMBING
	WINDOW TYPE KEY - REF. SHEET A6.1
	WALL TYPE KEY - REF. WALL TYPES
	KEYNOTES RELATED TO SPECIFIC NOTES ON SHEET
	EXTERIOR ELEVATION KEY
	DETAIL KEY DRAWING NUMBER SHEET NUMBER
O.F.O.I. - OWNER FURNISHED OWNER INSTALLED	
C.F.C.I. - CONTRACTOR FURNISHED CONTRACTOR INSTALLED	
O.F.C.I. - OWNER FURNISHED CONTRACTOR INSTALLED	
D.S. - PREFIN. MTL. DOWNSPOUT	

BASE BID	
1. PROVIDE WEATHER TIGHT ENVELOPE FOR EXISTING SHELL BUILDING. INSTALL TEMPORARY ENCLOSURES AS NECESSARY.	
2. INSTALL OPERATIONAL WOOD SHUTTERS ON INSIDE OF ALL EXISTING WINDOW OPENINGS FOR SECURITY.	

ADDITIVE ALTERNATES	
ADD. ALT. #1	INSTALL NEW 1" LOW-E, TINTED, INSULATED, CENTER SET, FLUSH GLAZED STOREFRONT SYSTEM W/ THERMAL BRAKE (TYP.) IN ALL EXISTING WINDOWS MASONRY OPENINGS. INSTALL 3M FILM FOR DAMAGE PREVENTION.
ADD. ALT. #2	PAINT EXISTING BRICK MASONRY WITH EXTERIOR ELASTOMERIC MASONRY PAINT OR APPROVED EQUAL.
ADD. ALT. #3	INSTALL EXTERIOR MOUNTED, OSHA COMPLIANT ROOF ACCESS LADDER WITH SAFETY CAGE.



## Renaissance Group

9700 Village Circle, ste.100  
Lakeland, TN 38002  
901.332.5533  
fax: 901.332.5534  
www.rgroup.biz



REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO  
**989 LOONEY AVE  
SHELL BUILDING**  
989 LOONEY AVE,  
MEMPHIS, TN 38107

Sheet Title:  
FIRST FLOOR PLAN

Project No:  
23042

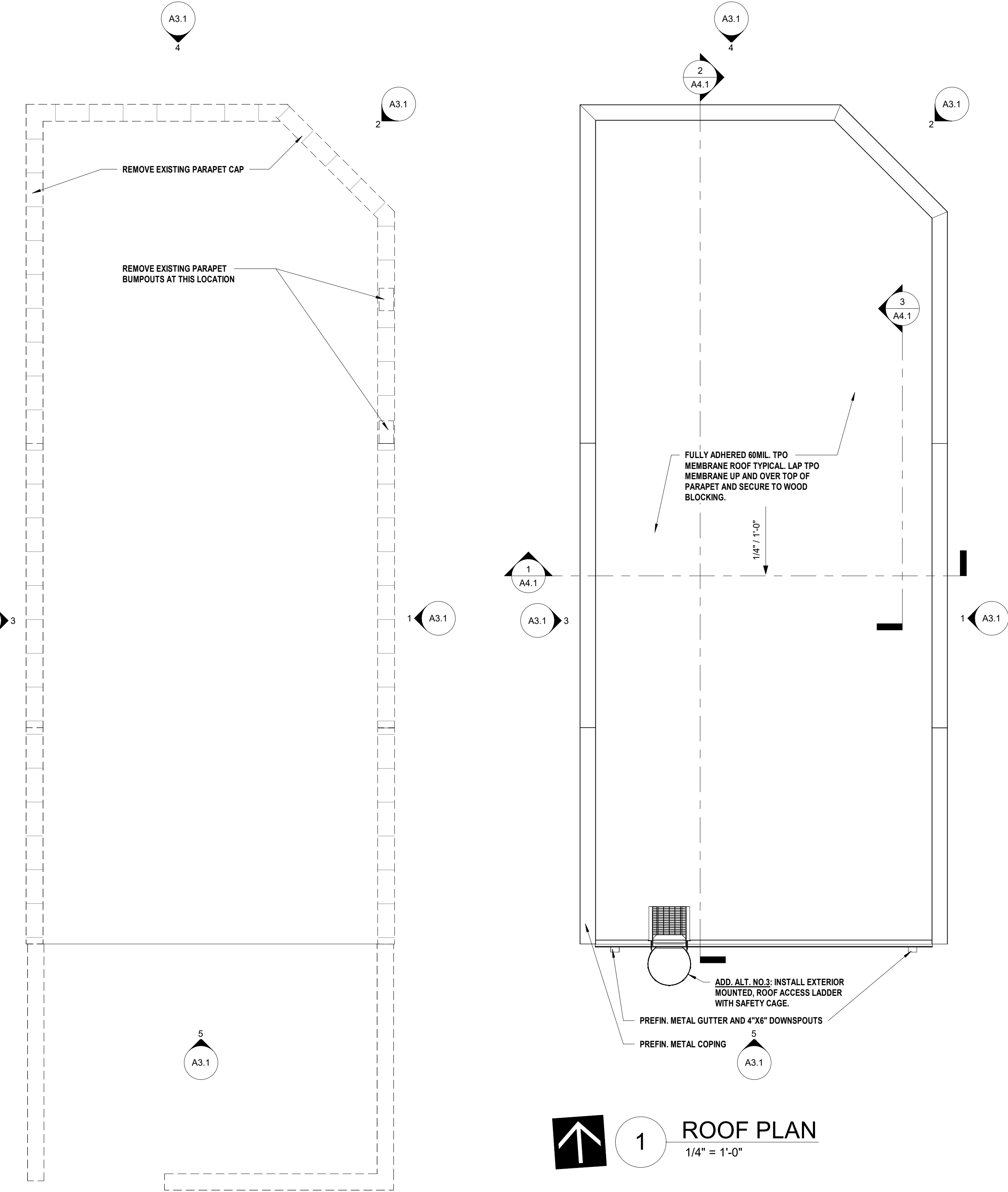
Drawn by:  
RGI

Date:  
05-03-2023

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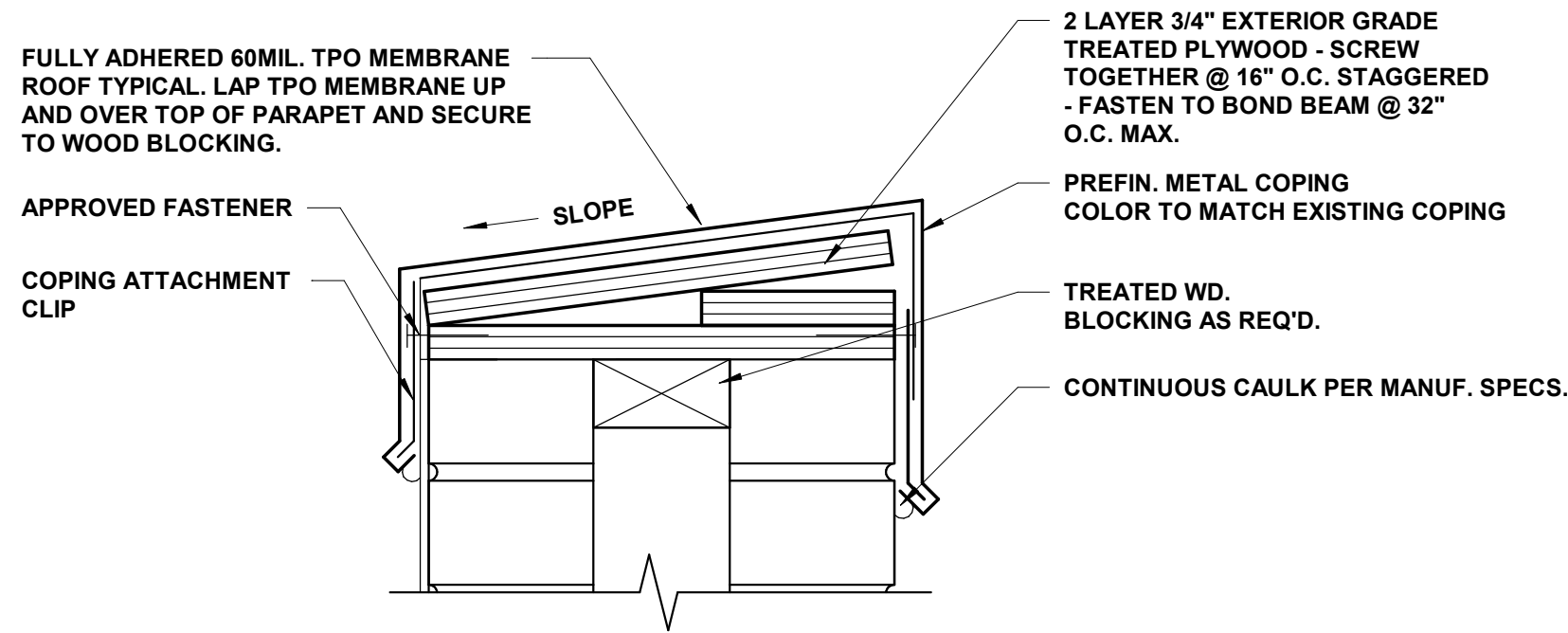
Sheet No.



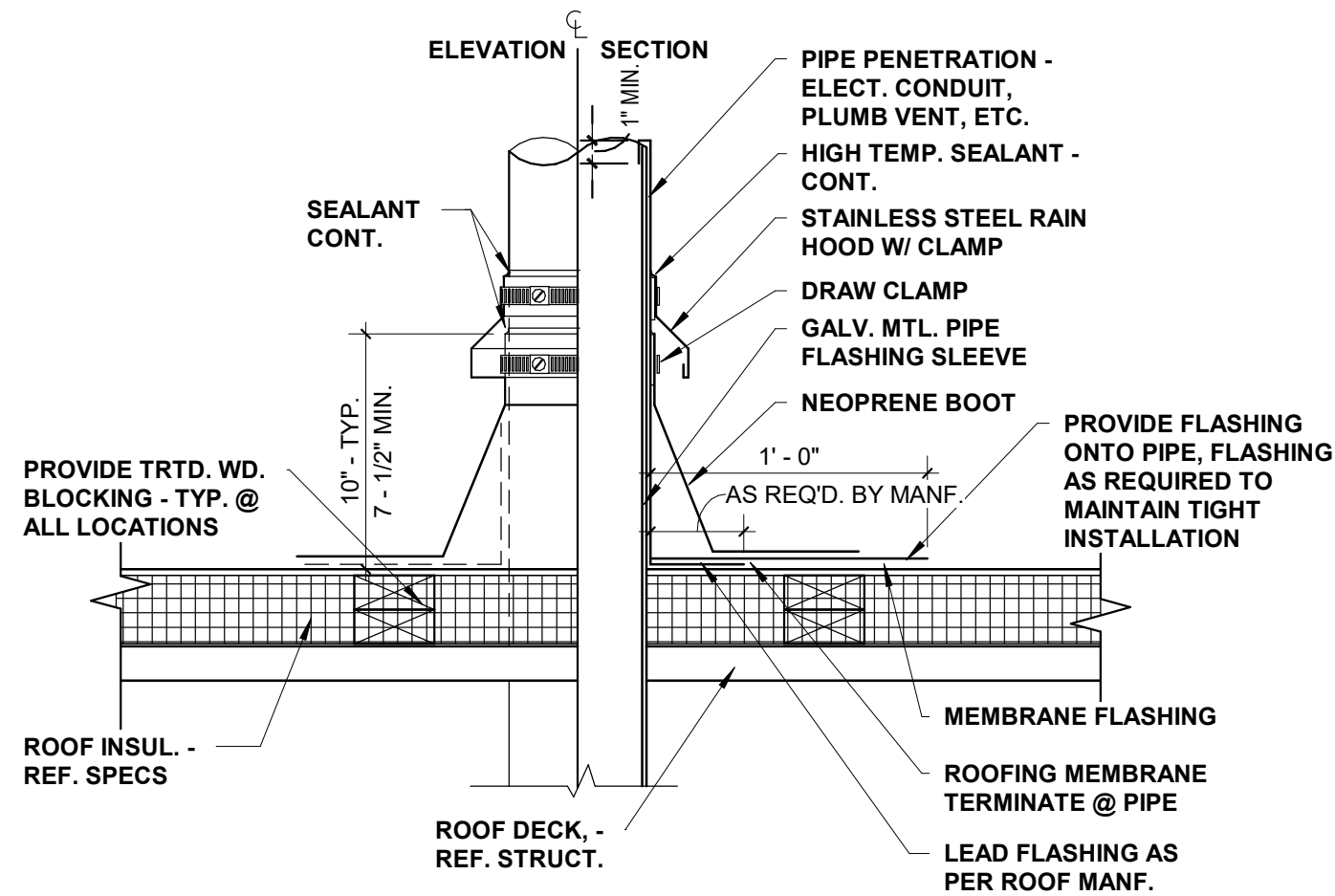


**3 DEMO ROOF PLAN**  
1/4" = 1'-0"

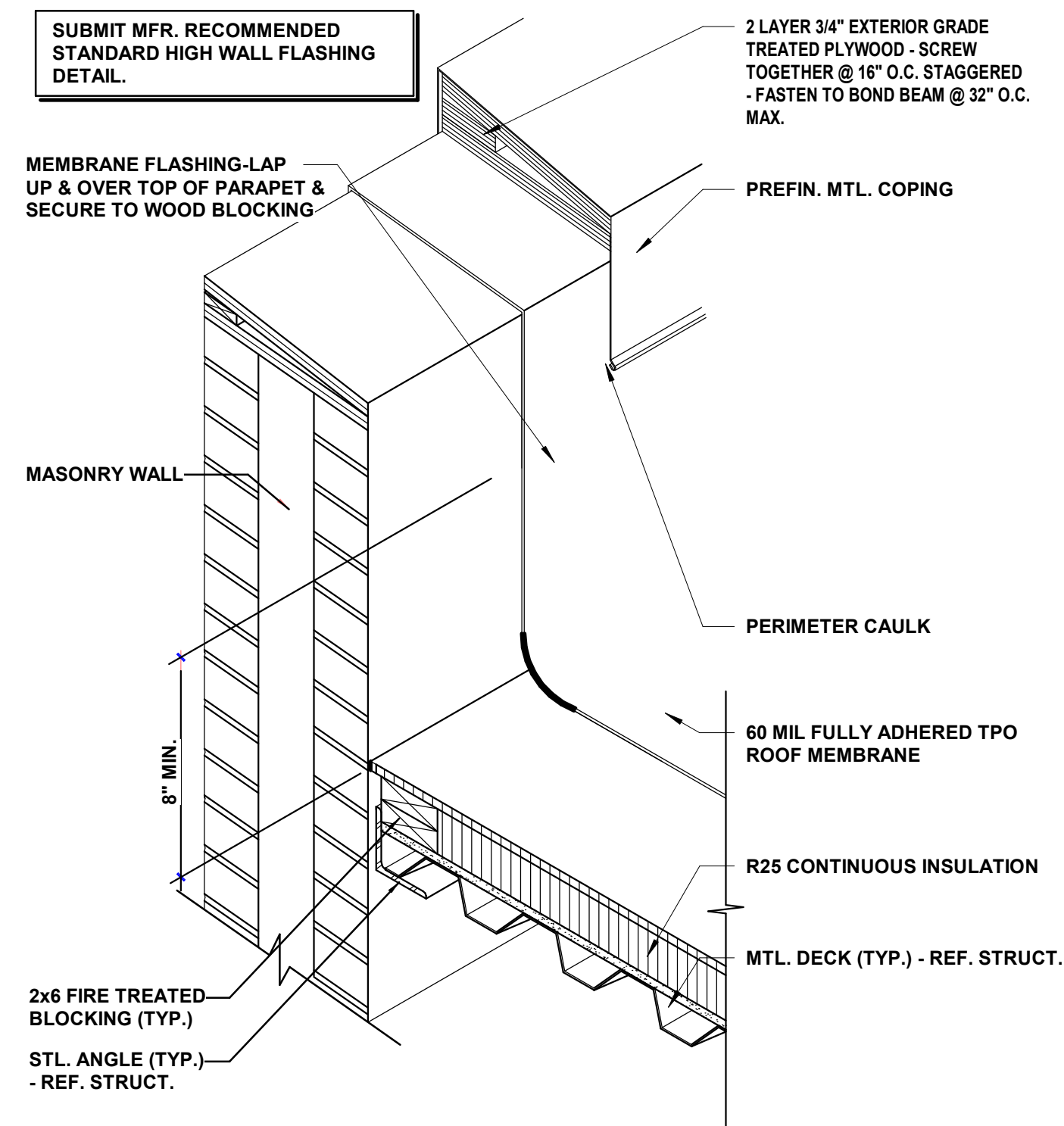
**1 ROOF PLAN**  
1/4" = 1'-0"



**4 COPING DETAIL TYP.**  
3" = 1'-0"



**5 ROOF PENETRATION DETAIL**  
1 1/2" = 1'-0"



**2 WALL FLASHING DETAIL**  
1 1/2" = 1'-0"



**Renaissance Group**

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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO

**989 LOONEY AVE  
SHELL BUILDING**

989 LOONEY AVE,  
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Sheet Title:  
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Project No:  
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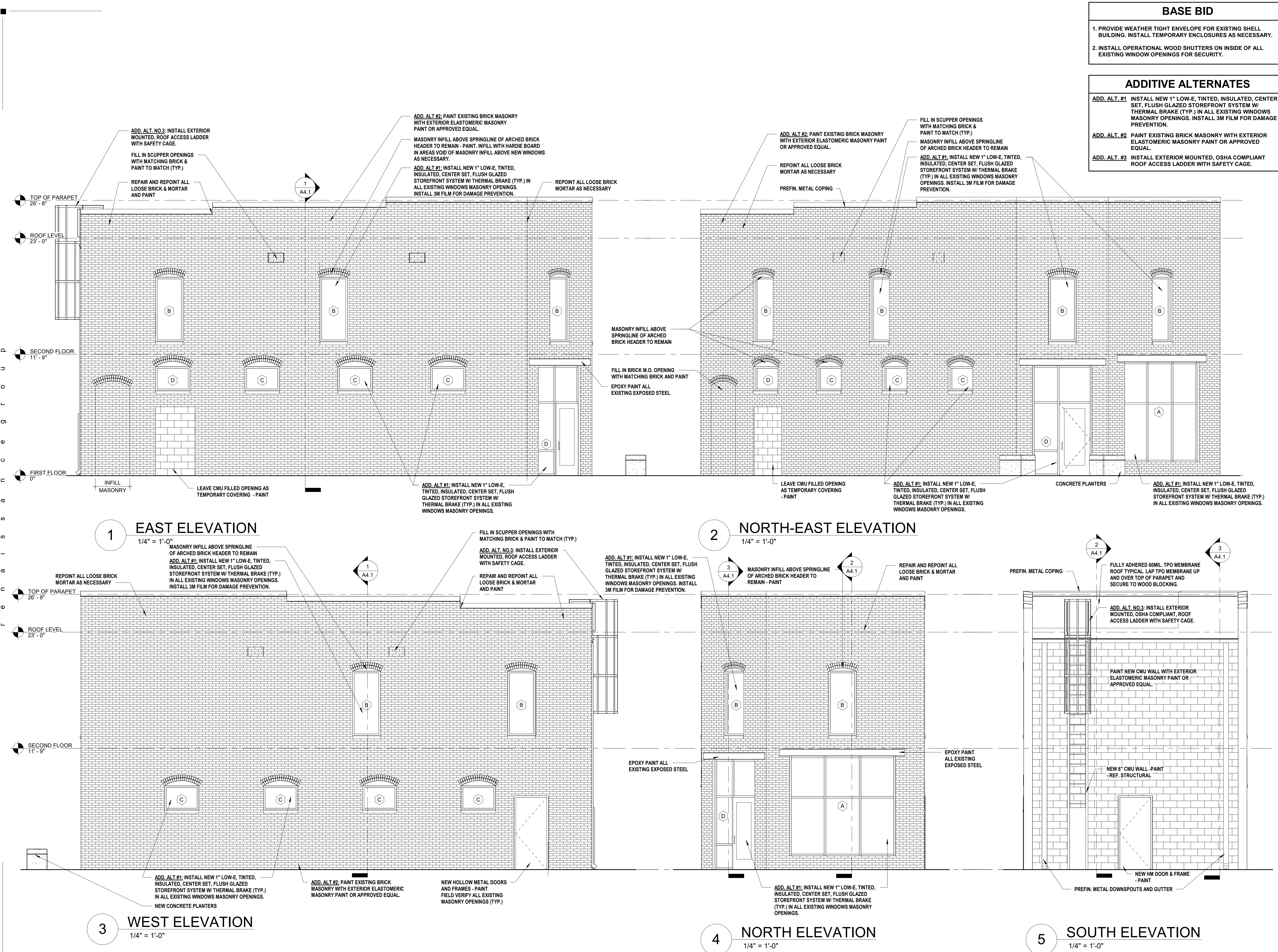
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04-03-2023

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Sheet No.





BASE BID	
1. PROVIDE WEATHER TIGHT ENVELOPE FOR EXISTING SHELL BUILDING. INSTALL TEMPORARY ENCLOSURES AS NECESSARY.	
2. INSTALL OPERATIONAL WOOD SHUTTERS ON INSIDE OF ALL EXISTING WINDOW OPENINGS FOR SECURITY.	
ADDITIVE ALTERNATES	
ADD. ALT. #1	INSTALL NEW 1" LOW-E, TINTED, INSULATED, CENTER SET, FLUSH GLAZED STOREFRONT SYSTEM W/ THERMAL BRAKE (TYP.) IN ALL EXISTING WINDOWS MASONRY OPENINGS. INSTALL 3M FILM FOR DAMAGE PREVENTION.
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ADD. ALT. #3	INSTALL EXTERIOR MOUNTED, OSHA COMPLIANT ROOF ACCESS LADDER WITH SAFETY CAGE.



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9700 Village Circle, ste.100  
Lakeland, TN 38002  
901.332.5533  
fax: 901.332.5534  
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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO  
**989 LOONEY AVE  
SHELL BUILDING**  
989 LOONEY AVE,  
MEMPHIS, TN 38107

Sheet Title:  
EXTERIOR ELEVATIONS

Project No:  
23042

Drawn by:  
RGI

Date:  
05-03-2023

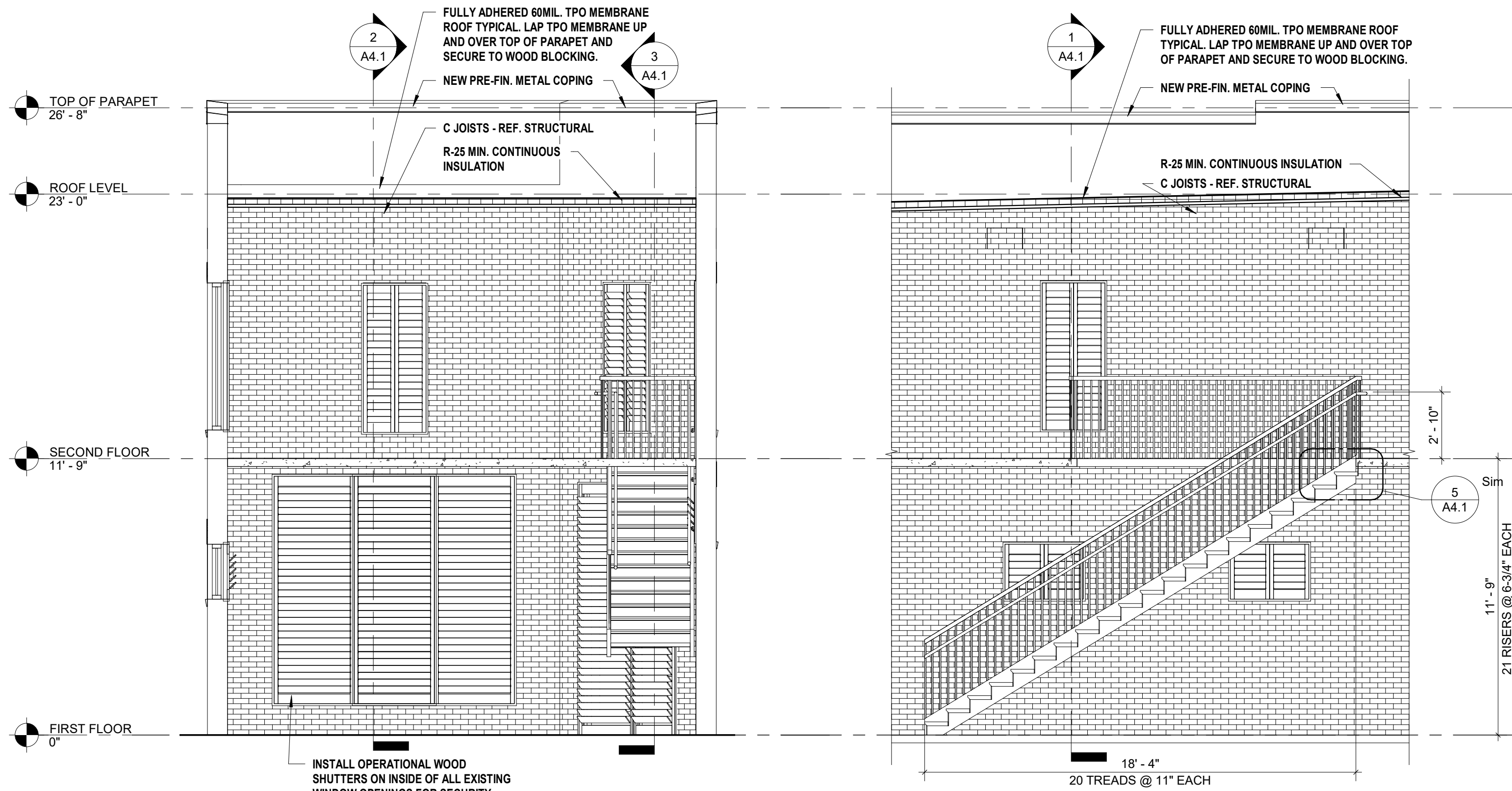
A3.1

Sheet No.

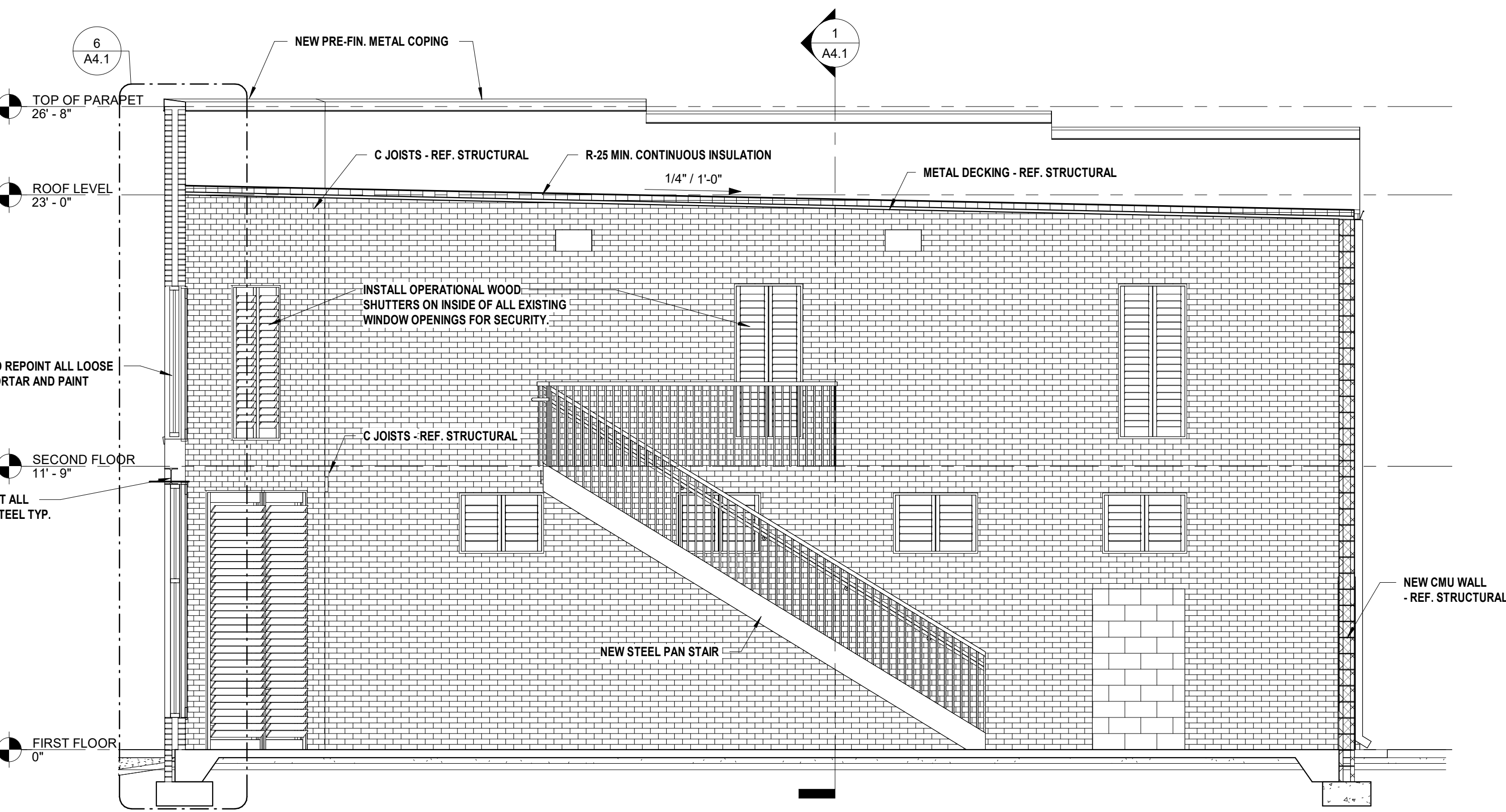


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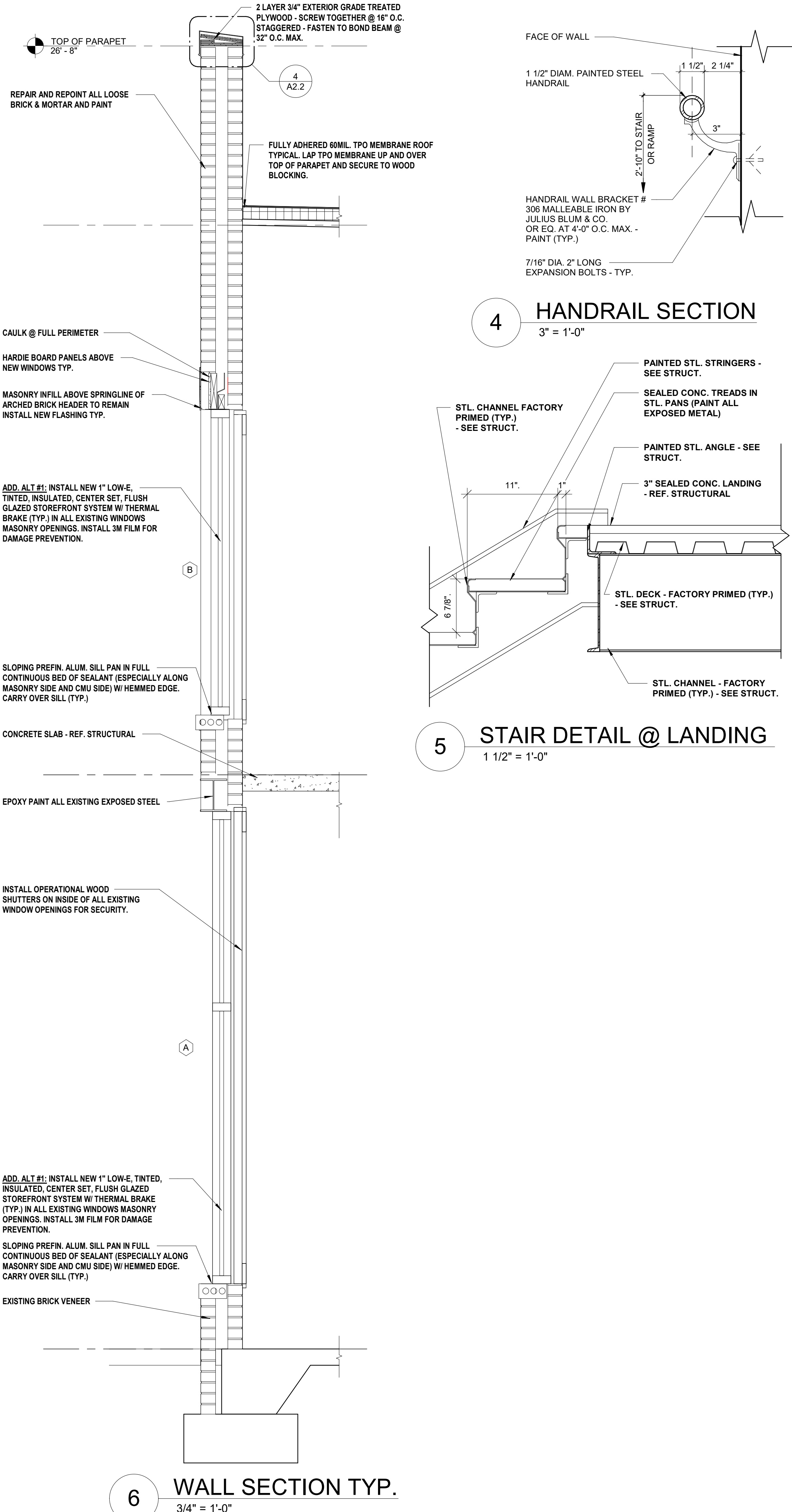
R E N O V A T I O N S



3 SECTION @ STAIR  
1/4" = 1'-0"



2 LONGITUDINAL SECTION  
1/4" = 1'-0"



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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO  
**989 LOONEY AVE  
SHELL BUILDING**  
989 LOONEY AVE,  
MEMPHIS, TN 38107

Sheet Title:  
BUILDING SECTIONS

Project No:  
23042

Drawn by:  
RGI

Date:  
05-03-2023

**A4.1**

Sheet No.



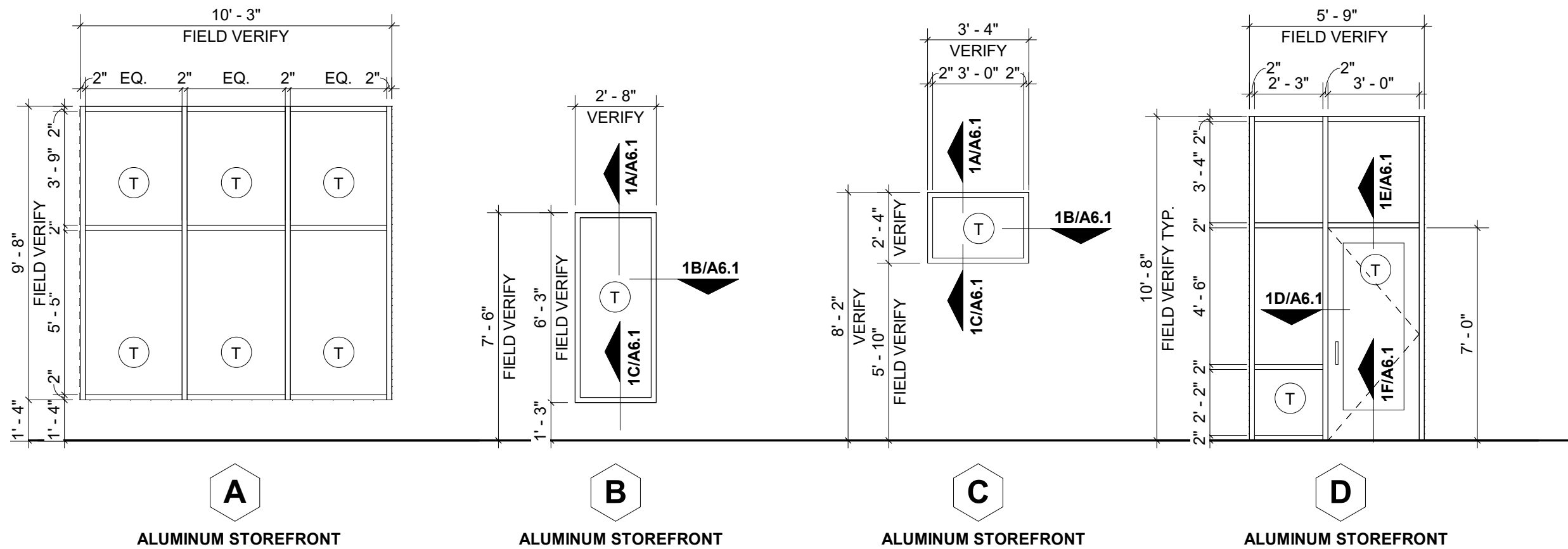
WINDOW TYPES

1/4" = 1'-0"

T = TEMPERED GLAZING

NOTE: ALL EXTERIOR FRAMES SHALL BE THERMALLY BROKEN.

FIELD VERIFY ALL MASONRY OPENINGS PRIOR TO ORDERING NEW STOREFRONT FRAMES TYP.

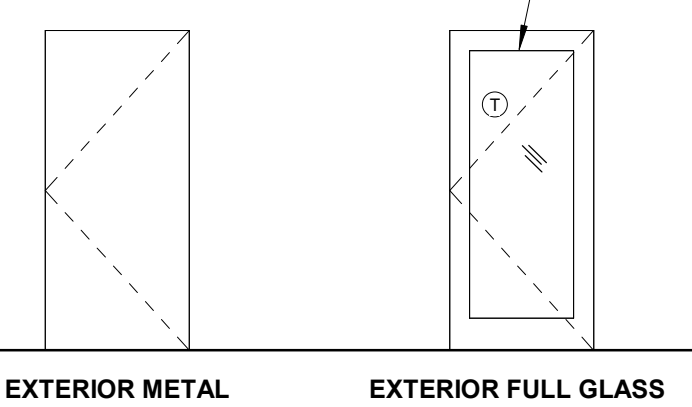


DOOR TYPES

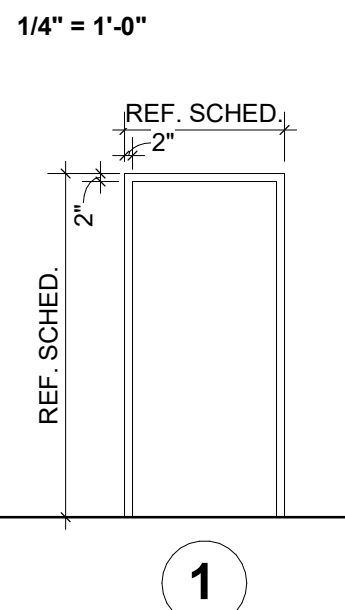
1/4" = 1'-0"

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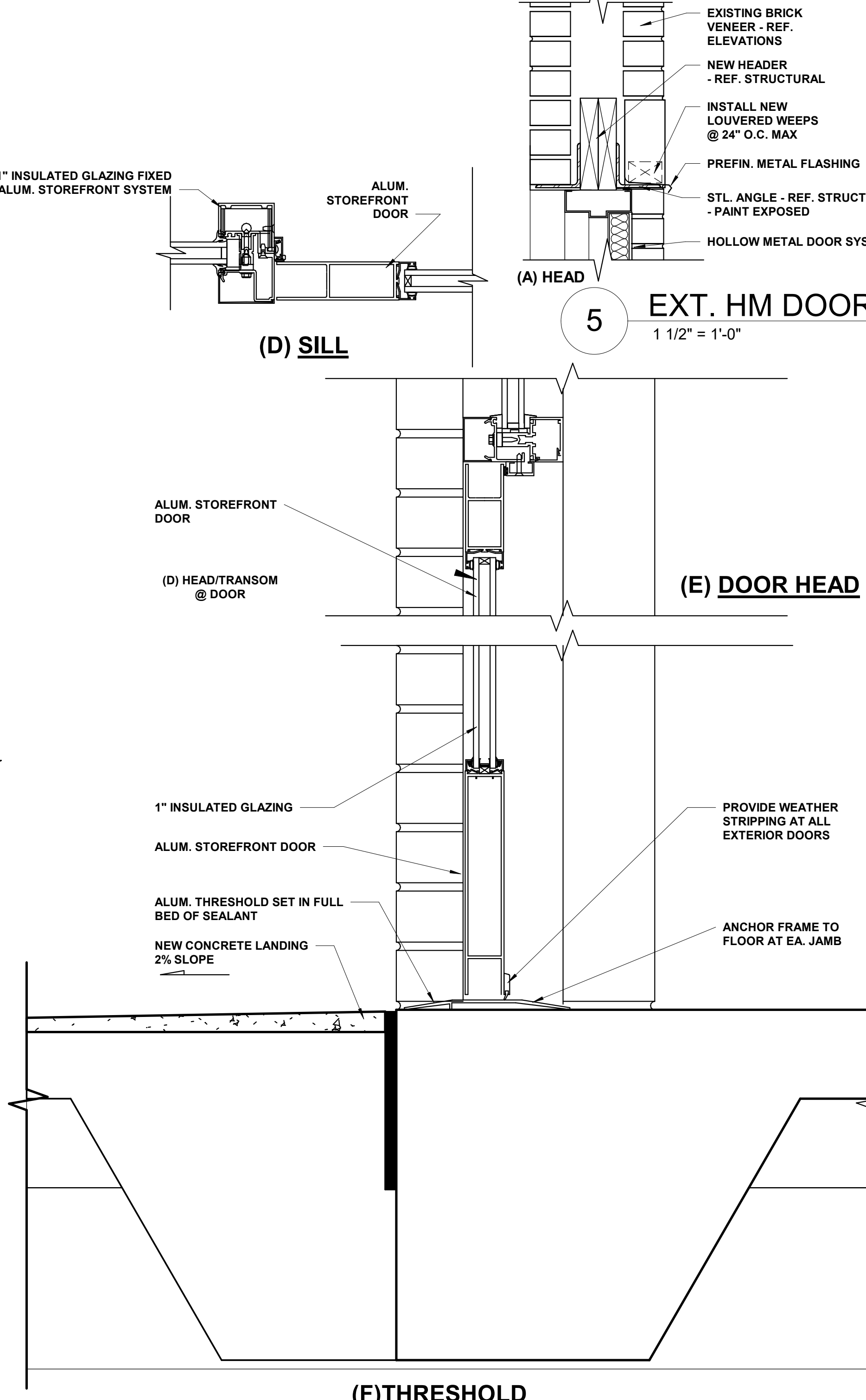
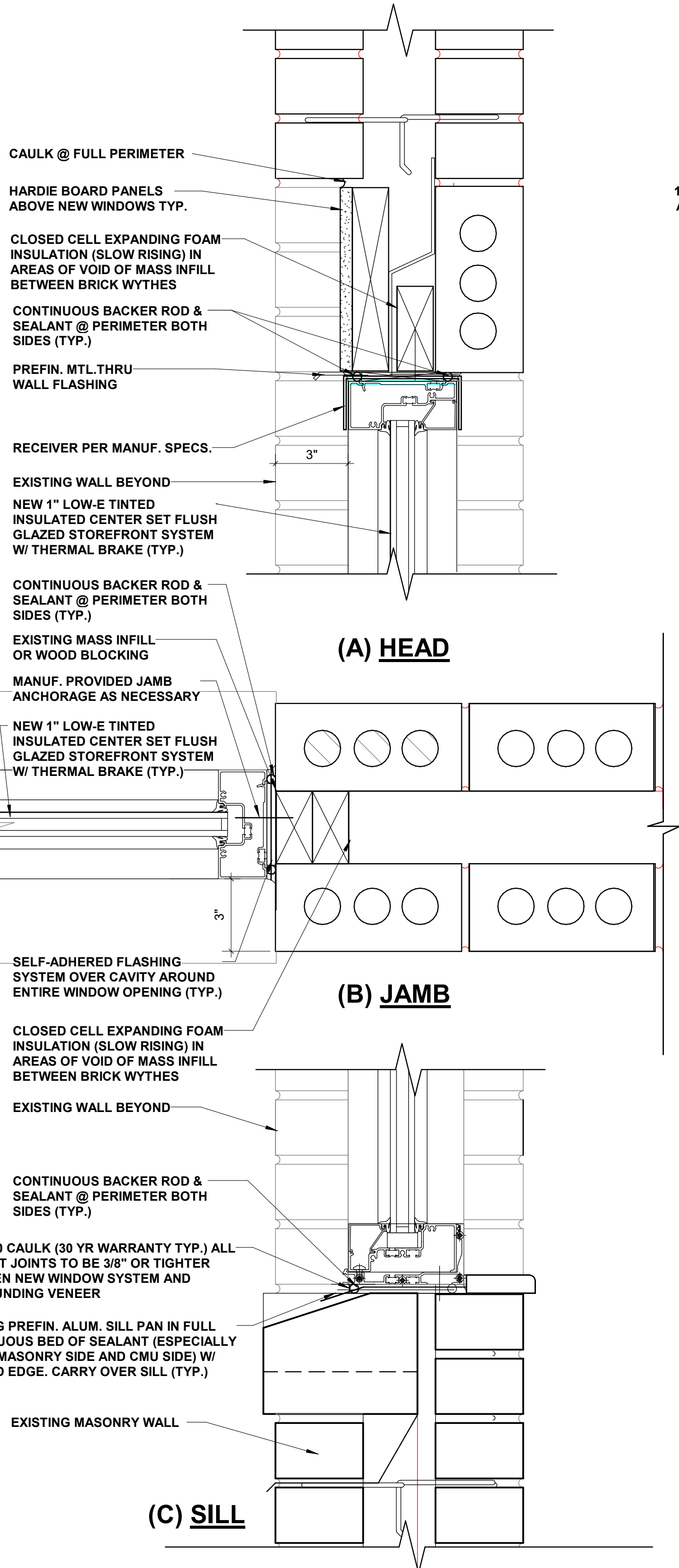
ADD. ALT #1: INSTALL NEW 1" LOW-E, TINTED, INSULATED, CENTER SET, FLUSH GLAZED STOREFRONT SYSTEM W/ THERMAL BRAKE (TYP.) IN ALL EXISTING WINDOWS MASONRY OPENINGS. INSTALL 3M FILM FOR DAMAGE PREVENTION.



FRAME TYPES

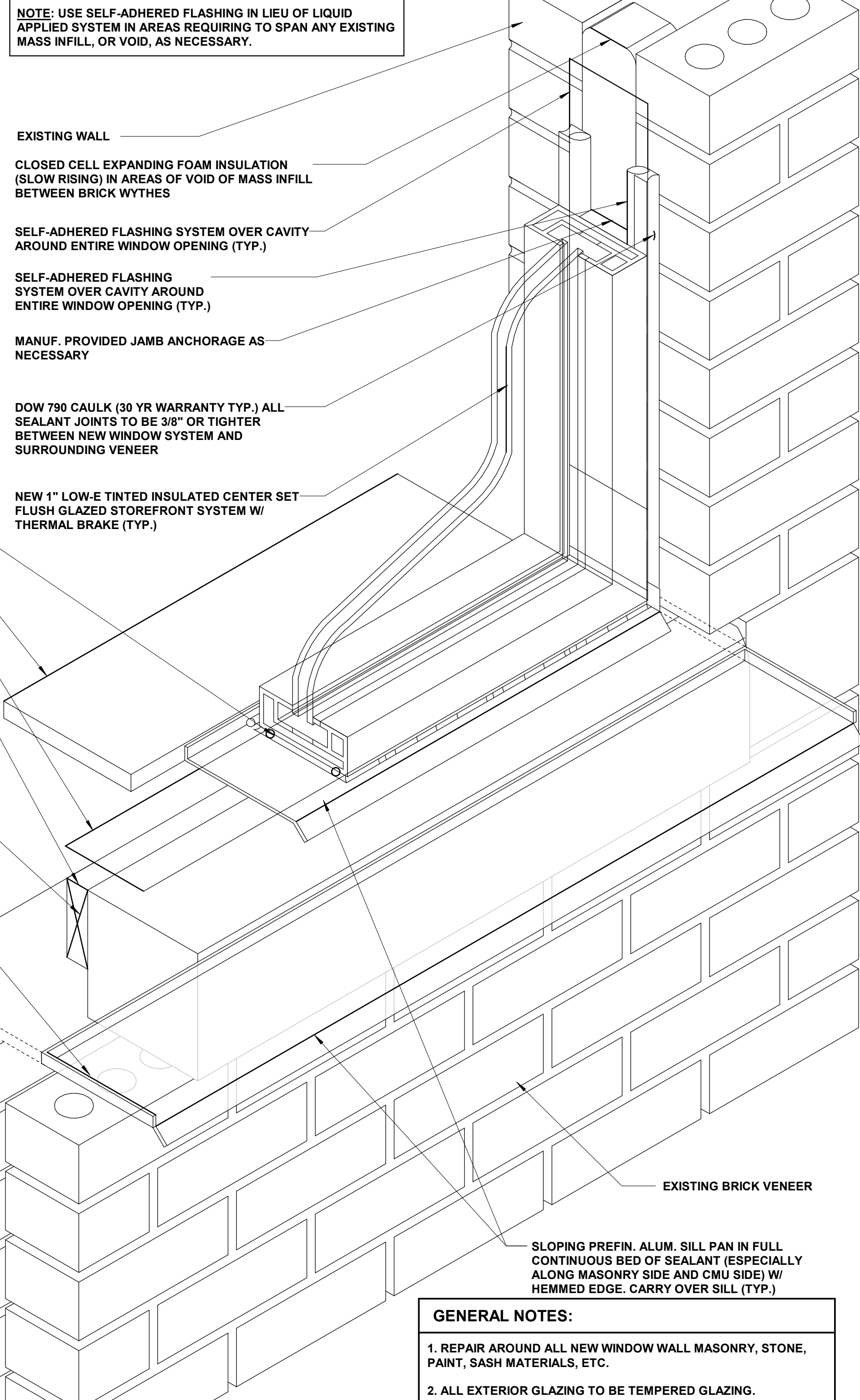


DOOR REMARKS	GENERAL NOTES
1. WEATHER STRIP (FULL PERIMETER)	1. ALL HARDWARE MUST COMPLY WITH ADA AND ACCESSIBILITY REQUIREMENTS OF ANSI 117.1.
2. SADDLE THRESHOLD	2. ALL DOOR HARDWARE STYLE, COLOR, AND FINISH SHALL BE SELECTED BY OWNER.
3. CLOSER	3. FIELD VERIFY ALL MASONRY OPENINGS PRIOR TO ORDERING NEW DOORS AND WINDOWS TYP.
4. GRIP CAP	
5. INSULATED DOOR	
6. GALLY DOOR	
7. GALLY FRAME	
8. PANIC BAR	



EXT. HM DOOR DETAILS @ MASONRY

1 1/2" = 1'-0"



GENERAL NOTES:
1. REPAIR AROUND ALL NEW WINDOW WALL MASONRY, STONE, PAINT, SASH MATERIALS, ETC.
2. ALL EXTERIOR GLAZING TO BE TEMPERED GLAZING.

1 WINDOW DETAILS

3" = 1'-0"

2 WINDOW SILL PAN FLASHING

3" = 1'-0"



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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR RENOVATIONS TO

989 LOONEY AVE  
SHELL BUILDING

989 LOONEY AVE,  
MEMPHIS, TN 38107

Sheet Title:  
DOOR SCHEDULE

Project No:  
23042

Drawn by:  
RGI

Date:  
05-03-2023

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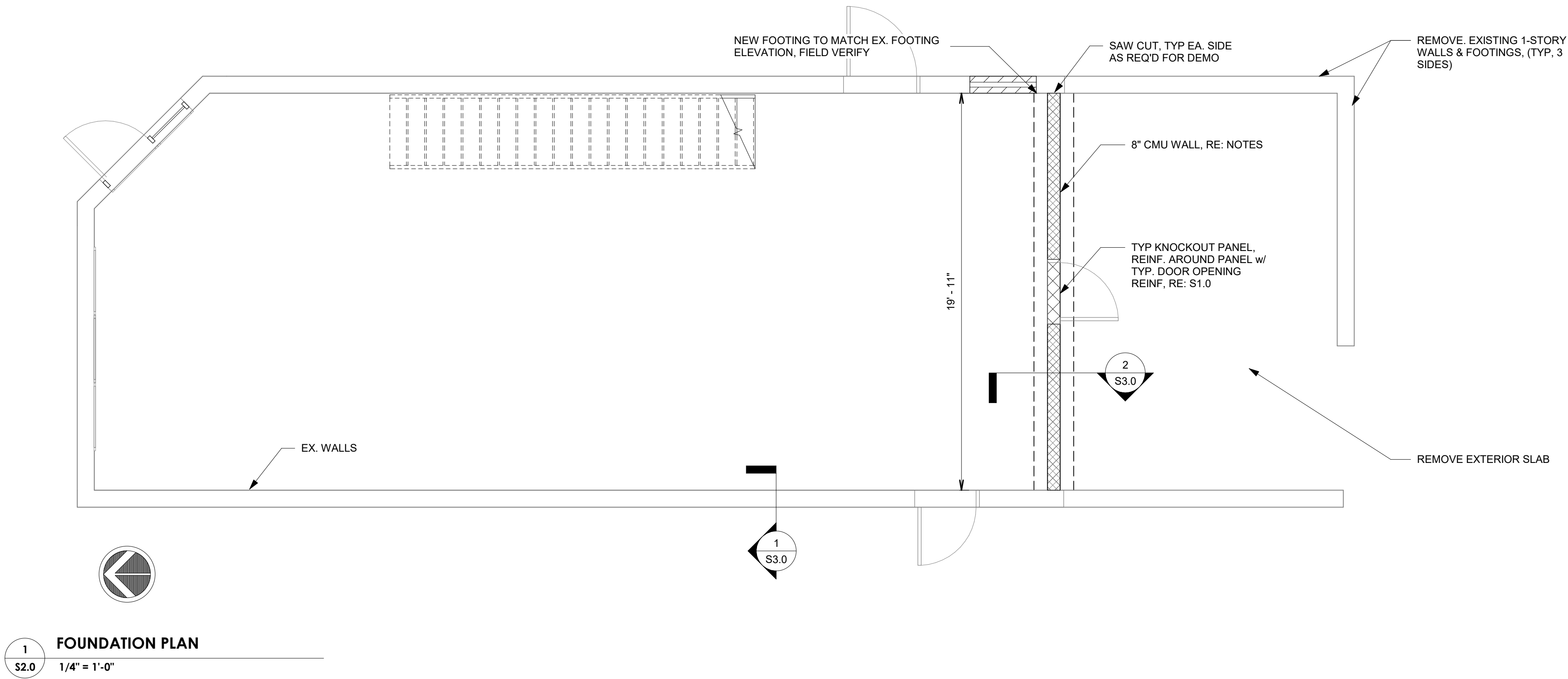






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- FOUNDATION PLAN NOTES:**
- ELEVATIONS ARE BASED ON TOP OF SLAB DATUM EL 0'-0". ACTUAL FINISHED FLOOR ELEVATION SHALL MATCH EXISTING. FIELD VERIFY EXISTING SLAB ELEVATION.
  - FIELD VERIFY EXISTING T/FOOTING, MATCH W/ NEW FOOTING
  - RE: GEN. NOTES FOR ADDITIONAL DESIGN INFORMATION.



Chad Stewart & Associates, Inc.  
9720 Village Circle  
Phone 901-260-7850  
Memphis

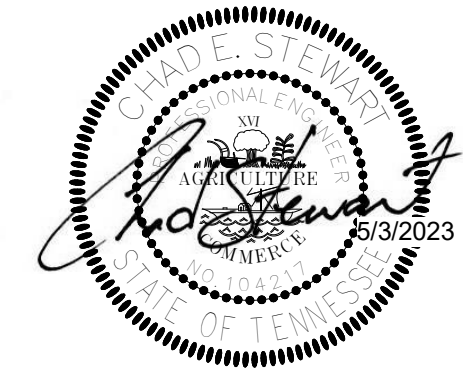
PROJECT NO: 23165

Lakeland, TN 38002  
www.CSAengineeringinc.com  
Nashville



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Group**

9700 Village Circle, Suite 100  
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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO  
**989 LOONEY AVE SHELL  
BUILDING**  
989 LOONEY AVE.  
MEMPHIS, TN 38107

Sheet Title:  
FOUNDATION PLAN

Project No:  
23042

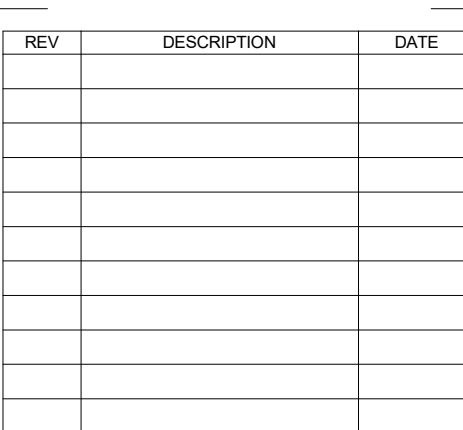
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Date:  
05-03-2023

**S2.0**

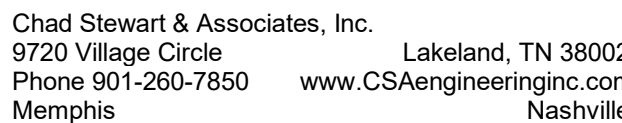
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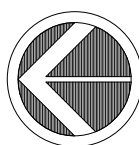


989 LOONEY AVE.  
MEMPHIS, TN 38107

Sheet No.



PROJECT NO: 2314



1  
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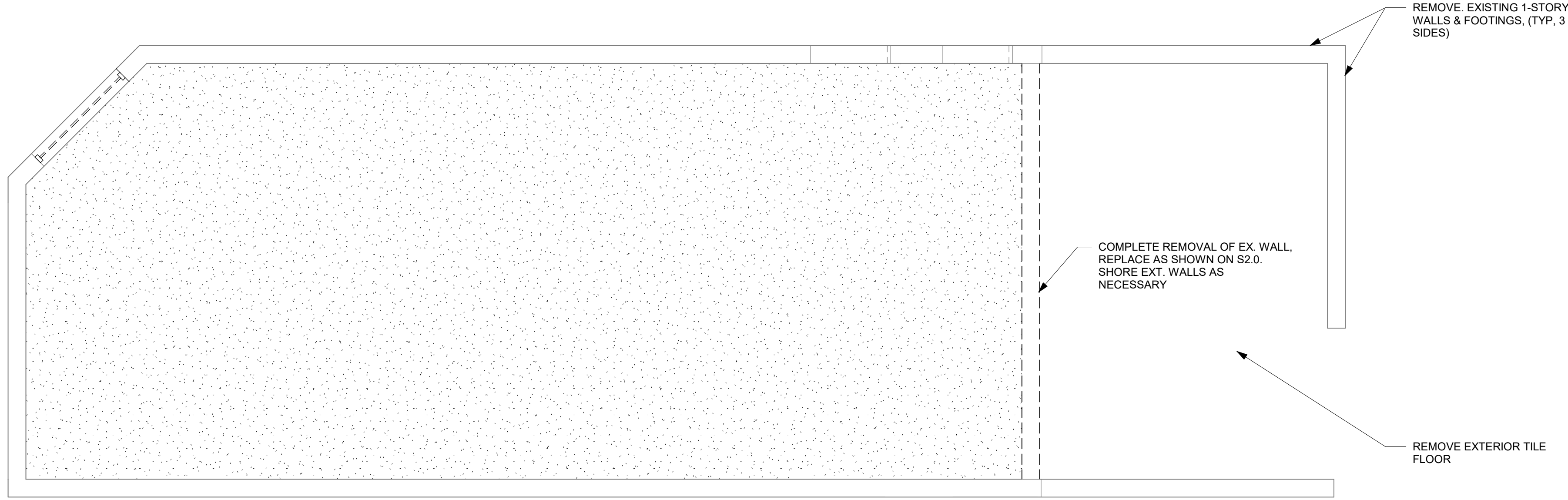
$$1/4'' = 1'-0''$$

1. ELEVATIONS ARE BASED ON TOP OF SLAB DATUM EL 0'-0". FIELD VERIFY EXISTING SLAB ELEVATION.
2. FOR DESIGN CRITERIA, GENERAL NOTES, AND TYPICAL DETAILS, RE: GENERAL NOTES.
3. FOR ELEVATIONS, WALL SECTIONS, AND DIMENSIONS NOT SHOWN, RE: ARCHITECTURAL DRAWINGS.



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- NOTES:
1. REMOVE EXISTING SECOND FLOOR AND ROOF, REPLACE AS SHOWN.
  2. SAW CUT FLOOR SLAB TO POUR NEW FOOTING AND REPLACE WALL AS DESIGNATED BY 2/S3.0.

1

S2.3

DEMO PLAN

1/4" = 1'-0"

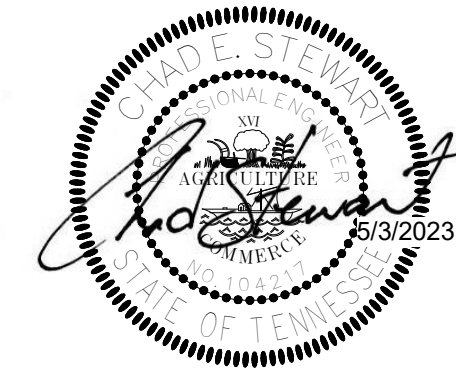
PROJECT NO: 23165

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REV	DESCRIPTION	DATE

CONSTRUCTION DOCUMENTS FOR  
RENOVATIONS TO

989 LOONEY AVE SHELL  
BUILDING

989 LOONEY AVE.  
MEMPHIS, TN 38107

Sheet Title  
DEMO PLAN

Project No.  
23042

Drawn by  
KM

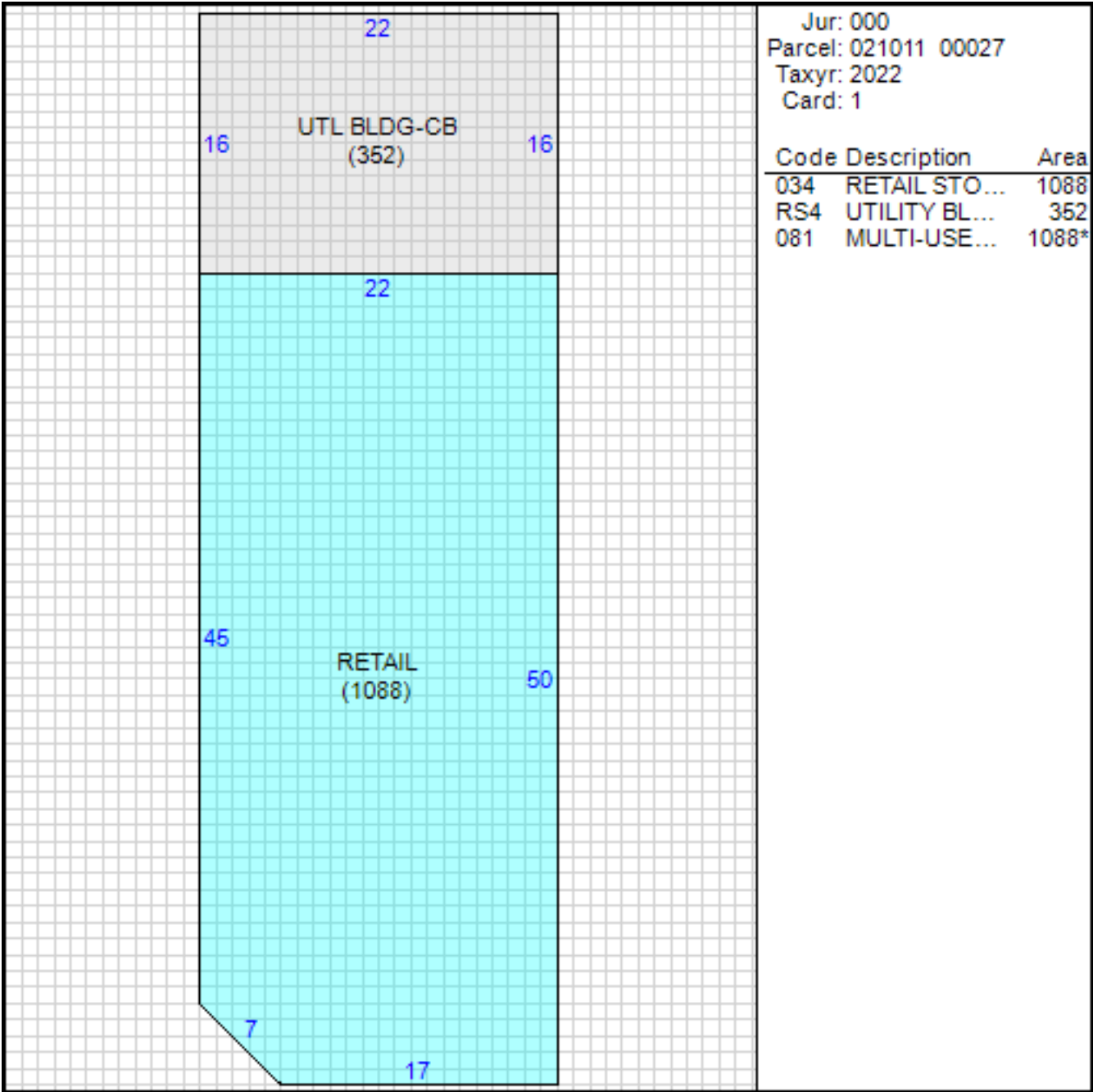
Date  
05-03-2023

S2.3

Sheet No.



Sketch





## WAIVER OF LIABILITY AND RELEASE

The Undersigned has requested to be permitted access to certain real property commonly known as: 989 Looney Ave Memphis, TN 38107 (the "Property").

The Undersigned agrees and represents that he/she is aware that through neglect or injury, the Property lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of those who access it. The Undersigned further agrees and represents that the Property is considered a construction site and as such is an inherently dangerous environment despite the precautions for safety taken by the City of Memphis Shelby County Redevelopment Agency ("CRA"), its subcontractors, or others performing work at the Property. In consideration of being granted the right to access the Property, the Undersigned has agreed to execute this Waiver of Liability and Release and be bound by the terms hereof.

**WHEREFORE, the Undersigned, for him/herself and for his/her personal representatives, heirs, next of kin, and assigns, acknowledges and agrees:**

1. The Undersigned acknowledges that he/she fully understands that the state of disrepair, construction, and other activities at the Property are dangerous and involve risks of serious injury, death, and/or property damage.
2. To the fullest extent permitted by law, the Undersigned (and on behalf of the Undersigned's personal representatives, heirs, next of kin, and assigns) **RELEASES, WAIVES AND DISCHARGES, AND COVENANTS NOT TO BRING SUIT AGAINST**, the CRA, any contractor or subcontractor, or any person engaged by any of them, to perform any work or services at the Property and their officers, directors, stockholders, members, employees, representatives, agents, employees, parents, subsidiaries, sureties, insurance companies, affiliates, partners, joint ventures, attorneys, predecessors, successors, and assigns (collectively, the "Releasees") from any and all damages, losses, penalties, liabilities, costs, attorney's fees and expenses of any nature, and any demands, claims, suits, and causes of action therefor, arising out of or resulting from the Undersigned's presence at the Property including negligence.
3. The Undersigned **ASSUMES FULL RESPONSIBILITY FOR, AND RISK OF, INJURY TO HIS/HER PERSON OR HIS DEATH** or damage to his/her property, whether caused by the negligence of the Releasees or otherwise, occurring during or as a result of the Undersigned's presence at the Property.
4. To the fullest extent permitted by law, the Undersigned will indemnify, defend, and save harmless the CRA and all of its officers, board members, affiliates, parents, subsidiaries, employees, agents, sureties, insurance companies, predecessors, successors and assigns (collectively, the "Indemnities"), from and against any and all allegations, claims, actions, suits, demands, damages, obligations, losses, settlements, judgments, costs, expenses (including, without limitation, attorney's fees and costs), or liability (the "Losses") for

5. The Undersigned acknowledges that he/she has sole responsibility to evaluate carefully the risks inherent in accessing the Property and that he/she has fully considered those risks, including, without limitation, dangers posed by the willful or negligent conduct of himself/herself and/or by others.
6. The Undersigned acknowledges and voluntarily assumes full responsibility for, and full risk of, property damage or loss, or bodily, mental, or personal injury, including death, relating to his/her presence at the Property.
7. The Undersigned agrees to be governed by and follow all health, safety, or otherwise applicable rules and regulations of the CRA.
8. The Undersigned agrees that if any portion of this document is held invalid, the remaining provisions shall be binding and continue in full force and effect.

Date: \_\_\_\_\_



# **Hazardous Materials Survey**

**989 Looney Avenue  
Memphis, Shelby County, Tennessee**

**May 2023**

**Project No. 251410.00**

**Prepared For:**

**Community Redevelopment Agency  
PO Box 70386  
Memphis, TN 38107**

**Prepared By:**



**357 North Main St.  
Memphis, Tennessee 38103**

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## APPENDICES

- Appendix 1 – Certifications and Licenses
- Appendix 2 – Photographic Log
- Appendix 3 – Building Floor Plans
- Appendix 4 – Asbestos Laboratory Results and Chain of Custody
- Appendix 5 – Viken PCS Sheets
- Appendix 6 – Lead Based Paint XRF Data

## 1.0 PROJECT SUMMARY

---

Community Redevelopment Agency (CRA) requested Tioga Environmental Consultants, Inc. (Tioga) prepare a survey to identify Hazardous Materials present at the building addressed as 989 Looney Avenue Memphis, Shelby County, Tennessee.

The survey was performed on April 26, 2023 by Joe Littlefield, an EPA/AHERA Asbestos Inspector and State of Tennessee Certified Lead-Based Paint Inspector.

### 1.1 Facility Description

The building, located at 989 Looney Avenue, is a 2-story brick and concrete constructed building with a conventional shingled roof and concrete foundation. The roof and both interior floors of the building are collapsed, and a large debris pile covers the entirety of the 1<sup>st</sup> floor interior. The south side of the building also consists of an addition that is constructed of a concrete and brick foundation with concrete masonry unit (CMU) walls. At the time of this survey, the Property was vacant.

### 1.2 Scope of Services

Per the authorization of CRA, Tioga conducted a survey of the structure at 989 Looney Avenue in accordance with the following scope of work:

#### **Asbestos Survey**

- The Property was visually surveyed and samples of suspect asbestos containing materials (ACM) were collected by a State of Tennessee Certified Asbestos Inspector.
- A minimum of three samples were collected from each homogenous area. These samples were delivered to a NVLAP certified laboratory for analysis by polarized light microscopy (PLM).
- Field sketches were used to mark sample locations and the extent of ACM and were transferred to digital building floor plans.

#### **Lead-based Paint Inspection and Hazardous Materials Inventory**

- Representative and accessible painted or coated surfaces were tested for lead content by Tioga's State of Tennessee certified inspector/risk assessor using a Viken Pb200i Lead Paint X-ray Fluorescence Analyzer (XRF).
- An inventory of hazardous building materials was performed at the Property.

#### **Reporting**

- Tioga has prepared a Hazardous Materials Survey Report containing site observations, chain-of-custody, sample results including types and locations of hazardous materials, a photographic log, and building floor plans noting sample locations, as well as locations of asbestos and lead-based paint.

### 1.3 Significant Assumptions

Roof flashing material observed at perimeter walls of the building is also assumed to be adhered to collapsed roofing materials found in the debris pile inside of the building.

#### **1.4 Deviations**

No deviations from the agreed upon scope of services occurred during the performance of this survey.

#### **1.5 Inaccessible Areas**

The roof and both interior floors of the building were collapsed. Debris from collapsed building materials blocked access to all interior areas. Additionally, all doors and most windows were boarded shut.

#### **1.6 Limitations and Exceptions of Survey**

The scope of this survey was limited to accessible materials only.

This survey report is not intended as a Hazardous Materials abatement specification document. Contractors or consultants should independently verify the location, condition and/or estimated quantities of asbestos containing materials, lead-based paint, and other Hazardous Materials as a component of their preparation of remediation bid documents.

## 2.0 ASBESTOS

The asbestos inspection was performed on April 26, 2023, by Joe Littlefield of Tioga Environmental Consultants, Inc., a State of Tennessee Certified Asbestos Inspector (Certification Number A-I-48296-126242). A copy of this certification is included in Appendix 1.

Additionally, Tioga Environmental Consultants, Inc. is a State of Tennessee certified Asbestos Activities firm, Certification Number A-F-718-131368. A copy of this certification is also included in Appendix 1.

This survey was requested by CRA, for the purpose of having a document that identifies and documents the presence of any asbestos-containing materials (ACM) at 989 Looney Avenue. Additionally, completing this survey provides necessary documentation ensuring compliance with the U.S. Environmental Protection Agency (EPA), Tennessee Department of Environment & Conservation (TDEC), and Occupational Safety and Health Administration (OSHA) regulations. It is also essential information when considering any renovation activities in areas with identified ACM to ensure compliance with National Emission Standards for Hazardous Air Pollutants (NESHAP) and OSHA regulations.

During the inspection, the inspector collected 15 individual samples from 5 different homogeneous areas and received a result for each individual material sampled. This report documents the findings of this comprehensive asbestos survey. The details regarding this survey and a list of sampled materials are contained in Section 2.3 of this Report. There were ACM identified, and the following summary in Table 1 provides an overview of the findings.

**Table 1**

<b>989 Looney Avenue CONFIRMED ASBESTOS CONTAINING MATERIALS</b>			
<b>Sample Number</b>	<b>Material</b>	<b>Estimated Quantity</b>	<b>Location/Condition</b>
L-03	Gray/Black Roof Flashing	1,250 Square Feet	Interior Perimeter Walls & Debris Pile
L-05	Black CMU Flashing	100 Linear Feet	CMU Addition

### 2.1 Visual Observations

Tioga personnel conducted an examination of the building located at 989 Looney Avenue to identify suspect ACM. Observations included the type, condition, location, and estimated quantity of any suspect ACM.

Additionally, all suspect materials were evaluated for condition and friability, the ease with which the materials can be crushed with hand pressure. Asbestos materials determined to be friable, or that could be rendered friable during renovation activities are considered Regulated Asbestos Containing Materials (RACM) that must be removed prior to disturbance during renovations.

## 2.2 Asbestos Sampling

Asbestos has been a widely used component of building materials throughout history due to its unique physical properties: poor heat and electrical conductor, fire resistance, and high tensile strength and low cost. Unfortunately, asbestos also poses potentially serious health concerns for people exposed to the material. Knowing where and how much ACM is in a building allows for proper managing of site activities and providing appropriate protection for building occupants and workers involved in maintenance, renovation, or demolition of asbestos containing materials.

This survey was conducted in general conformance with Asbestos Hazard Emergency Response Act (AHERA) and ASTM Standard E2356-18. It included a walkthrough of all accessible areas to identify suspect asbestos-containing materials, quantification of material amounts, collection of samples from each homogenous area, and assessment per functional space.

For this building, homogeneous areas of suspect Asbestos-Containing Materials (ACM) were defined for each material type sampled. A total of 5 homogeneous areas were identified and sampled. In each homogeneous area, Tioga identified, differentiated and sampled suspect materials based on color (i.e., color of tile), texture, and apparent application date. For samples with multiple layers (i.e., floor tile and mastic, thermal system insulations, sheetrock w/ joint compound, etc.), the laboratory assigns unique sample numbers designated with an A, B, C, and D to identify each layer.

Having identified the homogeneous areas, samples were collected from each for laboratory analysis. Photographs of each material sampled are included in the Photographic Log in Appendix 2.

## 2.3 Asbestos Findings

Samples were transported via FedEx to Eurofins CEI, an NVLAP certified laboratory, for PLM analysis on April 26, 2023. Results were received on April 28, 2023. Materials identified containing greater than one percent (1%) asbestos are considered asbestos containing. A copy of the laboratory report is included in Appendix 4.

The laboratory analysis for samples collected as part of this survey found two (2) building materials containing greater than one percent (1%) asbestos. Table 2 summarizes the homogenous areas and materials sampled during this inspection as well as the results of the analysis.



**Table 2**

989 Looney ASBESTOS SAMPLE LOG SUMMARY			
Material	Homogeneous Area Number	Sample Numbers	Results
Brick Mortar	L-01	A	None Detected
		B	None Detected
		C	None Detected
Brick CMU Mortar	L-02	A	None Detected
		B	None Detected
		C	None Detected
Roof Flashing	L-03	A	Chrysotile 8%
		B	Chrysotile 8%
		C	Chrysotile 8%
Roof Material	L-04	A	None Detected
		B	None Detected
		C	None Detected
CMU Flashing	L-05	A	Chrysotile 10%
		B	Chrysotile 10%
		C	Chrysotile 10%

Building floor plans in Appendix 3 show the sample locations at the Property.

There are three major categories used to classify asbestos-containing materials (ACM) found in buildings: Surfacing Materials, Thermal System Insulation (TSI), and Miscellaneous Materials. Materials in these broad categories are further classified as either friable or non-friable. Friable materials are materials that can be reduced to powder from hand pressure and may become an inhalation hazard. Non-friable asbestos materials are classified as either Category I or Category II Material.

Category I material is defined as asbestos-containing resilient floor covering, asphalt roofing products, packings and gaskets. Asbestos-containing mastic is also considered a Category I material (EPA determination – April 9, 1991). Category II material is defined as all remaining types of non-friable ACM not included in Category I that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. Non-friable asbestos-cement products such as transite are an example of Category II material.

Table 3 below identifies homogenous areas within the Property that are positive for asbestos along with the category and location of each. The summary and recommendations related to these ACM Findings are included in Section 5.1.

**Table 3**

989 Looney Avenue CONFIRMED ASBESTOS CONTAINING MATERIALS					
Sample Number	Material	Estimated Quantity	Category Friable	Location/Condition	Figure
L-03	Gray/Black Roof Flashing	1,250 Square Feet	Category I Non-Friable	Interior Perimeter Walls & Debris Pile/Poor	1
L-05	Black CMU Flashing	100 Linear Feet	Category I Non-Friable	CMU Addition Walls and Foundation/Poor	1

### 3.0 LEAD-BASED PAINT

---

The lead-based paint inspection was performed on April 26, 2023 by Joe Littlefield of Tioga Environmental Consultants, Inc. Mr. Littlefield is a State of Tennessee Certified Lead-Based Paint Inspectors, Certification Number TNLBP2008-2087-7731I. A copy of this certification is included in Appendix 1.

The inspection was performed using a Viken Model Pb200i X-Ray Fluorescence (XRF) spectrum analyzer instrument, serial number 2064. Joe Littlefield has attended the manufacturer's radiation safety course for operation and handling of the instrument and completed an EPA sponsored curriculum in Lead Inspector and Risk Assessment Training qualifying them for State of Tennessee certification. A copy of Viken's equipment Performance Characteristic Sheets is included in Appendix 5.

Additionally, Tioga Environmental Consultants, Inc. is a State of Tennessee certified Lead-Based Paint Activity firm, Certification No. FTN-2009-1987-7820R. A copy of this certification is included in Appendix 1.

#### 3.1 Visual Observations

Painted surfaces were visually examined prior to testing and their condition was noted. Tioga's evaluation of the painted surfaces condition, intact or deteriorated, was based on observations at the time of the inspection. Tioga is not responsible for changing conditions that may alter the relative exposure risk for future changes at the Property.

#### 3.2 Lead-based Paint Sampling

The purpose of this testing was to serve as a baseline investigation by determining the concentration of lead, if any, in painted surfaces within the structure at 989 Looney Avenue. It is also intended to comply with the US EPA and State of Tennessee regulations regarding identification of lead-based paint (LBP), and Occupational Safety and Health Administration (OSHA) regulations pertaining to worker protections from lead exposure.

Painted and coated surfaces were sampled for lead using the Viken Pb200i XRF.

#### 3.3 Lead-based Paint Findings

The State of Tennessee defines lead-based paint (LBP) as paint or other surface coatings that contain lead equal to or greater than 1.0 mg/cm<sup>2</sup> or 0.5% by weight. In total, twenty (20) painted or coated surfaces were tested via XRF assay at the property. Eight (8) of those surfaces tested positive for lead-based paint at the property and was in a deteriorated condition. Table 4 summarizes the surfaces found to contain lead-based paint. Actual XRF data detailing all results is included in Appendix 6.

**Table 4**

<b>989 Looney</b> <b>CONFIRMED LEAD-BASED PAINT COATED SURFACES</b>								
<b>Reading Number</b>	<b>Lead Concentration (mg/cm<sup>2</sup>)</b>	<b>Room</b>	<b>Component</b>	<b>Feature</b>	<b>Substrate</b>	<b>Color</b>	<b>Side</b>	<b>Condition</b>
2829	5.9	Exterior	Wall		Brick	White	A	Deteriorated
2831	2.1	Exterior	Wall	Doorway	Brick	White	A	Deteriorated
2834	11.5	Exterior	Wall		Brick	Orange	B	Deteriorated
2836	1.6	Exterior	Wall		Brick	Red	B	Deteriorated
2838	9.8	Exterior	Door	Casing	Wood	White	B	Deteriorated
2845	11.8	Exterior	Wall		Brick	White	D	Deteriorated
2846	3	Exterior	Wall		Brick	White	D	Deteriorated
2847	10.4	Exterior	Window	Casing	Wood	White	D	Deteriorated

Appendix 3 contains building floor plans with locations of positive lead-based paint or coated surfaces. Additionally, the floor plan shows names given to rooms sampled during the lead-based paint survey. These names are used during the inspection to differentiate rooms and are included on the XRF data spreadsheet. The walls of the facility are referred to as "A" through "D" as follows: Southwest wall "A", Northwest "B", Northeast wall "C", and Southeast wall "D".

## 4.0 HAZARDOUS MATERIALS

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A survey of hazardous materials present at the Property was conducted to identify materials which may have special handling and disposal requirements during the renovation of the building if they are to be removed.

On April 26, 2023, Tioga inspector Joe Littlefield conducted a visual assessment of the Property for the presence of hazardous materials.

### 4.1 Visual Observations

The building was visually assessed for the presence of hazardous materials. Tioga was granted access to all accessible areas of the subject Property for this survey.

### 4.2 Hazardous Material Findings

During the inspection, no other hazardous building materials requiring special handling were found.

The summary and recommendations related to hazardous materials are included in Section 5.3.

## 5.0 SUMMARY AND RECOMMENDATIONS

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### 5.1 Asbestos

All materials identified as asbestos containing should be maintained in good condition to avoid potential fiber release due to disturbance. In the event of renovation activities impacting these materials, the State of Tennessee and NESHAP require that all friable ACM and non-friable ACM that could become friable during renovation activities must be removed by a certified Asbestos Abatement Contractor prior to disturbance.

In all instances, non-certified personnel should not disturb or attempt removal of any of the asbestos-containing materials identified in this survey. OSHA regulation 29 CFR 1926.1101 requires that a qualified, certified Asbestos Abatement Contractor must be retained to perform abatement of ACM prior to renovation activities at the Property. At no time are non-certified personnel allowed to disturb or remove ACM.

It is recommended that any Asbestos Abatement Contractor retained to perform abatement activities at the facility should be required to maintain proper engineering control measures prior to and during the disturbance of all ACM to ensure protection of human health and safety for personnel involved with this project. These control measures are also required for the protection of the surrounding environment by preventing the possibility of contamination outside of the abatement areas. Appropriate area air and/or personnel monitoring during the removal of these materials must be conducted as per federal, state, and local regulations.

The following recommendations are based on the findings as identified in Section 2.3 and are in general conformance with the State of Tennessee, EPA, NESHAP and OSHA requirements:

- The asbestos containing roof flashing that was identified on the interior perimeter walls of the building is a non-friable Category I material. This material must be removed by a licensed asbestos abatement contractor and disposed of as asbestos containing waste prior to any renovation or demolition activities and asbestos waste manifests should be kept for records. The debris pile also contains roofing with ACM black roof flashing and should also be removed and disposed of as asbestos waste. Building components that do not have black flashing adhered may be separated from the debris and disposed of as C&D Waste.
- The asbestos containing black CMU flashing that was identified on walls and the foundation of the CMU addition of the property is a non-friable Category I material. This material may be left in place during demolition if wet demolition methods, such as firehose for dust suppression, are used. This material must be disposed of as asbestos C&D waste at a landfill that accepts asbestos waste. With the ACM adhered to the slab, it cannot be recycled for aggregate/infill. Asbestos waste manifests should be kept for records.
- If suspect materials are identified behind walls, beneath floor tile or in any other accessible or inaccessible areas during demolition, additional testing should be performed to verify that these materials do not contain asbestos.

### 5.2 Lead-based Paint

The lead-based paint inspection identified eight (8) lead-based paint coated surfaces at the time of this inspection. The lead-based paint coated surfaces were all in a deteriorated condition. Similar paint and painted components should also be considered lead-based paint. Lead-based paint in a deteriorated condition is defined by the US Department of Housing and Urban Development (HUD) as a “Lead-Based Paint Hazard”.

According to the Tennessee Department of Environment and Conservation, Division of Solid Waste Management Policy Number 115, lead-based paint debris, to include solid material coated wholly or partly with lead-based paint resulting from a renovation may go to a Class I, II (depending on permit conditions), III, or IV disposal facility. If the volume of waste makes it bulky or difficult to manage, the generator should get special waste approval. If the lead-based paint has been sanded or chipped off, this debris must be disposed of as hazardous waste and lead-based paint dust and chips should be handled properly prior to disposal to avoid health risks to the public.

The following recommendations are based on the findings as identified in Section 3.3.

- Lead-based paint was found on exterior components in a deteriorated condition. These components should be stabilized or encapsulated to ensure that deteriorated paint will not chip or flake off during any renovation activities. It is recommended that they be either scraped clean of lead-based paint or encapsulated by a contractor licensed to perform lead-based paint activities and disposed of as construction debris along with other building components that are removed during any renovation activities.
- If the lead-based paint has been sanded or chipped off, a determination should be made for hazardous lead concentrations. Lead-based paint dust and chips should be handled properly prior to disposal to avoid health risks to the public.
- Because lead is present, standard wetting operations, as required by EPA NESHAP and other engineering and work practice controls as required by 29 CFR 1926.62(e), Methods of Compliance, shall be used to control fugitive dust emission and employee exposure.
- Because lead is present, during renovation activities of lead-containing materials at this facility, employee exposure monitoring should be conducted per OSHA Lead Construction Standards (29 CFR 1926.62).
- If the building is to be utilized as housing or as a “child occupied facility”, encapsulated lead-based paint must be maintained in an intact condition to avoid potential childhood exposure to lead-based paint hazards. HUD defines a Child Occupied Facility as “a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may be located in public or commercial buildings or in target housing.”.

The OSHA Lead in Construction regulation contained in 29 CFR 1926.62 makes no distinction regarding source or content (%) of lead, only exposure potentials. As such, any substance with a measurable concentration of lead may be subject to the provisions of 29 CFR 1926.62 regardless of source, including such materials as ceramics, masonry, paints, flashings, and extruded metal products, etc.

### 5.3 Hazardous Materials

The hazardous materials survey of the subject Property identified no other hazardous materials that may need to be removed from the property prior to the renovation or may require special handling if they are sent for disposal.



## Appendix 2 Photographic Log

**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**1**

**Date:**  
04/27/2023

**Description:**

General Exterior View

North Side of Building



**Photo #**  
**2**

**Date:**  
04/27/2023

**Description:**

General Exterior View

East Side of Building





**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**3**

**Date:**  
04/27/2023

**Description:**

General Exterior View

South Side of Building



**Photo #**  
**4**

**Date:**  
04/27/2023

**Description:**

General Exterior View

West Side of Building





**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**5**

**Date:**  
04/27/2023

**Description:**

General Interior View

Collapsed Roof and  
Debris

Inaccessible Area



**Photo #**  
**6**

**Date:**  
04/27/2023

**Description:**

General Interior View

Collapsed Roof and  
Debris







**Tioga**

ENVIRONMENTAL CONSULTANTS

## PHOTOGRAPHIC LOG

**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**7**

**Date:**  
04/27/2023

**Description:**

Asbestos Sample #

L-01

Brick Mortar

Tested Negative for  
Asbestos



**Photo #**  
**8**

**Date:**  
04/27/2023

**Description:**

Asbestos Sample #

L-02

Brick CMU Mortar

Tested Negative for  
Asbestos





**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**9**

**Date:**  
04/27/2023

**Description:**

Asbestos Sample #

L-03

Roof Flashing

Tested Positive for  
Asbestos



**Photo #**  
**10**

**Date:**  
04/27/2023

**Description:**

Asbestos Sample #

L-04

Roof Material

Tested Negative for  
Asbestos





**Client Name:** Community  
 Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
 251410.00

**Photo #**  
**11**
**Date:**  
 04/27/2023

**Description:**

Asbestos Sample #

L-05

CMU Flashing

 Tested Positive for  
 Asbestos

**Photo #**  
**12**
**Date:**  
 04/27/2023

**Description:**

Example View

Exterior Wall

Multiple Colors

 Tested Positive for  
 Lead-Based Paint






**Tioga**

ENVIRONMENTAL CONSULTANTS

## PHOTOGRAPHIC LOG

**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**13**

**Date:**  
04/27/2023

**Example View**

Exterior Wall Doorway

Tested Positive for  
Lead-Based Paint



**Photo #**  
**14**

**Date:**  
04/27/2023

**Example View**

Exterior Door Casing

Tested Positive for  
Lead-Based Paint





**Client Name:** Community  
Redevelopment Agency

**Site Location:** 989 Looney Memphis, TN

**Project No.**  
251410.00

**Photo #**  
**15**

**Date:**  
04/27/2023

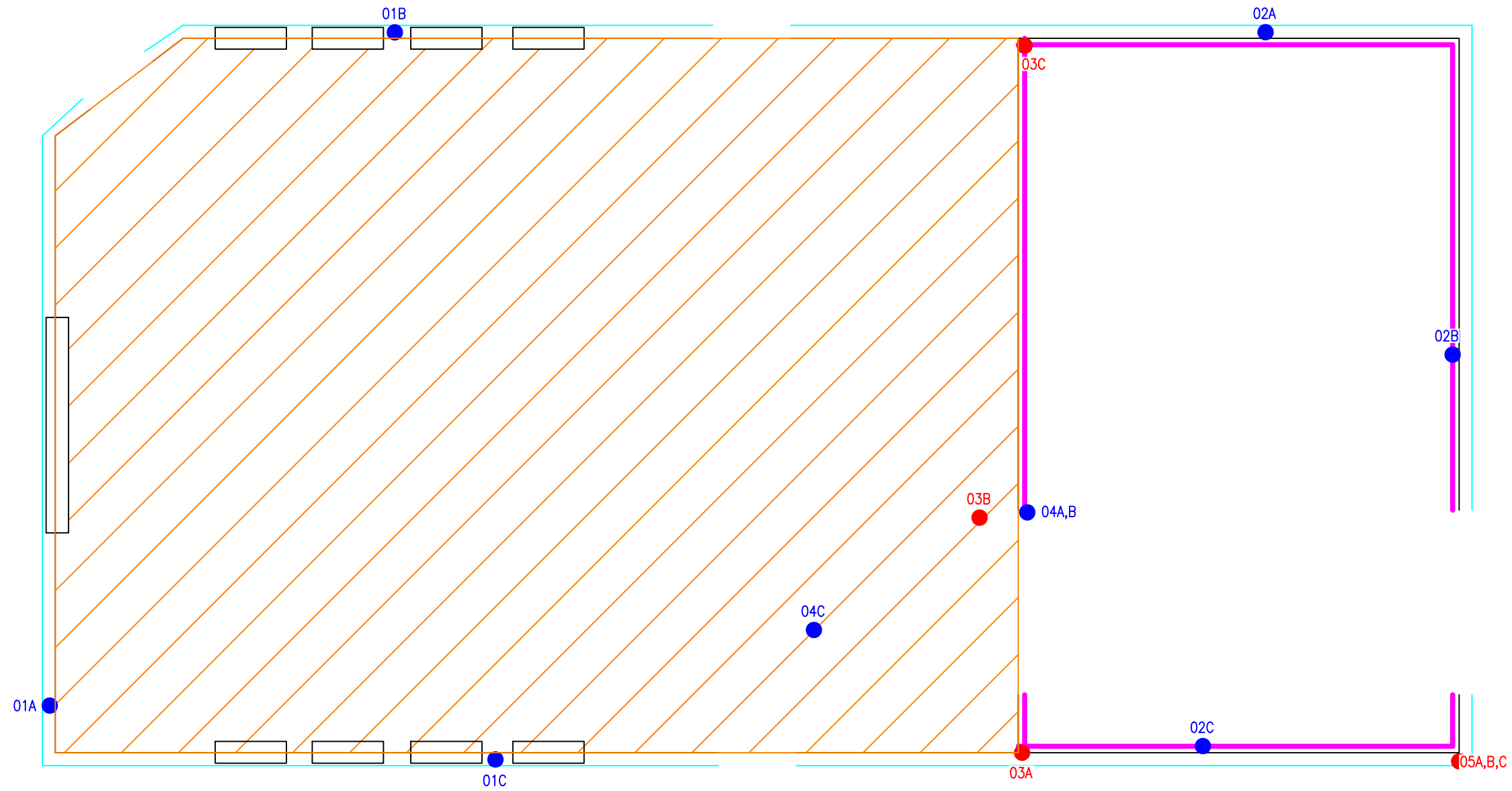
**Example View**

Exterior Window  
Casing

Tested Positive for  
Lead-Based Paint



### **Appendix 3 Building Floor Plans**



SAMPLE SERIES: L-01

LEGEND

01A

=

POSITIVE ACM LOCATION

01A

=

NEGATIVE ACM LOCATION

=

ACM BLACK ROOF FLASHING

=

ACM CMU FLASHING

=

LEAD-BASED PAINT LOCATION