

amount as Owner deems necessary to withhold or set aside to cover incomplete or improper Work, Liquidated Damages or Claims.

**11.4.5** In the event that the Project is not Substantially Completed by the Substantial Completion Date (as extended by Change Order for Permissible Extensions), then Owner shall have the right to recover or withhold from Construction Manager the Substantial Completion Liquidated Damages calculated from the applicable Substantial Completion Date until the date Substantial Completion of the Project is Accepted by Owner.

**11.4.6** Except as otherwise expressly provided herein, from and after the date that Owner has Accepted Substantial Completion of the Project, Owner shall bear all costs and expenses relating to the use, occupancy and operation of the Project, including all expenses for operation, utilities, maintenance and repairs. Charges for the consumption of utility services provided to the Project after Substantial Completion is Accepted shall be paid directly by Owner to the applicable utility provider.

## **11.5 Final Payment.**

**11.5.1** When the entire Project and all Final Punch List items are finally completed and accepted by Owner, Construction Manager shall submit to Owner a final written accounting showing the total Cost of the Work.

**11.5.2** The accounting shall include all information and back-up documentation reasonably requested by Owner to verify the actual amount of all Costs of the Work incurred and paid by Construction Manager, and to determine that the Work is complete and that the Agreement is fully performed, including but not limited to the following:

- .1 All documents reasonably necessary to establish the actual Cost of the Work. Construction Manager shall be deemed to have waived any right to submit a Claim for any cost incurred as of the date the request for final payment is submitted and for which proper documentation was not retained or does not exist;
- .2 All documentation (in proper form) required to be submitted to Owner pursuant to any provision of this Agreement;
- .3 Such certificates and other documents as may be required to demonstrate that all payrolls, bills for materials and equipment, and other indebtedness and liabilities, connected with the Work or for which Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied;
- .4 Three (3) complete sets of marked-up Construction Documents showing actual locations of utilities and all changes and alterations made to the Project during construction;
- .5 A certificate evidencing that insurance, if any, required by the Contract Documents to remain in force after Final Payment is currently in effect and will not be canceled or allowed to expire without at least thirty (30) days' prior Notice to Owner;
- .6 A written statement that Construction Manager knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
- .7 Consent of surety to Final Payment; and
- .8 If reasonably required by Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of claims, security interests or encumbrances arising out of this Agreement.