AGENDA
Mustang Board of Education Regular Meeting
Monday, February 12, 2024 at 6:00 PM
Mustang Educational Resource Center, 909 South Mustang Rd., Mustang, OK 73064

As required by Section 311, Title 25 of the Oklahoma Statutes, notice is hereby given that the Board of Education of Independent School District Number I-069 of Canadian County, Oklahoma will hold Mustang Board of Education Regular Meeting on Monday, February 12, 2024 at 6:00 PM. The place and street of the meeting will be Mustang Educational Resource Center, 909 South Mustang Rd., Mustang, OK 73064.

The Board of Education may discuss, make motions, and vote upon all matters appearing on this agenda. Such votes may be to approve, reject, table, reaffirm, rescind, or take no action on any agenda matter.

{{Name: Agenda Item Name}}

A. **Invocation and Flag Salute**

B. **Call to Order and Roll Call (maybe silent)**

C. **Superintendent's Report**

1. Bronco Leadership Code - Student of the Month

2. District School Resource Officer

3. Updates - Mustang High School

D. **Assistant Superintendent's Report**

1. Grading Presentation - Ryan McKinney, Assistant Superintendent of Secondary Education.

E. **Board Reports**

F. **Public Participation**

G. **Consent Agenda**

1. Board of Education Minutes

   a. January 8, 2024 Regular Board Meeting Minutes

2. Use of Facilities

a. Action Based Learning, LLC. to use Meadow Brook Intermediate's gymnasium and cafeteria from June 17-20, 2024.

b. Gravit8 Dance Competition to use the Performing Arts Center from April 12-13, 2024.

3. Out of State or Overnight Travel

a. Approval for Mustang High School DECA members and sponsors to attend the DECA 2024 International Career Development Conference on April 26 - May 1, 2024 in Anaheim, CA.

b. Approval for the Mustang High School Wrestling team and coaches to attend the regional tournament on February 15-17, 2024 at Broken Arrow, OK.

c. Approval for Greg Oliver, Assistant Director of Athletics, to attend the Wrestling Regional in Broken Arrow, OK and the Swim State Meet in Jenks, OK on February 16-17, 2024.

d. Approval for Jennifer Newell, Director of Safety and Security, to attend the 2024 National Association of School Resource Officers conference on July 14-19, 2024 in Phoenix, AZ.

e. Approval for Donnie Ryan, Director of Transportation, to attend the School Bus Summit on March 13-15, 2024 in Tucson, AZ.

f. Approval for Mustang High School Winter Guard students and sponsors to participate in the WGI Colorado Springs Regional Championship on March 21-24, 2024 in Colorado Springs, CO.

g. Approval for Lori Naeher and Stephanie Matthews to attend the LRP National Institute Conference on May 4-9, 2024 in Savannah, GA.

h. Approval for Mustang High School Soccer team and coaches to attend the Jenks Clash of Champions Tournament in Jenks, OK on February 29 - March 2, 2024.

4. Renewal and Ratification of Agreements/Contracts

a. Student Services

1. House of Healing Equine Services

2. Shelby Healthcare

b. Technology

1. Cox

2. LightStream Networks

c. Finance

1. IntraFi Network / OLAP / Nexbank

2. IntraFi Network / Bank of Oklahoma

3. Ramp Business Corporation

d. Construction

1. CADE Construction, LLC. - Construction Manager Management Agreement for Mustang Elementary School #9

2. Timberlake Construction Co., Inc. - Construction Manager Management Agreement for Mustang High Softball Hitting Facility

3. Timberlake Construction Co., Inc. - Construction Manager Management Agreement for Mustang Elementary Security Corridor

4. Timberlake Construction Co., Inc. - Construction Manager Management Agreement for Mustang High School Addition

e. Community Education - Black Rocket Productions

f. School Photography and Yearbooks - 2024-2025 School Year

1. Lifetouch

2. Tom Jackson Photography

g. Perry Weather

5. Surplus

a. Technology - Chromebooks

6. Job Description

a. Business Office Clerk

H. **Financial Consent Agenda**

1. Encumbrance Registers

2. Change Orders Registers

3. Treasurer's Report

4. General Fund Revenue Analysis

5. Purpose of Activity Fund Account

6. Supplemental Appropriation - Building Fund

7. Supplemental Appropriation - General Fund

I. **Business**

1. Discussion and possible board action to approve A133-2019 Exhibit A Guaranteed Maximum Price Amendments from Timberlake Construction Co., Inc. for both the Mustang High School Softball Hitting Facility and the Mustang Elementary Security Corridor, with execution of either contract being contingent upon receipt of the statutorily required bonds, and delegating contract signature authority to the Superintendent.

2. Discussion and possible board action to approve the A133-2019 Exhibit A Guaranteed Maximum Price Amendment from CADE Construction, LLC. for the award of Bid Package #2 relating to the Site Utilities work on the Mustang Elementary #9 Project.

3. Discussion and possible board action to approve the contract for the Turf Projects at the High School Football Field and the High School Baseball Field (combined contract) to the lowest and best bidder, United Turf and Track, with execution of the contract contingent upon receipt of the statutorily required bonds and insurance and delegating contract signature authority to the Superintendent.

J. **New Business**

K. **Executive Session: The Board of Education will consider and may vote to convene in Executive Session.**

1. Proposed executive session to conduct on-going evaluation of the superintendent. 25 O.S. Section 307(B)(1).

2. Proposed executive session to discuss the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of an employee. 25 O.S. Section 307 (B)(1). As listed on Schedule A, B & C.

L. **Acknowledge Return to Open Session**

M. **Statement of Executive Session minutes by Board Clerk**

N. **Vote to approve or not approve the Superintendent's recommendation concerning employment as listed on Schedule "A".**

O. **Vote to approve or not approve the Superintendent's recommendation concerning employment as listed on Schedule "B".**

P. **Vote to approve or not approve the Superintendent's recommendation concerning employment as listed on Schedule "C".**

Q. **Adjournment**

MUSTANG
PUBLIC
SCHOOLS

MPS Grading Update
Grades 5-12

WE WILL LOOK AT

1. Grading Information
2. Grade Distribution
3. HS Eligibility
4. GPA
5. Takeaways & Next steps

Why Change Grading?

1. **Grades need to better reflect what our students know.**
2. **MPS needed a unified grading plan for all ELA, Math, Science, and Social Studies classes. This makes it more equitable and easier for students and parents to keep up with.**

Grading Policy

- **The grading policy is addressed in MPS Board Policy #5071.**
  - *"We believe the purpose of grades is to communicate, as concisely as possible, a student's academic progress. Grades should reflect a valid and pure representation of what a student knows and is able to do based on a given set of concepts and skills specified by the standards. Grades are used to provide feedback, document progress, and guide instructional decisions."*
- **Grades are a standardized form of communication and feedback on a student's proficiency in information, concepts, and skills within a class.**
- **Grades are to measure academic success in our students.**

MPS - Grading Committee Planning

Goals:

- Create common definitions of grading and assessment and disseminate these definitions and related professional development to all intermediate and middle schools and high school teachers in Mustang Public Schools.
- Develop grading policies to ensure consistency in grading across the intermediate and middle schools and high school in Mustang Public Schools.
- Establish clear and consistent grading expectations for administrators, teachers, students, parents, and other stakeholders.

MPS - Grading Committee Outcomes

- We have created common definitions for grading and assessment.
- The work we have done puts us on track to have a unified grading plan.
- The approach to grading helps us identify students that need additional supports to help them gain a better understanding of the content.
- This plan will streamline grading for students, parents, and staff.
- Focus on mastery of academic learning standards.

Grading and Assessment Information

- Formative assessment - A planned and ongoing process used by students and teachers during teaching and learning to gain evidence of student mastery of content standards to improve student understanding and teacher instruction. (ex. homework, daily work, etc.)
- Summative assessment - Tools and processes used after instruction to measure proficiency of content standards and verify how much a student has learned at that moment in time. (ex. tests, projects, etc.)

Level	Weighting	Retakes	50 Base	Late Work
Intermediate	Every assignment and assessment given will be out of 100 points.	*Will add in 24-25* *For all daily work and assessments, students will be given the opportunity for retakes that are available for full credit. Once the retake has been done, the higher score will stand.*	A 50-base grading system will be implemented, in which the lowest grade available for any assignment attempted by a student will be a 50. 50/NHI will be used in the grade book instead of zeros for assignments that have not been turned in. 50/NHI will alert teachers, students, and families that assignments have not been turned in or completed when assigned initially.	Late work will be accepted for full credit until the end of the current unit or a date determined by the department.
Middle School	Grades will be weighted 70% for summative assessments and 30% for formative assignments and assessments.	For all summative assessments, students will be given the opportunity for retakes that are available for full credit. Once the retake has been done, the higher score will stand.	*Will add in 24-25* *A 50-base grading system will be implemented, in which the lowest grade available for any assignment attempted by a student will be a 50.* *50/NHI will be used in the grade book instead of zeros for assignments that have not been turned in. 50/NHI will alert teachers, students, and families that assignments have not been turned in or completed when assigned initially.*	Late work will be accepted for full credit until the end of the current unit.
High School	Grades will be weighted 70% for summative assessments and 30% for formative assignments and assessments.	All students, regardless of the initial score, will be allowed a minimum of one additional opportunity to demonstrate understanding on summative assessments.	Formative: A NHI will be recorded if a student does not turn in an assignment and/or does not make a valid attempt at their work. NHI's are entered as a base 50. Summative: Assessments on the first attempt may be entered on a 0-100 scale. If the student should score below 50 on their reassessment attempt, then the grade will be assigned using the base 50 scale.	Late work will be accepted for full credit until the end of the summative assessment.

Grade Distribution

Example of Grade Distribution Report

What is grade distribution?

- The number or percentage of students in a teacher's class receiving each of the possible grades that can be awarded.

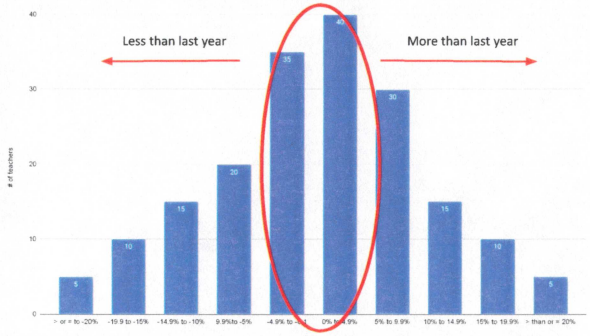
Sample of teacher grade distribution

Department	Teacher	This Year A	Last Year A	A Difference	This Year B	Last Year B	B Difference	This Year C	Last Year C	C Difference	This Year D	Last Year D	D Difference	This Year F	Last Year F	F Difference
SS	X	61.6%	69.8%	-8.2	21%	15.9%	5.1	10.1%	8.7%	1.4%	5.1%	3.2%	1.9	2.2%	2.4%	-0.2

Comparison involved teachers that taught the same classes from 22-23 and 23-24

Example of Grade Distribution

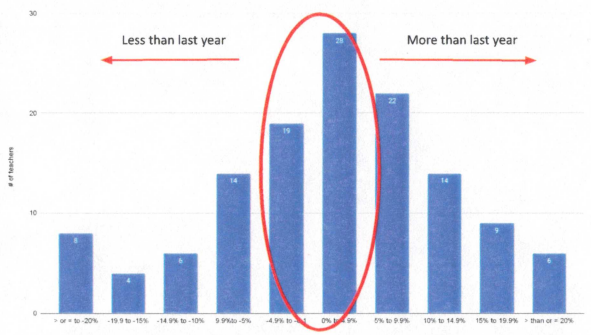
Snapshot comparison of teacher grades from last year to this year



X% had less than -5% or up to 5% change from last year

Example of Grade Distribution - A & B's

Snapshot comparison of teacher grades from Nov. 2021 and Nov. 2022

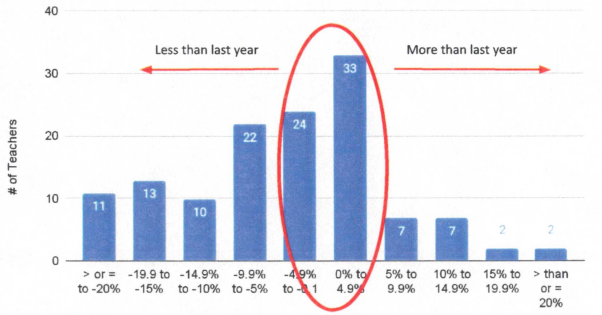


36.15% had less than -5% or up to 5% change from last year

HS Grade Distribution

MHS - Grade Distribution - A & B's

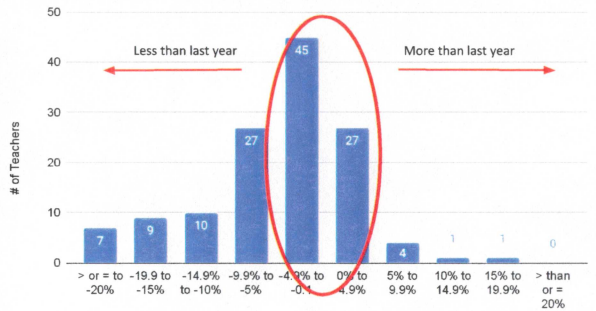
Comparison of grades Fall Sem 2022 and Fall Sem 2023



43.5% had less than -5% or up to 5% change from last year

MHS - Grade Distribution A, B & C's

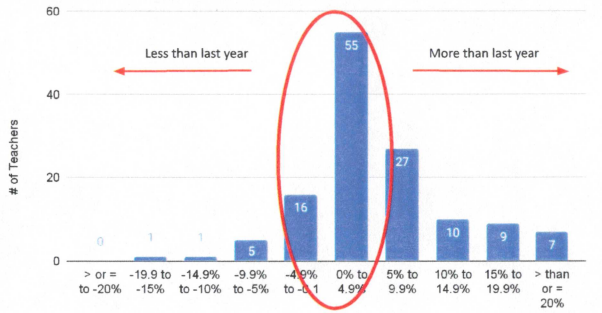
Comparison of grades Fall Sem 2022 and Fall Sem 2023



55.7% had less than -5% or up to 5% change from last year

MHS - Grade Distribution D & F's

Comparison of grades Fall Sem 2022 and Fall Sem 2023

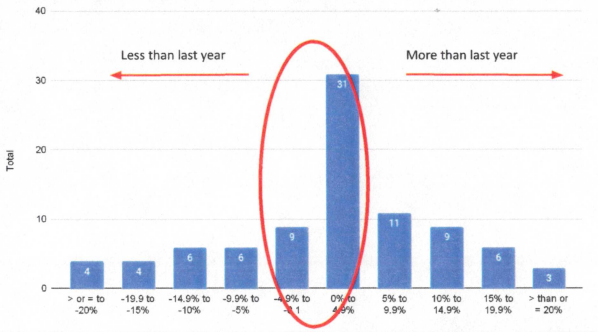


62.5% had less than -5% or up to 5% change from last year

Middle School Grade Distribution

MS - Grade Distribution - A & B's

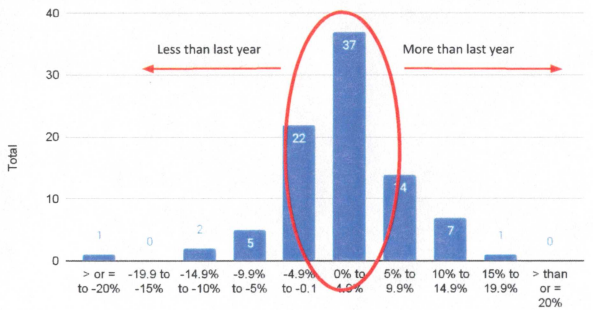
Comparison of grades Fall Sem 2022 and Fall Sem 2023



47% had less than -5% or up to 5% change from last year

MS - Grade Distribution A, B & C's

Comparison of grades Fall Sem 2022 and Fall Sem 2023



66.2% had less than -5% or up to 5% change from last year

MS - Grade Distribution D & F's

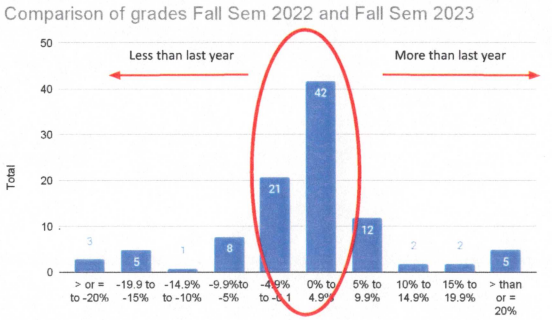
Comparison of grades Fall Sem 2022 and Fall Sem 2023



61.7% had less than -5% or up to 5% change from last year

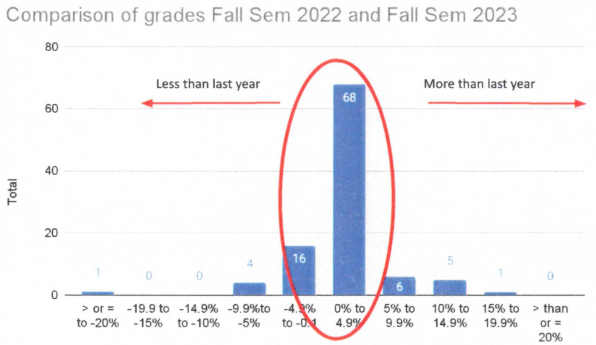
Intermediate School Grade Distribution

IS - Grade Distribution - A & B's



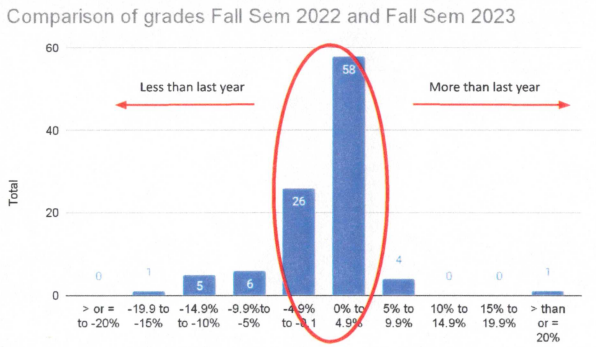
62.3% had less than -5% or up to 5% change from last year

IS - Grade Distribution A, B & C's



83.1% had less than -5% or up to 5% change from last year

IS - Grade Distribution D & F's



83.1% had less than -5% or up to 5% change from last year

HS Eligibility

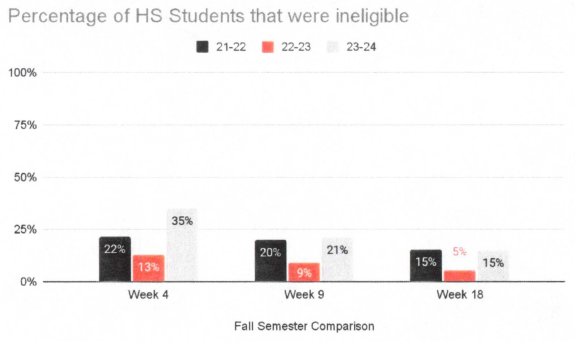
MHS - Eligibility Comparison

How is eligibility determined?

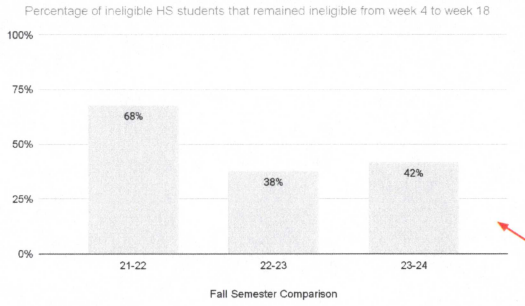
- Scholastic eligibility for students will be checked at the end of the third week (during the fourth week) of a semester and each succeeding week thereafter.
- A student must be passing in all subjects in which he/she is enrolled during a semester. If a student is not passing all subjects in which he/she is enrolled at the end of the week, he/she will be placed on probation for the next one (1) week period. If a student is still failing one or more classes at the end of his/her probationary one (1) week period, he/she will be ineligible to participate during the next one (1) week period. The ineligibility periods will begin on Monday and end on Sunday.
- A student who has lost eligibility under this provision must regain passing grades in all of his/her classes in order to regain eligibility.

MHS - Eligibility Comparison

Represents entire HS student body.



MHS - Eligibility Comparison



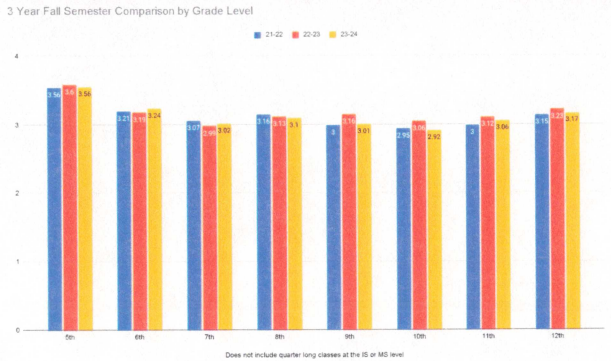
Number of students ineligible from week 4 to week 18

	Week 4	Week 18
21-22	740	533
22-23	476	194
23-24	1313	551

Represents only HS ineligible students

GPA

GPA



Represents GPA for the Fall semesters only.

Takeaways and Next Steps

Takeaways

Positive

1. Early adopters of our grading show minimal change in grade distribution.
2. Observing more cohesiveness in grading within departments.
3. Teaching strategies have been evolving and reflect the importance of formative work and leading up to the summative assessment.
4. Observing a change in grades based on skills assessment as opposed to being skewed by grades based on effort, completion, participation, etc.

Areas of concern of follow up

1. Are NHI's being used correctly and consistently?
2. Are Zero's being used correctly and consistently at the HS level with summative grades?

Next Steps

- Grading feedback requests going out soon to:
  - Staff
  - Parents
  - Students
- Questions for us?

MUSTANG

PUBLIC SCHOOLS

THANK YOU

Mustang Board of Education Regular Meeting
Minutes
Monday, January 8, 2024 6:00 PM
Mustang Educational Resource Center, 909 South Mustang Rd., Mustang, OK 73064

AUTHORITY OF THE BOARD OF EDUCATION

As required by Section 311, Title 25 of the Oklahoma Statutes, notice is hereby given that the Board of Education of Independent School District Number I-069 of Canadian County, Oklahoma held Mustang Board of Education Regular Meeting on Monday, January 8, 2024 at 6:00 PM. The place and street of the meeting was Mustang Educational Resource Center, 909 South Mustang Rd., Mustang, OK 73064.

Notice of this meeting was given to the County Clerk of Canadian County, Oklahoma at least forty-eight (48) hours prior to such meeting, and public notice of this meeting, with an agenda posted in prominent view at the Mustang Educational Resource Center 909 South Mustang Rd., Mustang, OK at least twenty-four (24) hours prior to this meeting, excluding Saturdays, Sundays and legal holidays, all in compliance with the Oklahoma Open Meeting Act.

A. Invocation and Flag Salute
Invocation - Toby Thompson
Flag Salute - Todd Lovelace

B. Call to Order and Roll Call (maybe silent)
Todd Lovelace, Board President, called the meeting to order at 6:00 PM. Those present were Todd Lovelace, Chad Schroeder, Travis Helling, Dr. Robert Rader and Toby Thompson.

C. Superintendent's Report

1. Bronco Leadership Code - Student of the Month

Centennial Elementary	Eli Williams	Canyon Ridge Intermediate	Emileigh Opel
Creek Elementary	Wyatt Head	Horizon Intermediate	Kelson Carr
Lakehoma Elementary	Zakhai Harvin	Meadow Brook Intermediate	Kipton Gammon
Mustang Elementary	Eli Head	Mustang Central Middle School	Kayla Oglesbee Lee
Prairie View Elementary	Iris Wiggins	Mustang North Middle School	Connor Duggan
Riverwood Elementary	Ella Granados	Mustang South Middle School	Zackary Lozano
Trails Elementary	Avynn Gelso	Mustang Education Center	Samuel Lopez Hernandez
Valley Elementary	Tristan Martinez	Mustang High School	Julia Hua

2. Mustang High School Fine Arts All State Honors

D. Assistant Superintendent's Report

1. Academic Update
Stacy Edwards, Assistant Superintendent of Elementary Education
Ryan McKinney, Assistant Superintendent of Secondary Education

2. Bond Update
Dr. Jason Pittenger, Assistant Superintendent of Operations

E. Business

1. Discussion and possible board action to approve the Option to Purchase Real Estate Agreement between Mustang Public Schools and Teresa Williams to purchase Lots 15, 16, and 17, Block 7 of Mustang, OK.
Motion to approve the Option to Purchase Real Estate Agreement between Mustang Public Schools and Teresa Williams to purchase Lots 15, 16, and 17, Block 7 of Mustang, OK. This motion, made by Todd Lovelace and seconded by Chad Schroeder, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

2. Discussion and possible board action to approve the Financial Statements and Reports as of June 30, 2023 by Bledsoe, Hewett & Gullekson, Certified Public Accountants, PLLLP.
Motion to approve the Financial Statements and Reports as of June 30, 2023 by Bledsoe, Hewett & Gullekson, Certified Public Accountants, PLLLP. This motion, made by Todd Lovelace and seconded by Chad Schroeder, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

F. Finance Report
Jeff Landes, Chief Financial Officer

G. Board Reports

H. Public Participation
The floor shall be open to the public, and any regular meeting shall include an opportunity for the public to address the Board other than personnel matters. Presentations under Public Participation are limited to five (5) minutes and where several people wish to address the same subject, a spokesperson must be selected. Those residents wishing to address the Board of Education must complete a Request for Public Participation form prior to the scheduled starting time of the regular Board meeting. A response may not be provided at this time. Questions or concerns related to employees of the district will not be permitted at this time. Those are to be referred to the Superintendent at another time.
Mark Webb - School Board Appreciation Month

I. Consent Agenda
All the following items, which concern reports and items of a routine nature normally approved at board meetings, will be approved by one vote, unless any board member desires to have a separate

vote on any or all of these items. The consent agenda consists of discussion, consideration and action on the following items that the Superintendent recommends be approved.
Motion to approve consent agenda. This motion, made by Chad Schroeder and seconded by Travis Helling, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

1. Board of Education Minutes

   a. December 11, 2023 Regular Board Meeting Minutes

2. Out of State or Overnight Travel

   a. Approval for the Mustang High School Robotics team and sponsors to attend the FIRST Oklahoma State Contest on February 16-17, 2024 at Oklahoma State University in Stillwater, OK.

   b. Approval for Gary Knowles to attend NASA's Space Exploration Educators Conference on February 6-11, 2024 at NASA Johnson Space Center in Houston, TX.

J. Financial Consent Agenda
Motion to approve financial consent agenda. This motion, made by Chad Schroeder and seconded by Travis Helling, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

1. Encumbrance Registers
2. Change Orders Registers
3. Treasurer's Report
4. General Fund Revenue Analysis
5. Transfer of Funds

K. New Business This business, in accordance with Oklahoma Statues, title 25- 311 (A)(9), is limited to any matter not known about or which could not have been reasonably foreseen prior to the time of posting this agenda.
No New Business

L. Executive Session: The Board of Education will consider and may vote to convene in Executive Session.
The board did not convene into executive session.

1. Proposed executive session to discuss the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of an employee. 25 O.S. Section 307 (B)(1). As listed on Schedule A, B & C.

M. Acknowledge Return to Open Session

N. Statement of Executive Session minutes by Board Clerk

O. Vote to approve or not approve the Superintendent's recommendation concerning employment as listed on Schedule "A".
Motion to approve Schedule A. This motion, made by Todd Lovelace and seconded by Chad Schroeder, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

P. Vote to approve or not approve the Superintendent's recommendation concerning employment as listed on Schedule "C".
Motion to approve Schedule C. This motion, made by Todd Lovelace and seconded by Chad Schroeder, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

Q. Adjournment
Time 7:51 PM
Motion to adjourn. This motion, made by Todd Lovelace and seconded by Chad Schroeder, Passed.
Travis Helling: Aye, Todd Lovelace: Aye, Dr. Robert Rader: Aye, Chad Schroeder: Aye, Toby Thompson: Aye

_____
Minutes Clerk

_____
Board President

Schedule "A"

January 8th, 2024

Resignations				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Alvidrez	Georgina		MHS/Custodian	12/20/2023
Cantrell	Taylor		PVE/Sped Paraprofessional	12/19/2023
Cook	Lizbet		MMS/CN	12/08/0202
Cuervo-Barboza	Cira		MHS/Custodian	12/20/2023
Determann	Julianna		MCE/Paraprofessional	12/19/2023
Elder	Nikki		MHS/Sped Paraprofessional	12/19/2023
Hamlin	Karri		ME/Teacher	12/19/2023
Humphrey	Cari		VE/Teacher	12/19/2023
Johnson	Gina		MCE/Health Aide	12/19/2023
Kelley	Karsen		MBI/Sped Paraprofessional	12/15/2023
Lange	Jamie		MHS/Custodian	12/20/2023
Larsen	Joseph		MHS/Custodian	12/20/2023
Lopez-Garcia	Adelaida		MHS/Custodian	12/20/2023
Matson	Misty		LE/Teacher	12/19/2023
McCathern	Leslie		TE/Teacher	02/16/2024
Morgan	James		MHS/Custodian	12/20/2023
Smith	Joseph		MHS/Custodian	12/20/2023
Smittle	Patrick		MHS/Teacher	12/19/2023
Taylor	Kristen		MHS/CN	12/12/2023
Trail	Randell		MHI/Sped Teacher	12/19/2023
Rescinded Employment				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Jones	Brandi		PVE/CN	2023/2024
O'Connor	Marissa		TE/Sped Paraprofessional	2023/2024
Rescinded Resignation				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Berg	Maria		TE/Sped Paraprofessional	**12/15/2023**
Employment				
Last Name	**First Name**	**Replacing/New Position**	**Site/Assignment**	**Effective**
Hunt	Staci	Kevin Richards	MHS/Counselor	01/03/2024
Jin	Xiaomei	Carrie Dixon	MBI/CN	01/04/2024
Patten	Casey	Charles Toombs	Transporation/ Bus Driver	01/04/2024
Scott	Payton	Patrick Smittle	MHS/Teacher	01/03/2023
Wells	Megan	Karri Hamlin	ME/Teacher	01/03/2024
Long Term Sub				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Cerny	Emily	Robert Clark	District/Teacher	01/16/2024
Reassignments				
Last Name	**First Name**	**From: Site/Assignment**	**To: Site/Assignment**	**Effective**
Baugh	Isabella	District/Guest Teacher	VE/Teacher	01/03/2024
Berg	Maria	TE/Sped Paraprofessional	TE/Elementary PreK Para	01/05/2024
Cady	Debra	MEC/Campus Admin	SSC/Executive Director Admin Asst	01/02/2024
Frings	Tralanea	MHI/Health Aide	MCE/Health Aide	01/05/2024
Gilman	Esmeralda	TE/PreK Assistant	TE/Elementary Para	12/08/2023
Gomez	Kobi	District/Lay Coach for Wrestling	MHS/Teacher	01/03/2024
Griffin	Emma	CRI/Long Term Sub w/Benefits	CRI/Teacher	01/03/2024
Griggs	Cassandra	District/Sub	MCMS/Sped Paraprofessional	01/04/2024
Higgins	Michael	District/GM	District/Service Tech Carpenter	12/18/2023
Mulford	Jeremy	Transporation/Bus Driver	Transportation/Special Needs Bus Driver	01/04/2024
Pinon	Haley	LE/Sped Paraprofessional	LE/Teacher	01/05/2024
Witt	Monica	MCMS/Paraprofessional	MHS/Teacher	01/03/2024
Additional Duty/Supplemental/Stipend				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Staats	Will	Assistant Middle School Wrestling Coach	Middle School	2023/2024
Elliott	Malinda	Team Lead for Sped	TE	2023/2024
Moss	Carrie	Team Lead	CE	2023/2024



Schedule "C"

January 8th, 2024

Guest Teachers (Substitutes)			
Last Name	**First Name**	**Site/Assignment**	**Effective**
Aderman	Samantha	District	2023/2024
Capps	Isabelle	District	2023/2024
Champion	Scarlet	District	2023/2024
Clark	Zandra	District	2023/2024
Jackson	Amberly	District	2023/2024
Jacob	Alexis	District	2023/2024
Moore	Kerry	District	2023/2024
Snowden	Michael	District	2023/2024
Woods	Edgar	District	2023/2024

Schedule "A"

January 8th, 2024

Resignations				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Alvidrez	Georgina		MHS/Custodian	12/20/2023
Cantrell	Taylor		PVE/Sped Paraprofessional	12/19/2023
Cook	Lizbet		MMS/CN	12/08/0202
Cuervo-Barboza	Cira		MHS/Custodian	12/20/2023
Determann	Julianna		MCE/Paraprofessional	12/19/2023
Elder	Nikki		MHS/Sped Paraprofessional	12/19/2023
Hamlin	Karri		ME/Teacher	12/19/2023
Humphrey	Cari		VE/Teacher	12/19/2023
Johnson	Gina		MCE/Health Aide	12/19/2023
Kelley	Karsen		MBI/Sped Paraprofessional	12/15/2023
Lange	Jamie		MHS/Custodian	12/20/2023
Larsen	Joseph		MHS/Custodian	12/20/2023
Lopez-Garcia	Adelaida		MHS/Custodian	12/20/2023
Matson	Misty		LE/Teacher	12/19/2023
McCathern	Leslie		TE/Teacher	02/16/2024
Morgan	James		MHS/Custodian	12/20/2023
Smith	Joseph		MHS/Custodian	12/20/2023
Smittle	Patrick		MHS/Teacher	12/19/2023
Taylor	Kristen		MHS/CN	12/12/2023
Trail	Randell		MHI/Sped Teacher	12/19/2023
Rescinded Employment				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Jones	Brandi		PVE/CN	2023/2024
O'Connor	Marissa		TE/Sped Paraprofessional	2023/2024
Rescinded Resignation				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Berg	Maria		TE/Sped Paraprofessional	**12/15/2023**
Employment				
Last Name	**First Name**	**Replacing/New Position**	**Site/Assignment**	**Effective**
Hunt	Staci	Kevin Richards	MHS/Counselor	01/03/2024
Jin	Xiaomei	Carrie Dixon	MBI/CN	01/04/2024
Patten	Casey	Charles Toombs	Transporation/ Bus Driver	01/04/2024
Scott	Payton	Patrick Smittle	MHS/Teacher	01/03/2023
Wells	Megan	Karri Hamlin	ME/Teacher	01/03/2024
Long Term Sub				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Cerny	Emily	Robert Clark	District/Teacher	01/16/2024
Reassignments				
Last Name	**First Name**	**From: Site/Assignment**	**To: Site/Assignment**	**Effective**
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Berg	Maria	TE/Sped Paraprofessional	TE/Elementary PreK Para	01/05/2024
Cady	Debra	MEC/Campus Admin	SSC/Executive Director Admin Asst	01/02/2024
Frings	Tralanea	MHI/Health Aide	MCE/Health Aide	01/05/2024
Gilman	Esmeralda	TE/PreK Assistant	TE/Elementary Para	12/08/2023
Gomez	Kobi	District/Lay Coach for Wrestling	MHS/Teacher	01/03/2024
Griffin	Emma	CRI/Long Term Sub w/Benefits	CRI/Teacher	01/03/2024
Griggs	Cassandra	District/Sub	MCMS/Sped Paraprofessional	01/04/2024
Higgins	Michael	District/GM	District/Service Tech Carpenter	12/18/2023
Mulford	Jeremy	Transporation/Bus Driver	Transportation/Special Needs Bus Driver	01/04/2024
Pinon	Haley	LE/Sped Paraprofessional	LE/Teacher	01/05/2024
Witt	Monica	MCMS/Paraprofessional	MHS/Teacher	01/03/2024
Additional Duty/Supplemental/Stipend				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Staats	Will	Assistant Middle School Wrestling Coach	Middle School	2023/2024
Elliott	Malinda	Team Lead for Sped	TE	2023/2024
Moss	Carrie	Team Lead	CE	2023/2024

Schedule "C"

January 8th, 2024

Guest Teachers (Substitutes)			
Last Name	**First Name**	**Site/Assignment**	**Effective**
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Capps	Isabelle	District	2023/2024
Champion	Scarlet	District	2023/2024
Clark	Zandra	District	2023/2024
Jackson	Amberly	District	2023/2024
Jacob	Alexis	District	2023/2024
Moore	Kerry	District	2023/2024
Snowden	Michael	District	2023/2024
Woods	Edgar	District	2023/2024

Mustang Public Schools

Memo

To: Charles Bradley, Superintendent

Cc: Dr. Jason Pittenger, Asst Supt of Operations

From: Alan Green, Chief Operations Officer

Date: 1-25-24

Re: Use of Facility Requests

FOR BOARD APPROVAL:

1. **Action Based Learning, LLC** is requesting the use of Meadowbrook Intermediate's gymnasium and cafetorium for their Action Based Learning Summit 2024 June 17th - June 20th, 2024.

MUSTANG PUBLIC SCHOOLS
Use of Facility Form

GENERAL INFORMATION

APPLICANT:

Organization: Action Based Learning, LLC

Name of Applicant: Grayson Sally

Billing Address: 315 Industrial Road / Summerville, SC 29483

E-mail Address: kelley@kidsfit.com

Telephone (~~Cell~~) Work 843-879-2201

Contact Person: Kelley Sullivan

Telephone (Other)

EVENT DETAILS:

Name of Activity: Action Based Learning Oklahoma Summit 2024

Purpose of Activity: Educational Training Company

Date(s)/Day(s) Requested: June 17th - June 20th

Facility **Entry** Time: 8 (am) pm Facility **Exit** Time: 4 am (pm)

Actual Performance (if applicable) Start Time: 9 (am) pm End Time: 3 am (pm)

Expected number of participants: 140 Expected number of audience (if applicable): 0

RESPONSIBILITIES OF THE APPLICANT:

- **Read the "Use of Facilities and Grounds" Policy #2030. This policy provides the guidelines that are to be followed.**
- **Complete this form, 2030C. A copy of the board approved rental sheet is enclosed for your use in completing this form.**
- **Read and sign** Felony Check and Sex Offender Registry statement (2030D). This form needs to be **notarized.**
- Provide a **certificate of insurance** for **each request**. It is the responsibility of the organization to provide a Copy of an updated insurance verification if the certificate expires during the timeframe that the facility and/or grounds have been approved for use.
- I understand that upon completion of the request form, it must be returned to the MPS Administration Building Secretary along with the certificate of insurance and the Felony Checks and Sex Offender Registry form **30 days prior to the regularly scheduled board meeting.**
- **Pending board approval, I understand that expenses for all facility usage will be billed following completion of the event and will be payable upon receipt of invoice. Failure to promptly settle financial obligations will void future facility usage requests.**

INSURANCE REQUIREMENTS:

The user shall file a liability insurance policy with the **Mustang Board of Education**. Limits of liability shall not be less than:

$100,000.00	Property Damage
$100,000.00	Personal Injury each accident or occurrence
$100,000.00	Aggregated (all claims for anyone occurrence)

The policy shall reflect an additional named insured: **Mustang Board of Education**
Mustang Public School District I-69
Mustang, Oklahoma 73064

Current Insurance Verification Provided: (Yes) No **Expires:** 6-12-2024

FACILITY REQUESTED **(Please refer to Policy # 2030A for the rental fees)**

Mustang High School	**MCMS (Central MS)**	**MMS (South MS)**	**MNMS (North MS)**
Cafeteria	Caferteria	Cafeteria	Cafeteria
Kitchen	Kitchen	Kitchen	Kitchen
Commons Area	Gymnasium	Wrestling Room	Commons Gym
Wrestling Room	Softball Field	Gymnasium	Gymnasium
MHS soccer practice field	Softball Field	Softball Field	Softball/Baseball Field
Classroom/s	Classroom/s	Classroom/s	Classroom/s
Football Stadium			

Horizon Intermediate	**Canyon Ridge Intermediate**	**Meadowbrook Intermediate**
Main Gymnasium	Gymnasium	Gymnasium
Auxiliary Gym	Cafetorium (Cafeteria and Stage Area)	Cafetorium (Cafeteria and Stage Area)
Cafeteria		

Elementary Schools (Please select a site)	**Facility**
Mustang Elementary	Cafeteria
Centennial Elementary	Kitchen
Lakehoma Elementary	Gymnasium
Trails Elementary	Playing Field
Creek Elementary	Classrooms
Valley Elementary	
Prairie View Elementary	
Riverwood Elementary	
Mustang Education Center	Main Conference Room

Custodial Fees: **Custodial fees apply for the use of cafeterias, gymnasiums, wrestling rooms and classrooms. Fees are only charged for Saturday and/or Sunday use with a two (2) hour minimum.**

Number of participants: 140 Number of Mustang students participating: 0

~~Will admission be charged~~: Yes No

Special Equipment Needed: Access to wifi
Projector w/ screen

AGREEMENT:

- We (I), Grayson Sally s understand that we (I) are (am) to assume all damages to facilities, disappearance of equipment and costs of unauthorized usage.
- We (I), assume full liability for the care and the use of the facility and agree not to hold the school district liable for anything arising of our (my) use of the Mustang Public School facility. We (I) certify that no registered sex offenders are working this/these events(s).
- We (I) further agree to indemnify and save harmless the Mustang School District and the Mustang Board of Education from and against any and all claims and demands whether for injuries to persons or loss of life, or damage to property occurring within the Mustang Schools facility and arising out of the use and occupancy of said facility by us (me), our (my) employees, guests, members, participants and invitees.

Representative's Signature: _____ Date: 12/6/23

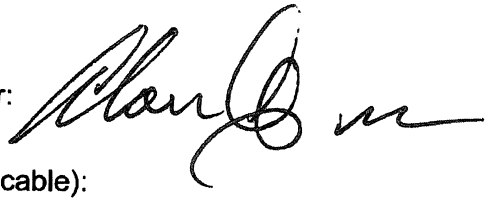
OFFICE USE ONLY:

Estimated Charge for Use of Facility

Rental of Facility: **Custodial Costs:** Other:

TOTAL COST:

Signatures:

Chief Operations Officer:  Date: 1-8-24

Athletic Director (If applicable): Date:

Assistant Superintendent of Schools: Date:

President of Mustang Board of Education: Date:

2030D

FELONY CHECKS & SEX OFFENDER REGISTRY

As a representative of the organization that is requesting to use a Mustang Public School facility and/or grounds, this letter is to acknowledge that all the employees/coaches of the organization have clean felony checks and are not listed as sex offenders.

Signature of Representative Grayson Sally 12/6/23 Date

STATE OF: South Carolina

COUNTY OF: Dorchester

Subscribed and sworn to before me this 6 day of December, 2023

Signature of Notary Public

SEAL

MEGAN PINNEY NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 12-29-2026

Adopted: 08-14-06

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/06/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jon Keisler
Keisler Insurance Group LLC PO BOX 50264 Columbia SC 29250	PHONE (A/C, No, Ext): (803) 521-0807 FAX (A/C, No): E-MAIL ADDRESS: jon@keislerins1.com
INSURED Action Based Learning LLC 315 Industrial Drive Summerville SC 29483	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** INSURER A : GREAT AMER E&S INS CO 37532 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:			PL E857805	06/12/2023	06/12/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ see RSG7268 $ see RSG7268 $ 1,000,000 $ 2,000,000 $ 2,000,000
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Mustang Board of Education
Mustang Public School District I-69
Mustang Ok 73064

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jon Keisler

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CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Jeff Landes, Chief Financial Officer
Michael Raiber, Director of Fine Arts
Ryan McKinney, Assistant Superintendent

From: Samantha Waldrop, Director of the Performing Arts Center

Date: 1/29/2024

Contract Vendor: Gravit8 Dance Competition **Time Frame:** April 12-13, 2024

Amount: $6565.00 **Fund:** 905 **Project:**

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Rental of the PAC for the Gravit8 Dance competition

Revised: 6/15/2023

Gravito Dance Competition 1/18-19/25

Mustang Performing Arts Center
Rental Requirements

200 W Juniper | Mustang, OK 73064

PERFORMING ARTS CENTER

1. Insurance

☒ A certificate of liability insurance in amounts sufficient to insure against loss on claims within the scope of the Governmental Tort Claims Act with Mustang Public Schools listed as the additional insured. Such certificate must be furnished to the Mustang PAC no later than ten (10) days prior to the scheduled event. The minimum coverage for claims within the scope of this shall be:

- $25,000 for any claim or to any claimant for loss of property arising out of a single act, accident or occurrence.
- $125,000 to the claimant for any other loss arising out of a single act,accident or occurrence.
- $1,000,000 for any number of claims out of a single occurrence or accident.

I agree to provide proof of insurance no later than 10 days before the scheduled event. Failure to provide may result in the cancellation of the event.

Initial CV

2. Deposit

☒ A deposit of 50% of the full rental costs must be submitted at the time of the rental agreement to lock in the date. This deposit is not refundable unless the agreement for the facility is canceled in writing 30 days prior to the event or in the case of a ***Force Majeure***. Cancellations made by the renter will result in a 25% non-applicable cancellation fee.

3. Payment

☒ Payment in full of all known charges shall take place prior to or on the day of the event. Additional charges that may develop because of required changes in equipment, additional personnel needed, or additional facility use will be billed to the Client.

*To solidify and lock the date on our events calendar, insurance, deposit, and a signed copy of this document are required.

Force Majeure

In the event that the venue is unfit for occupancy by Client during the period covered by this Agreement, by reason of fire, tornado, earthquake, strike, civil disturbance, or any other force beyond the control of Mustang Public Schools, this Agreement shall terminate and shall be of no further force and effect. In the event of a power outage, fire, tornado, earthquake, civil disturbance, or any other force beyond the control of Mustang Public Schools, Mustang Public Schools will not be responsible for loss or damage to the Client's property.

Mustang Performing Arts Center
Technical Rider

200 W Juniper | Mustang, OK 73064

PERFORMING ARTS CENTER

Please complete the following information. If you have questions, please contact the following: Mustang PAC Technical Director | William Bennyhoff | bennyhoffw@mustangps.org | 405.256.6474

Production : G8 Tour 2024 - Oklahoma City

Sponsoring Organization: Gravit8 Dance Competition, LLC

Contact: Chris Vierkoetter

Contact Phone Number: 602-888-8455 Office OR 602-705-2640 Cell

Contact Email: info@gravit8dance.com

Rehearsal Date: Friday 4/12/24 LOAD-IN

Rehearsal Setup time: Beginning: Ending: 9am - 1pm

Production\Performance Date: Fri (4pm-10pm) / Sat (8am-10pm) / Sun (8am-8pm)

Production Times Setup Time: Beginning: Ending: 1 Hour Prior

Performance Time: Beginning: Ending: Theatre Doors Open(Lobby/House): 1 Hour Prior

STAGE: CHECK IF NEEDED (REFER TO EQUIPMENT RENTAL RATES)

- ☐ Flown Scenery
- ☐ Choral Risers, Number:_____
- ☐ Platforms, Number:_____
- ☐ Conductor's Podium
- ☐ Speaker's Lectern
- ☐ Upright Piano
- ☐ Grand Piano
- ☐ Chairs, Number:_____
- ☐ Stands, Number:_____
- ☐ Scenery
- ☐ Acoustic Shell

Other:_____

PRODUCTION WILL PLAY IN FRONT OF:

- ☐ House Curtain (Red)
- ☐ Mid-stage Traveler (Black)
- ☐ Cyclorama
- ☐ Blackout Curtain

Other: Dance wing curtains?

LIGHTING

- ☐ Follow Spots, Number:_____(requires additional technicians)
- ☐ Video Projector
- ☐ Projection Screen
- ☒ Stage Wash: General Wash or Specific

Other:_____

SOUND

- ☐ Down Stage Monitors

Other:_____

- ☐ Backstage Monitors
- ☐ Microphones, Number:_____Describe purpose and locaiton_____

LOBBY

- ☐ Round Tables, Number:_____Other:_____
- ☐ Chairs, Number:_____
- ☐ 6' Serving Tables, Number:_____
- ☐ Table clothes for serving tables, Number:_____

Comments:_____

Mustang Performing Arts Center
Acknowledgments

200 W Juniper | Mustang, OK 73064

PERFORMING ARTS CENTER

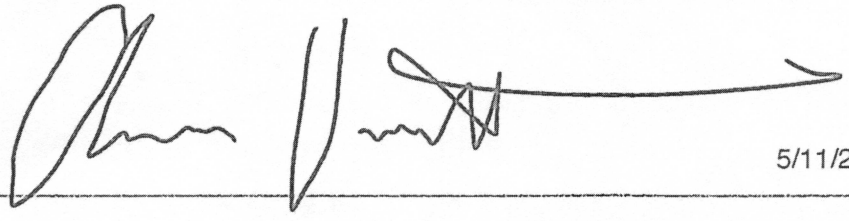
ACKNOWLEDGMENTS:

I confirm that I am the sole responsible party representing the Client and its constituents.

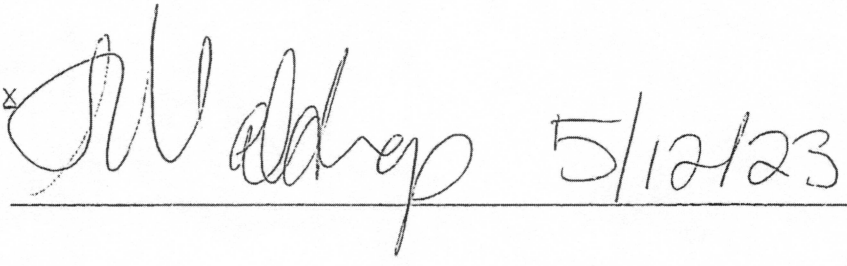
I agree that I have read and understand this Mustang PAC Rental Agreement and agree to comply with all policies and rules contained therein.

I understand that by signing this document does not ensure a confirmed rental date\agreement until all rental requirements are met and the Mustang PAC team confirms it can fulfill the requirements of the rental request by accepting the initial rental deposit.

By submitting this form, I attest that the information I have provided on the form is true and accurate.

X  5/11/23

Lessee Signature and Date

X 

Representative of Mustang Public Schools Signature and Date

Invoice

Mustang Performing Arts Center

PERFORMING ARTS CENTER

Physical Adress: 200 W. Juniper
Mustang, OK

Mailing Address: (Mail checks to this address.) 12400 SW 15th st.
Yukon, OK 73099

BILL TO:

Gravit8 Dance Competition

Booking Director: Chris

602.888.8455

info@gravit8dance.com

INVOICE #

4-12-14-24

DATE

5/1/23

DEPOSIT DUE DATE

5/12/23

CURRENT DEPOSIT DUE

$3,282.50

	Item	Description	Quantity	Price	Amount
4/12/24	Performance Hall Rental Friday- Sunday	Rental of Performance Hall for 5 hours. 8am-10pm	1	$1,750.00	$1,750.00
	Technical Director/Audio Engineer/Lighting Designer	per day	1	$350.00	$350.00
	FOH Manager (2nd manager required for events over 450)	$35 each per hour (scheduled for doors open- closing time)	6	$35.00	$210.00
	Building Staff/ Hallway Supervision	$20 each per hour Full building (No Balcony) 5 total for 6 hours	30	$20.00	$600.00
	Custodial Staff	$30 per hour (8 am- 11 pm) min. 4 hours	8	$30.00	$240.00
4/13/24	Performance Hall Rental Friday- Sunday	Rental of Performance Hall for 5 hours. 7:15am-10pm	1	$1,750.00	$1,750.00
	Technical Director/Audio Engineer/Lighting Designer	per day	1	$350.00	$350.00
	FOH Manager (2nd manager required for events over 450)	$35 each per hour (scheduled for doors open- closing time)	15	$35.00	$525.00
	Building Staff/ Hallway Supervision	$20 each per hour Full building (No Balcony) 5 total for 5 hours	25	$20.00	$500.00

Custodial Staff	$30 per hour (8 am- 11 pm) min. 4 hours	5	$30.00	$150.00
Cleaning Fee	Per Event	1	$140.00	$140.00

50% deposit due to lock in reserved dates.Cancellations made by the renter will result in a 25% non-applicable cancellation fee.

In the event of a force majeure, the renter will be issued a full refund or the opportunity to reschedule their rental without any cancellation fee.

$6,565.00

Deposit Paid: $3,282.50

Remaining balance: $3,282.50

SERVICE AGREEMENT

THIS SERVICE AGREEMENT ("Agreement") is entered into and dated this 23rd day of January, 2024, by and between Mustang Public School District I-069 of Canadian County, a/k/a Mustang Public Schools, 12400 SW 15th St, Yukon, Oklahoma 73099 ("District") **AND** House of Healing, Inc., 7300 Britton Road NE El Reno, Oklahoma 73036 ("HOH"). District and HOH agree as follows:

- **Purpose:** HOH has the necessary qualifications, experience, equipment, and abilities to provide equine assisted activities to certain Mustang Public School students considered at-risk enrolled in District. District believes that its students will benefit from the services to be provided by HOH.
- **House of Healing Responsibilities:** HOH agrees to do the following:
  - Provide educational and equine assisted activities to designated District Public School Students;
  - Provide training to District students selected for the Equine Experience Program;
  - Provide all horses and other required equipment in order for District's students to participate in the education, horseback riding, and other equine assisted activities, including but not limited to saddles, helmets, and any other necessary safety equipment;
  - Determine which students referred by District are appropriate for participation in the programs;
  - Conduct a 2 hour session weekly per group. Classes may be cancelled due to adverse weather conditions, instructor availability, and damage to facilities or livestock illness/injury. If possible, notification for cancellation of classes should be made twenty-four (24) hours in advance, but no later than two hours prior to scheduled class time.
- **District's Responsibilities:** District agrees to do the following:
  - Identify students to participate in HOH Equine Experience Program.
  - Provide transportation to/from HOH for students and District staff participating in HOH's programs during school hours.
- **Term of Agreement:** The term of this Agreement shall begin on the date of this Agreement and will remain in full force and effect until the completion of District's Spring 2024 semester and shall only be effective for days when school is in session. The parties may extend this Agreement by mutual written agreement for subsequent school semesters or year(s). In the event that either party wishes to terminate this Agreement, that party will be required to provide written notice to the other party at least ninety (90) days prior to the proposed date of termination. Except as otherwise provided in this Agreement, the obligations of HOH will terminate upon HOH ceasing to be engaged by District or the termination of this Agreement by District or HOH.
- **Student Disqualification:** Students may be disqualified from participation upon the mutual consent of both parties.

- **Compensation:** For services rendered by HOH as required by this Agreement for Mustang Public School students considered needing support services in Mustang, HOH will offer cycles of 5 and/or 10 weekly sessions during Spring semester 2024 with 8-10 students each.
  Total cost for 10 sessions - $30/stu/sess ~ $3000, 5 sessions ~$1500
  Total owed to House of Healing will be adjusted based on student attendance In the event that District does not comply with the rates, amounts, or payment dates provided in the Agreement, HOH has the right to terminate agreement. If a grant or donation is received during the session by HOH specific for Mustang schools, the cost will be reduced by grant amount received.
- **Capacity/Independent Contractor:** It is expressly agreed that HOH is acting as an independent contractor and not as an employee of District. HOH and the District acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service. Neither of the parties shall have any right to obligate or bind the other, and neither party shall hold itself out to third parties as having any such right or any authority whatsoever to enter into contracts on behalf of the other. Each of the parties shall meet all of its obligations and responsibilities as an employer to its own employees under any applicable laws, including without limitation those pertaining to taxes, unemployment compensation, or insurance.
- **Notices:** All notices, requests, demands, or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the parties at the addresses listed above or to such other address as any party may from time to time designate.
- **Insurance:** HOH will be required to maintain general liability insurance including coverage for bodily injury and property damage at a level that would be considered reasonable in the industry of HOH based on the risk associated with characteristics of this Agreement. All insurance policies will remain materially unchanged for the duration of this Agreement. HOH shall furnish to district a Certificate of Liability Insurance upon request. The Certificate of Liability Insurance shall require at least ten (10) days' notice to District before cancellation of coverage for any reason. House of Healing will have a current background check on all employees, and volunteers that will be working with students in the program offered. HOH will provide District a copy of background check upon request.
- **Limitation of Liability:** It is understood and agreed that HOH will not be liable to the District, or any agent or associate of the District, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement. The services provided by HOH shall be subject to the Oklahoma Livestock Activities Liability Limitation Act. All students (through their parent or guardian if appropriate) participating in HOH programs shall be required to sign a written statement indicating that they understand the limitation of liability and releasing District and HOH from liability in accordance with the Oklahoma Livestock Activities Liability Limitation Act.

- **Modification of Agreement:** Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.
- **Assignment:** HOH will not voluntarily or by operation of law assign or otherwise transfer its obligations under this Agreement without the prior written consent of District.
- **Entire Agreement/Amendment:** This Agreement constitutes the entire agreement between the parties and may not be modified, changed, or varied except by a written instrument signed by the parties.
- **Construction:** This Agreement shall be interpreted and construed according to the laws of the State of Oklahoma, and venue for any action arising out of this Agreement shall be in Canadian County, Oklahoma. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.
- **Severability:** In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.
- **Waiver:** The waiver by either party of a breach, default, delay or omission of any of the provisions of this Agreement by the other party will not be construed as a waiver of any subsequent breach of the same or other provisions.

Approved:

House of Healing Equine Experience

Twylla Hester Date: Jan. 11, 2024

Twylla Hester CEO
(Print Name and Title)

Approved:

by Mustang Public Schools' Board of Education on _____ day of _____,2024.

Mustang Public Schools

_____ Date: _____

Superintendent

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Jeff Landes, Chief Financial Officer
Ryan McKinnney, Assistant Superintendent

From: Karen Wilson, Exe Director of Student Services

Date: 1-30-24

Contract Vendor: Shelby Healthcare **Time Frame:** Remainder of SY 23-24

Amount: $ 0.00 **Fund:** _____ **Project:** _____

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

This memo is to request a Memorandum of Understanding between Shelby Healthcare and Mustang Public Schools to provide healthcare for individual students of Mustang Public Schools under the terms and conditions of the attached MOU.

All services provided by Shelby Healthcare employees will be covered by Medicaid and paid in full. No services will be billed to Mustang Public Schools.

If you have any questions, please do not hesitate to contact Karen Wilson or Tammy Kain.

Memorandum of Understanding (MOU)

Shelby Healthcare

This Memorandum of Understanding (MOU) is entered into on the 30th day of Jan, 2024 by and between Independent School District I- 069 Mustang Public Schools in Canadian County, Oklahoma, hereinafter referred to as "District", and Shelby Healthcare, (hereinafter referred to as "Shelby").

WHEREAS, the District and Shelby desire to enter into a Memorandum of Understanding advantageous to both parties.

WHEREAS, Shelby desires to provide healthcare for individual students of District under the terms and conditions of this MOU.

NOW, THEREFORE, the parties agree as follows:

1. Shelby will provide appropriately licensed, certified, trained, and qualified nurses to provide one-on-one care for identified students. The care provided shall be in accordance with the student's physicians' orders, Plan of Treatment, and approved Individualized Education Program (IEP).

2. In the event that a Shelby employee providing services under this MOU is not providing services in accordance with the stated direction provided by the Executive Director of Student Services or Lead Nurse of Mustang Public Schools, the designated Shelby administrative representative will be contacted. In the event that said issues are not resolved, Shelby will, upon written request by the District, remove said personnel immediately from providing care for students at Mustang Public Schools.

3. All wages, taxes, benefits, and other employment-related expenses and duties associated with the Shelby employees are the sole responsibility of Shelby. The parties acknowledge and agree that the services provided by Shelby to the District shall be paid for by the Oklahoma Healthcare Authority pursuant to applicable Medicaid regulations, and that Shelby agrees to accept payment from Medicaid as payment in full for services rendered under this MOU.

4. Shelby employees may participate in District meetings, such as educational team staffings, IEP meetings, parent conferences, or other meetings as mutually agreed upon by both parties to this MOU.

5. Shelby will maintain all records, logs and documentation, including progress notes, prepared by the Shelby employees concerning District students for which Shelby provides services and will coordinate care in a manner that complies with privacy and confidentiality requirements, including, but not limited to, those of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Pun. L. No. 104-1911. 110 STAT. 1936 (1996) and all amendments following, 42 CFR Part 2, and other federal and state laws, including privacy requirements specific to the care of minors, as appropriate.

6. Shelby agrees to and shall defend, indemnify and hold the District, its officers, administrators, board members, employees, agents, assigns and attorneys harmless from and against any and all liability, loss or expense, including reasonable attorneys' fees, or claims for injury or damages that are caused by or result from the negligent or intentional acts or omissions of Shelby, its officers, agents, employees, or contractors. To the extent permitted by law, District agrees to and shall defend, indemnify and hold Shelby, its officers, board members, employees, agents, and assigns harmless from and against any and all liability, loss or expense, including reasonable attorneys' fees, or claims for injury or damages that are caused by or result from the negligent or intentional acts or omissions of District, its officers, agents, employees, or contractors.

7. Shelby agrees to furnish the District verification of the insurance policies covering a Certificate of Commercial General Liability ("CGL") insurance policy, and Professional Liability insurance policy ("PL") each insuring Shelby in an amount not less than $125,000.00 for personal injury to or death of any individual, and $1,000,000.00 in the aggregate for personal injury or death.

8. Further, Shelby affirms that its employees and any subcontractor who will be on District property are acting on behalf of Shelby in performance of this MOU and are not employees of the District. Such employees are covered by Workers Compensation Insurance provided by Shelby and shall in no event be entitled to any such coverage from the District. Shelby is an independent contractor to the District and shall not be or represent itself to be an agent, employee or representative of the District.

9. The Shelby employees will operate in accordance with applicable federal and state laws and regulations and District policies, rules, regulations and guidance applicable to the services provided pursuant to this MOU.

10. The District and Shelby agree that student safety is a top priority. In an effort to protect student safety, Shelby agrees that it will not assign an individual to provide services pursuant to this MOU who has been convicted of a felony or who has been convicted of any crime involving moral turpitude. Shelby also declares that none of its employees working on school premises is currently registered or required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.

11. Shelby shall submit written proof to the District's Student Services office that all applicable Shelby employees have passed background checks and a drug screening prior to their entering the building of the school to provide services pursuant to this MOU.

12. All Shelby employees providing services pursuant to this MOU must have in their possession, at all times, a current photo ID which identifies them as a staff member of Shelby.

13. The District may choose to discontinue services during the term of this MOU for any reason with (30) calendar days' prior written notice to the other party.

IN WITNESS WHEREOF, the District and Shelby have executed this MOU on the day and year first above written.

Independent School District I-069
Canadian County, Oklahoma

_____
Board President
Mustang Public Schools

_____
Date

Shelby Healthcare

_____
Director

Shelby Healthcare
Name of Agency

301 N Harvey Ave. ste215
Street Address

Oklahoma City, OK 73102
City, State, Zip Code

1/30/24

MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Ryan McKinney
Jeff Landes

From: Geromy Schrick

Date: 01/25/2023

Re: Internet Service Provider (ISP) Renewal

Please Discuss, consider and/or act upon the acceptance of the contract for Internet Service Provider (ISP) connections for all facilities, this is the 3rd year of a 5 year agreement that is annually renewable.

The contract with Cox includes Internet Service for all school sites through a single District connection at a speed of 20 GBs at a monthly cost of $5140 per month.

The contract and pricing is scheduled to begin on July 1st 2024 and will be in effect until June 30th, 2025, then annually renewed through the 26-27 school year. After the erate discount is applied (60%), all remaining cost would be paid for from OUSF/Corporation Commission funding. This will zero out the cost for the service to Mustang Public Schools.

All procedures are in accordance with E-rate/SLD and OUSF funding regulations.

Geromy Schrick

Executive Director of Technology
Attached is the Renewal Contract

COX BUSINESS

Commercial Services Agreement
1/30/2024

Cox Account Rep:	Chris Dykstra	**Cox System Address**	
Phone Number:		**715 NE 122nd Street** Oklahoma City, OK 73114	
Fax Number:			

Customer Information		**Authorized Customer Representative Information**	
Legal Company Name:	MUSTANG PUBLIC SCHOOLS ADMIN	**Full Name:**	Geromy Schrick
Street Address:	801 S Snyder Dr	**Billing Telephone:**	(405) 376-2461
City/State/Zip:	Mustang, OK 73064	**Fax:**	
Billing Address:	801 S SNYDER DR	**Contact Number:**	(05) 256-6480
City/State/Zip:	MUSTANG, OK 73064	**Email:** schrickg@mustangps.org	
Cox Account #:	131-5368601,131-81425501,131-5368602,131-81425601,131-76525301		

Service Description	From QTY	To QTY	Unit Price	Term (Months)	Monthly Recurring Service Charges	One Time Service Charges
Cox Optical Internet 10 Gbps	1	0	$0.00	60	$0.00	$0.00
IP Address Block - /30 (4 IPs)	1	0	$0.00	60	$0.00	$0.00
IP Address Block - /26 (64 IPs)	1	0	$0.00	60	$0.00	$0.00
IPV6 Address Block - /56	1	0	$0.00	60	$0.00	$0.00
IPv4/IPv6 Dual-Stack	1	0	$0.00	60	$0.00	$0.00
Cox Optical Internet 20 Gbps	0	1	$5140.00	60	$5140.00	$0.00
IP Address Block - /26 (64 IPs)	0	1	$250.00	60	$250.00	$0.00
IPv4/IPv6 Dual-Stack	0	1	$0.00	60	$0.00	$0.00
Install Fees						

Totals:	$5390.00	$0.00

The service and equipment charges above, except as explicitly set forth in the Special Conditions section, do not include applicable taxes, fees, assessments or surcharges which are additional and may change. Visit http://www.coxbusiness.com/taxesandfees for more information

Special Conditions
Term. Notwithstanding anything to the contrary in this Agreement, Cox and Customer acknowledge that the Term of this Agreement is 1 year(s) beginning July 1st, 2024 and ending June 30th, 2025_, with 2 separate one-year renewal terms which may be exercised at any time upon mutual written agreement of the parties. Notwithstanding anything to the contrary contained in this Agreement, the auto renewal provisions set forth in the Service Terms do not apply. Upgrades. Customer may upgrade the Services or add new locations upon written request to Cox (and subject to Cox's written acceptance) at the listed bandwidth and corresponding prices stated in Exhibit "B". Taxes and fees are additional and will be separately stated on Customer's invoice. SLA. The Service Level Agreement attached as Exhibit "C" is incorporated into the Agreement.

This Commercial Services Agreement (the "Agreement") includes (i) this paragraph, the language above and Exhibit A (collectively, the "Service Terms"); (ii) the terms and conditions set forth at http://www.coxbusiness.com/generalterms (the "General Terms") and (iii) any other terms and conditions applicable to the Services set forth above, including without limitation, the Cox tariffs, Service Guides set forth at http://www.coxbusiness.com/e911 ("SG"), State and Federal regulations, the Cox Acceptable Use Policy (the "AUP"), and Cox's Internet Service Disclosures located at www.cox.com/internetdisclosures. Exhibit A is attached to and incorporated into this Agreement by this reference. Customer acknowledges receipt and acceptance of the Service Terms (including Exhibit A), the AUP, General Terms, and all other referenced terms and conditions by signing this Agreement. By signing this Agreement, Customer accepts that any and all disputes arising out of, relating to or concerning this Agreement and/or the Services shall be resolved through mandatory and binding arbitration unless Customer opts out pursuant to the Dispute Resolution Provision in the General Terms. This Agreement is subject to credit approval and Customer authorizes Cox to check credit. The service and equipment charges above, except as explicitly set forth in the Special Conditions section, do not include applicable taxes, fees, assessments or surcharges which are additional and may change from time to time. This proposal is valid provided Customer signs and delivers this Agreement to Cox unchanged within thirty (30) days from the date above. By signing this Agreement, Customer acknowledges that if (i) the transport Service(s) (e.g. Private Line Type Services, Ethernet Services) cross state boundaries or (ii) at least 10% of traffic on said transport Service(s) is Interstate in nature or designated for Internet traffic, then the entire transport Service(s) is considered Interstate. Customer has reviewed the interstate/intrastate designation of the transport Service(s) listed in the Service Description above and attests that all such designations are correct. Each party may use electronic signature to sign this Agreement, provided the electronic signature method used by Customer is acceptable to Cox. This Agreement shall be effective upon execution by Customer and "Acceptance" by Cox. "Acceptance" of the Agreement by Cox shall occur upon the earlier of (i) Cox's countersignature of this Agreement or (ii) Cox's installation of Service at Customer's location. Customer acknowledges that it has read and understands the 911 disclosures in Section 2 of the Service Terms. By signing this Agreement, you represent that you are the authorized Customer representative.

Customer Authorized Signature	**CoxCom, LLC dba Cox Business, Cox Oklahoma Telcom, LLC Signature**
Signature:	Signature:
Print:	Print:
Title Position:	Title Position:
Date:	Date:

EXHIBIT A

1. E911 Services FOR IMPORTANT INFORMATION ABOUT COX'S 911 PRACTICES, PLEASE REVIEW THE INFORMATION ABOUT E911 SERVICE IN THE GENERAL TERMS AND ON THE WEBSITE http://www.coxbusiness.com/e911

2. Service Start Date and Term The "Initial Term" shall begin upon installation of Service and shall continue for the applicable Term commitment set forth above in the Service Terms. However, if Customer delays installation or is not ready to receive Services on the agreed-upon installation date, Cox may begin billing for Services on the date Services would have been installed. Cox shall use reasonable efforts to make the Services available by the requested service date. Cox shall not be liable for damages for delays in meeting service dates due to install delays or reasons beyond Cox's control. If Customer delays installation for more than ninety (90) days after Customer's execution of this Agreement, Cox reserves the right to terminate this Agreement by providing written notice to Customer and Customer shall be liable for Cox's reasonable costs incurred. AFTER THE INITIAL TERM, THIS AGREEMENT SHALL AUTOMATICALLY RENEW FOR ONE (1) YEAR TERMS (EACH AN "EXTENDED TERM") UNLESS A PARTY GIVES THE OTHER PARTY WRITTEN TERMINATION NOTICE AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM OR THEN CURRENT EXTENDED TERM. "Term" shall mean the Initial Term and Extended Term (s), if any. Cox reserves the right to increase rates for all Services by no more than ten percent (10%) during any Extended Term by providing Customer with at least sixty (60) days written notice of such rate increase. This limitation on rate increases shall not apply to video Services or Services for which rates, terms and conditions are governed by a Cox tariff or SG. Upon notice to Customer, Cox may change the rates for video Services periodically during the Term. Cox may change the rates for telephone Service subject to a Cox tariff or SG periodically during the Term. For the avoidance of doubt, promotional rates and promotional discounts provided to Customer will expire at the end of the Initial Term or earlier as set forth in the promotion language. Customer's payment for Service after notice of a rate increase will be deemed to be Customer's acceptance of the new rate.

3. Termination Customer may terminate any Service before the end of the Term selected by Customer above in the Service Terms upon at least thirty (30) days written notice to Cox; provided, however, if Customer terminates any such Service before the end of the Term (except for breach by Cox), unless otherwise expressly stated in the General Terms, Customer will be obligated to pay Cox a termination fee equal to the nonrecurring charges (if unpaid) and One Hundred Percent (100%) of the monthly recurring charges for the terminated Service(s) multiplied by the number of months, including partial months, remaining in the Term. Cox may terminate this Agreement without liability at any time prior to installation of Services if Cox determines that Customer's location is not reasonably serviceable or there is signal interference with any Cox Service(s) according to Cox's standard practices. If Customer terminates or decreases any Service that is part of a bundle offering, the remaining Service(s) shall be subject to price increases for the remaining Term. If Customer terminates this Agreement prior to installation of Service by Cox, Customer shall be liable for Cox's costs incurred. This provision survives termination of the Agreement.

4. Payment Customer shall pay Cox all monthly recurring charges ("MRCs") and all non-recurring charges ("NRCs"), if any, by the due date on the invoice. Any amount not received by the due date shown on the applicable invoice will be subject to interest or a late charge no greater than the maximum rate allowed by law. If Cox terminates this Agreement due to Customer's breach, or if Customer fails to pay any amounts when due and fails to cure such non-payment upon receipt of written notice of non-payment from Cox, Customer will be deemed to have terminated this Agreement and will be obligated to pay the termination fee described above. If applicable to the Service, Customer shall pay sales, use, gross receipts, and excise taxes, access fees and all other fees, universal service fund assessments, 911 fees, franchise fees, bypass or other local, State and Federal taxes or charges, and deposits, imposed on the use of the Services. Taxes will be separately stated on Customer's invoice. No interest will be paid on deposits unless required by law.

5. Service and Installation Cox shall provide Customer with the Services identified above in the Service Terms and may also provide related facilities and equipment, the ownership of which shall be retained by Cox (the "Cox Equipment"), or for certain Services, Customer, may purchase equipment from Cox ("Customer Purchased Equipment"). Customer is responsible for damage to any Cox Equipment. If Cox Equipment is not returned to Cox after termination or disconnection of Services, Customer shall be liable for the Cox Equipment costs. Customer may use the Services for any lawful purpose, provided that such purpose: (i) does not interfere or impair the Cox network or Cox Equipment; (ii) complies with the AUP; and (iii) is in accordance with the terms and conditions of this Agreement. Customer shall use the Cox Equipment only for the purpose of receiving the Services. Customer shall use Customer Purchased Equipment in accordance with the terms of this Agreement and any related equipment purchase agreement. Unless provided otherwise herein, Cox shall use commercially reasonable efforts to maintain the Services in accordance with applicable performance standards. Cox network management needs may require Cox to modify upstream and downstream speeds. Use of the Services shall be subject to the AUP at http://www.coxbusiness.com/generalterms, which is incorporated herein by reference. Cox may change the AUP from time to time during the Term. Customer's continued use of the Services following an AUP amendment shall constitute acceptance of the revised AUP.

6. General Terms The General Terms are hereby incorporated into this Agreement by reference. BY EXECUTING THIS AGREEMENT AND/OR USING OR PAYING FOR THE SERVICES, CUSTOMER ACKNOWLEDGES THAT IT HAS READ, UNDERSTOOD, AND AGREED TO BE BOUND BY THE GENERAL TERMS.

7. LIMITATION OF LIABILITY IN ADDITION TO ANY OTHER LIMITATIONS ON LIABILITY CONTAINED IN THE AGREEMENT, NEITHER COX NOR ANY COX RELATED PARTY SHALL BE LIABLE FOR DAMAGES FOR FAILURE TO FURNISH OR INTERRUPTION OF ANY SERVICES, OR FOR ANY LOSS OF DATA OR STORED CONTENT, IDENTITY THEFT, OR FOR ANY PROBLEM WITH THE SERVICES OR EQUIPMENT OF ANY THIRD PARTY, NOR SHALL COX NOR ANY COX RELATED PARTY BE RESPONSIBLE FOR FAILURE OR ERRORS OF ANY COX SERVICE, COX EQUIPMENT, SIGNAL TRANSMISSION, LICENSED SOFTWARE, LOST DATA, FILES OR SOFTWARE DAMAGE REGARDLESS OF THE CAUSE. NEITHER COX NOR ANY COX RELATED PARTY WILL BE LIABLE FOR DAMAGE TO PROPERTY OR FOR PHYSICAL INJURY TO ANY PERSON ARISING FROM THE INSTALLATION OR REMOVAL OF EQUIPMENT UNLESS CAUSED BY THE NEGLIGENCE OF COX. UNDER NO CIRCUMSTANCES WILL COX OR ANY COX RELATED PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING FROM THIS AGREEMENT OR PROVISION OF THE SERVICES.

8. WARRANTIES EXCEPT AS PROVIDED IN THIS AGREEMENT, THERE ARE NO OTHER AGREEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE SERVICES. SERVICES PROVIDED ARE A BEST EFFORTS SERVICE AND COX DOES NOT WARRANT THAT THE SERVICES, EQUIPMENT OR SOFTWARE SHALL BE ERROR-FREE OR WITHOUT INTERRUPTION. COX DOES NOT GUARANTEE THAT SERVICE CAN BE PROVISIONED TO CUSTOMER'S LOCATION, OR THAT INSTALLATION OF SERVICE WILL OCCUR IN A SPECIFIED TIMEFRAME. COX DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT WILL MEET CUSTOMER'S NEEDS, PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR THE LIKE. INTERNET AND WIFI SPEEDS WILL VARY. COX MAKES NO WARRANTY AS TO TRANSMISSION OR UPSTREAM OR DOWNSTREAM SPEEDS OF THE NETWORK.

9. Public Performance If Customer engages in a public performance of any copyrighted material contained in any of the Services, Customer, and not Cox, shall be responsible for obtaining any public performance licenses at Customer's expense. The Video Service that Cox provides under this Agreement does not include a public performance license

DocuSign Envelope ID: FA439F10-03F3-40C3-8A42-91115917C55B

Exhibit 'B'
Pricing – Internet
Mustang Public Schools (BEN: 139794)

12400 SW 15th t
Yuklon, OK 73099
Telephone: (405) 376-7398
Email: schrickg@mustangps.org

FCC FORM 470 (# 220016573)

5 Year pricing w/ yearly renewals

(internet only, router not included)

Bandwidth	Up Front Installation Cost per Facility	Monthly Cost per Facility
10Gb	$0	$4,485
20Gb	$0	$5,140
30Gb	$0	$6,080
40Gb	$0	$6,850

*IP Addressing Additional monthly cost per block

Static IPv4 LAN Address Block - /30 Standard$0.00
Static IPv4 LAN Address Block - /29 Standard $35.00
Static IPv4 LAN Address Block - /28 Standard $60.00
Static IPv4 LAN Address Block - /27 Standard $140.00
Static IPv4 LAN Address Block - /26 Standard $250.00
Static IPv4 LAN Address Block - /25 Standard $300.00
Static IPv4 LAN Address Block - /24 Standard $400.00
Static IPv4 LAN Address Block - /23 Standard $500.00

DocuSign Envelope ID: FA439F10-03F3-40C3-8A42-91115917C55B

Exhibit C

Version 6.24.2019

COX BUSINESS

Cox Optical Internet

Service Level Agreement

1. **Scope**. This Service Level Agreement ("SLA") is incorporated into the Commercial Services Agreement or Master Services Agreement ("Agreement") by and between Cox and Customer, each as defined in the Agreement. The performance standards and service levels set forth in this SLA are Cox's objectives with respect to the Cox Optical Internet Services ("COI Services") provided to the Customer.

2. **COI Service Availability**. Cox's objective is to make the COI Services available for Customer's use at least (i) Ninety-Nine and Ninety-Nine One-Hundredths Percent (99.99%) of the time with respect to the on-net portion of the circuit and (ii) Ninety-Nine and Nine-Tenths Percent (99.9%) of the time with respect to the portion of COI Services or circuits obtained by Cox from third party carriers, commonly known as "Type II" (collectively and individually, (i) and (ii) shall be referred to as "COI Service Availability"). COI Service Availability, is the ability to transmit data from the Cox demarcation point at the Customer location to a Regional Data Center ("RDC") on the Cox IP backbone. COI Service Availability does not mean the Customer will be able to reach any site or user on the Internet, nor does it mean any site or user on the Internet can reach the Customer, as there are many factors, outside of Cox's control, that can affect an end-to-end connection. The COI Service Availability is calculated by dividing the number of minutes that the COI Services are available for Customer's use by the total number of minutes in any calendar month multiplied by one hundred (100). Unavailability of the COI Services due to the reasons or causes set forth in Section 9 of this SLA shall not be included in determining whether Cox has met the COI Service Availability objective. For example, if the COI Services experience an outage for one (1) day due to a Force Majeure event, and otherwise experience no other outage or COI Service Interruption during the applicable month, Cox will be deemed to have met the COI Service Availability performance standard and no Service Credit(s) (as defined below) will be provided.

3. **COI Service Interruption**. A "COI Service Interruption" is a loss of signal to the Customer that results in a total disruption of COI Service beyond the COI Service Availability level. Any COI Service Interruption, outage, degradation of COI Service, or failure to meet any objective stated in this SLA is not a default or breach under the Agreement, but may entitle Customer to a Service Credit (as defined below) for a qualifying COI Service Interruption. A COI Service Interruption period begins when Customer makes a Trouble Report (as defined below) to Cox's Network Operations Center ("NOC") under the methods and procedures set forth in Section 7 of this SLA and ends when Cox restores the COI Services to Customer.

4. **COI Service Response and Resolution**. In the event Cox receives a Trouble Report (defined below) from Customer, Cox will initiate action to clear the trouble within approximately thirty (30) minutes. If the Trouble Report is the result of an electronic component failure, the estimated restoration time is four (4) hours. If the Trouble Report is the result of a cable or fiber failure or any other issue, the estimated restoration time is eight (8) hours.

5. **Service Credits**. The following are each types of "Service Credits" which may be available to Customer as described below and subject to all limitations in the SLA, including Section 9:

(a) **COI Service Interruption Service Credit**. The available Service Credit for a COI Service Interruption is identified in the table below as a percentage of the monthly recurring charge ("MRC") for the portion of the affected COI Services experiencing a qualifying COI Service Interruption. Service Credits are not cumulative (e.g. if a qualifying COI Service Interruption lasted 20 hours, Customer will receive a credit equal to 20% of the MRC for the portion of the COI Services experiencing a COI Service Interruption, but Customer does not also receive a separate Service Credit for the "≥ 30 min. to <4 hours", "≥ 4 hours to < 8 hours" and "≥ 8 hours to < 16 hours" timeframes identified in the table below.) The amount of the Service Credit shall be as follows:

COI Services Interruption Length	*Credit of the MRC for the portion of COI Services experiencing a COI Service Interruption*
≥ 30 min. to < 4 hours	5% of applicable MRC
≥ 4 hours to < 8 hours	10% of applicable MRC
≥ 8 hours to < 16 hours	15% of applicable MRC
≥ 16 hours to < 24 hours	20% of applicable MRC
≥ 24 hours	25% of applicable MRC

(b) **Network Latency Service Credit**. Network Latency, as it relates to COI Services, is defined by Cox as the round-trip delay for a packet to travel between two Regional Data Centers ("RDCs") on the Cox IP backbone, averaged on a monthly basis across all RDCs and IP peering locations on the Cox IP backbone network ("Network Latency"). The average monthly round-trip delay is measured in milliseconds. The Cox Network Latency Service Level for COI Service is Fifty (50) milliseconds or less. Network Latency due to the reasons or causes set forth in Section 9 of this SLA shall not be included in determining whether Cox has met the applicable performance standard for Network Latency. Network performance statistics and methodology related to the Cox Network Latency for COI Service are posted at the following location:

https://www.cox.com/business/networking/svpn.html.

If the Cox Network Latency Service Level for COI Service is greater than fifty (50) Milliseconds in a calendar month, the available Service Credit equals Ten Percent (10%) of the MRC for the affected COI Services for any Network Latency in a calendar month.

(c) **Data Delivery Service Credit**. Data Delivery Rate, as it relates to COI Services, is defined by Cox as the percentage of packets delivered during a transmission between two RDCs on the Cox IP backbone, averaged on a monthly basis across all RDCs and IP peering locations on the Cox IP backbone network

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("Data Delivery Rate"). The average monthly packet delivery is measured in percentage of packets delivered per One Hundred (100) and shall be Ninety-Nine and Nine-Tenths Percent (99.9%) or greater, averaged on a monthly basis. Non-delivery of packets due to the reasons or causes set forth in Section 9 of this SLA shall not be included in determining whether Cox has met the applicable performance standard for Data Delivery Rate.

Network performance statistics and methodology related to the Cox Data Delivery Rate for COI Services are posted at the following location:

https://www.cox.com/business/networking/svpn.html

If the Data Delivery Rate for COI Services in a calendar month is less than Ninety-Nine and Nine-Tenths Percent (99.9%), the available Service Credit equals Ten Percent (10%) of the MRC for portion of the affected COI Services for any Data Delivery Rate issues in a calendar month.

6. **Chronic Outage**. If three (3) or more separate times during a thirty (30) consecutive day period, the COI Services experience a COI Service Interruption for a period greater than eight (8) consecutive hours, ("Chronic Outage") subject to Section 9 below, Customer may terminate the affected circuit(s) without charge or payment of any termination charges otherwise provided in the Agreement; provided Customer complies with the notification process described in this Section 6. Within thirty (30) days of the occurrence of the third Chronic Outage, Customer shall notify Cox in writing of its election to terminate the circuit(s) and the circuit(s) shall be terminated upon Cox's receipt of such notice. If Customer fails to notify Cox within thirty (30) days of the third Chronic Outage, of its intent to terminate the circuit(s), then Customer shall be deemed to have waived its right to terminate the circuit(s) under this Section 6 until the occurrence of a subsequent Chronic Outage, if any. Upon termination under this Section 6, neither party shall have any further rights, obligations, or liabilities to the other party with respect to such terminated affected circuit(s), except those accrued through the termination date, and that expressly survive termination of this Agreement.

7. **Customer Responsibilities / Trouble Reports**. Cox will maintain a twenty- four (24) hour, seven (7) day a week point-of-contact for Customer to report COI Service troubles, including COI Service Interruptions, Network Latency, and Data Delivery Rate issues. Customer shall call Trouble Reports to the telephone number provided by Customer's local market sales representative. A "Trouble Report" means any report made by Customer to Cox relating to the COI Services or the equipment provided by Cox.

Cox will investigate the Trouble Report and assign a trouble ticket number. To qualify for any Service Credit(s), Customer must request, in writing, a Service Credit within thirty (30) calendar days of a qualifying Trouble Report. Cox will be the only party to determine (in its sole discretion) whether Cox has not met any of the SLA terms specified herein and whether a Service Credit is to be issued. Customer shall cooperate with Cox at all times in testing, determining and verifying that a qualifying COI Service Interruption, Network Latency, and/or Data Delivery Rate issue has occurred.

8. **COI Service Installation Delays**

(a) **COI Service Installation and Availability**. Cox will make commercially reasonable efforts to install, provision and make the COI Services available for Customer's use within ten (10) business days of the installation date if explicitly defined in the Agreement, if any ("Estimated Install Date"). COI Service shall be deemed as available upon Cox's installation of the equipment and facilities necessary to provide Customer the COI Services.

(b) **Installation Delay Credit**. Cox shall provide Customer with an Installation Delay Credit if the COI Services are not available for Customer's use within ten (10) business days of the Estimated Install Date. In this event, Cox will provide an "Installation Delay Credit" of One Hundred Percent (100%) off the standard nonrecurring charge ("NRC") paid by Customer for the portion of the COI Service that was unavailable. This Installation Delay Credit shall apply only to Cox standard NRCs and shall not apply to construction or other non-standard charges billed to Customer that are associated with providing COI Services to Customer.

(c) **Exceptions to Installation Delay Credits**. Installation Delay Credits shall not be provided for installation delays (i) caused by or requested by Customer, its employees, agents or subcontractors; (ii) due to inabilities or difficulties of Cox to access Customer's premises; (iii) due to the public utility company restricting Cox's access to necessary conduits or wiring in Customer's building or property; (iv) due to any delays in obtaining any necessary permits, licenses, pole attachment agreements, rights of way, or other access or property rights; (v) due to any causes addressed in Section 9; or (vi) due to Force Majeure events.

9. **Exceptions and Limitations to Service Credit**.

(a) **Exceptions**. Service Credits shall not be provided for any COI Service Interruptions or failures to meet the COI Service Availability, Data Delivery Rate, or Network Latency objectives, estimated restoration time, Estimated Install Date, or any other term specified in this SLA: (i) caused by Customer, its employees, agents or subcontractors; (ii) due to failure of power or other equipment provided by Customer or the public utility company supplying power to Cox or Customer; (iii) during any period in which Cox is not allowed access to the premises of Customer to access Cox equipment; (iv) due to scheduled maintenance and repair; (v) caused by or due to violations of the Cox Acceptable Use Policy or any misconduct or accident of the Customer; (vi) caused by a loss of service or failure of the Customer's internal wiring or other Customer equipment; (vii) due to Customer's failure to release the COI Service for testing and/or repair to Cox; or (viii) due to Force Majeure events. For purposes of this SLA, Force Majeure shall mean (i) third party cable cuts, acts of God, fire, flood, or other natural disaster; (ii) laws, orders, rules, regulations, directions, or actions of governmental authorities having jurisdiction over the COI Services; (iii) any civil or military action including national emergencies, riots, war, civil insurrections or terrorist attacks; (iv) taking by condemnation or eminent domain of a party's facilities or equipment; (v) strikes or labor disputes; (vi) fuel or energy shortages; (vii) delays in obtaining permits or other approvals from governmental authorities for construction or COI Services provisioning, or (viii) any other causes beyond the

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reasonable control of Cox. In addition, Service Credits shall not apply (a) if Customer is entitled to any other available credits, compensation or remedies under the Agreement for the same COI Service Interruption, deficiency, degradation, delay, or issue (b) for COI Service Interruptions, deficiencies, degradations, delays, or issues not reported by Customer to Cox within a reasonable period of time, not to exceed thirty (30) days from when it started, (c) where Customer reports a COI Service Interruption, Network Latency and/or Data Delivery Rate issue, but Cox does not find any such issue, (d) to any Service locations served via a third party (i.e. Type-II site), or (e) to any service not provided under the Agreement even if the service is provided by a Cox affiliate or subsidiary. For any COI Service locations served via a third party, Cox may pass through any COI Service credits it receives from the third party associated with any COI Service Interruption not to exceed the Service Credit amount.

(b) Limitations. With respect to all Service Credits under this SLA, no Service Credits shall be issued if: (i) Customer is in breach of its Agreement with Cox; (ii) Customer has a past due balance with Cox under the Agreement; or (iii) Customer is otherwise not in good financial standing with Cox. In addition, in any calendar month, Customer's combined Service Credits for Network Latency and Data Delivery Rate shall not exceed ten percent (10%) of the MRC for the affected COI Services. Furthermore, in any calendar month, Customer's combined Service Credits for any and all issues, including, without limitation, Network Latency, Data Delivery Rate, Service Interruptions, and Installation Delay Credits shall be no more than one (1) full MRC for the affected COI Services. The calculation of credits under this SLA are exclusive of any applicable taxes, fees, or surcharges charged to the Customer or collected by Cox. All claims for Service Credits must be initiated by the Customer and are subject to review and verification by Cox. Cox reserves the right to change or modify the SLA program rules and regulations at any time without notice. For the avoidance of doubt, Cox and Customer agree that Customer's sole and exclusive remedy for any COI Service Interruptions, installation delays, missed Data Delivery Rate, missed Network Latency, missed repair objectives, service degradations, or any other outages or issues related to the COI Services provided under the Agreement shall be strictly limited to the Service Credits or the Installation Delay Credit, as applicable, as set forth in this SLA.

Wide Area Network Leasing and Services Agreement

between

LightStream Networks, LLC

1021 Newington Circle

Forney, Texas 75126

and

Mustang Public Schools

909 South Mustang Road

Mustang, OK 73064

Dated February 12, 2024

LightStream

Wide Area Network Leasing and Services Agreement

This Wide Area Network Leasing and Services Agreement is entered into this 12th day of February 2024, between Mustang Public Schools (the "District") and LightStream Networks, LLC ("LSN").

Recitals

A. LSN is in the business of leasing Wide Area Network facilities ("WAN Facilities") and providing telecommunications and Internet access services to Mustang Public Schools and other customers.

B. Following a competitive bidding process, the District selected LSN as the most cost-effective provider of leased WAN Facilities to the District.

C. The District has received all approvals required by it to enter into this Agreement, under which LSN will lease WAN Facilities and provide to the District.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and LSN agree as follows:

1. WAN Facilities. LSN agrees to lease access to the WAN Facilities to the District, in accordance with the terms of this Agreement. The WAN Facilities and are more fully described in Schedule A attached hereto. For clarity, the WAN Facilities are owned by LSN, the WAN Facilities will continue to be owned by LSN following the expiration or termination of this Agreement, and the District has no option or other right to purchase or otherwise acquire the WAN Facilities from LSN.

2. Term. This Agreement will have is for a one (1) year term, starting on July 1, 2024, and ending on June 30, 2025, with four (4) separate one-year renewal options, which may be singularly exercised at any time prior to the termination of the Agreement currently in effect. If all renewal options are exercised, this Agreement would be extended through June 30, 2029. LSN acknowledges that this Agreement does not automatically renew and requires annual ratification by the District's Board of Education. District agrees to provide LSN with notice of a decision to not renew sixty (60) days prior to the end of the current Agreement.

3. E-Rate Program. If requested by the District, LSN will work together with the District to participate in the Schools and Libraries Program of the Universal Service Fund (the "E-Rate Program"), and in particular the parties will cooperate in maximizing the discounts available to the District under the E-Rate Program in respect of the WAN Facilities. However, notwithstanding the foregoing, the participation of the District in the E-Rate Program is not a condition to either party's obligations under this Agreement.

4. Change Orders. Any changes in the WAN Facilities, or any additional services to be provided by LSN to the District, will be set forth in a change order or other document signed by both the District and LSN.

5. Additional Sites: If the District elects to add future sites during the term of this Agreement, this Agreement will govern the terms of the additions and the future sites will be noted in an Addendum to this contract. All future sites will have a term consistent with Section 2 above. Sites added to this Agreement after the start date will have a term that is pro-rated in a manner consistent with the term of the Agreement at that time. The cost to the District will be actual cost of construction and installation; these costs are to be paid upon the completion of installation. Verification of these costs will be provided by LSN through the submission of invoices to the District. Each additional school will have monthly lease payment that is equal to the MRC of the original schools listed in Exhibit A of this Agreement ($1,250/month per school).

6. Delivery and Installation. LSN will deliver, install, configure, and maintain the WAN Facilities, and the parties agree to coordinate and cooperate to schedule, facilitate, and carry out all delivery, installation, configuration, and maintenance activities. Without limiting the generality of the foregoing, the parties agree as follows:

(a) Staging, Storage, and Access. During the installation of the WAN Facilities, the District agrees to provide LSN with (i) suitable staging and storage areas at District facilities for relevant equipment, materials, and components and (ii) such access to District facilities as may be necessary to efficiently carry-out the installation, as reasonably determined by LSN, provided that such access must be scheduled with the District in advance and, unless otherwise agreed by the District, must occur between 7:00 a.m. and 10:00 p.m. Monday through Saturday, excluding national holidays. District personnel may accompany LSN personnel during any installation work at any District facility.

(b) Substitute Materials. In the event that any materials or components of or relating to the WAN Facilities are not available for timely delivery and installation, LSN may substitute materials or components of equivalent or superior functionality and performance.

(c) Site Preparation. Prior to the installation of WAN Facilities, the District will clean and otherwise prepare all installation sites, and will continue to maintain those sites (but not, for clarity, the WAN Facilities) following such installation.

(d) Debris Removal. LSN will remove from installation sites all debris resulting from the installation of WAN Facilities, including as appropriate by moving such debris to trash receptacles maintained by the District. The District will be responsible for trash removal from such receptacles.

(e) Landscaping. LSN will restore all landscaping disturbed the LSN's installation, maintenance, or removal activities. The District will be responsible for landscape watering, including at restored landscaping sites.

(f) Non-WAN Facilities. The District is responsible for the installation, configuration, and maintenance of all facilities and components that are not WAN Facilities. At the District's request, LSN may install, configure, and maintain such facilities and components, subject to LSN's standard charges, terms, and conditions.

(g) Special Needs. If additional labor or materials are needed to install or maintain the WAN Facilities due to unusual site requirements or other special needs or characteristics of the District or its facilities, as reasonably determined by LSN, the District will reimburse LSN for any corresponding extra costs incurred by LSN to address those requirements, needs, or characteristics.

(h) Planning. Appropriate representatives of LSN and the District will meet approximately one month prior to the installation of the WAN Facilities, and otherwise as necessary, to formulate and finalize the installation methodology and configuration design for the WAN Facilities. The parties agree to work cooperatively and reasonably in this process.

(i) Deviations. If, prior to or during the installation process, LSN, in its reasonable judgment, deems it necessary or prudent to deviate from the final installation methodology and design in a material way, it will present such deviation to the District for its approval, which the District may not unreasonably withhold or delay; provided, however, that LSN reserves the right to make, without such approval, changes in fiber routing, conversion from underground to overhead configuration to avoid obstructions, and other immaterial modifications to the final installation methodology and design.

(j) Timeline. LSN and the District agree to the installation and configuration timeline set forth in Schedule B attached hereto. The District agrees to all reasonable extensions of the installation timeline necessitated by the actions or inactions of the District or otherwise resulting from circumstances beyond LSN's control.

(k) Maintenance. LSN is responsible for maintaining the WAN Facilities. The District agrees to provide LSN with such access to its facilities as may be necessary to efficiently carry out its maintenance activities, as reasonably determined by LSN, provided that, when practicable, (i) such access must be scheduled with the District in advance and (ii) unless otherwise agreed by the District, must occur between 7:00 a.m. and 10:00 p.m. Monday through Saturday, excluding national holidays. District personnel may accompany LSN personnel during any maintenance work at any District facility.

(l) Manuals. Where relevant, LSN will furnish to the District with applicable manuals and instruction documentation provided by manufacturers and vendors.

(m) Service Commencement Letter. Upon completion of the installation, the Customer will receive a Service Commencement Letter from LSN that states the fiber has been tested and is operational. This letter serves as a final confirmation of completed services.

7. Fees and Payment. The District will pay for the leased WAN Facilities in the amounts set forth on Schedule C attached hereto, and otherwise in accordance with Schedule C and this Section 7.

(a) Partial Fees. In the event that any fees are payable on a monthly basis (or otherwise on a regular schedule), the fee for any partial month (or other relevant period) will be pro-rated accordingly.

(b) Due Dates and Late Payment Charges. All fees will be paid no later than 30 days following the payment date specified on Schedule C, or if Schedule C does not specify a payment date, then no later than 30 days following the receipt by the District of an invoice from LSN. Late payments will incur a late payment charge of (i) 0.75% for every month or partial month that the payment is late or (ii) if less, the maximum late payment charge permissible under applicable law.

(c) Changes in WAN Facilities. If, pursuant to Section 4 above, the WAN Facilities are changed, or LSN provides any additional services to the District, the parties, acting reasonably, will agree on an appropriate adjustment or supplement to the fees set forth on Schedule C.

(d) Taxes and Additional Charges. All applicable federal, state, local use, excise, sales or privilege taxes, occupation taxes, duties, regulatory fees or similar liabilities charged to or against LSN or the District because of the services furnished by LSN shall be assessed to and paid by the District. The District shall be required to provide documentation evidencing it's exemption from any such taxes or fees.

8. District Agreements and Acknowledgements. The District agrees as follows:

(a) Adequacy of USAC Form 470 #240009097: The District acknowledges that the WAN Facilities meet the District's requirements.

(b) Security. The District is solely responsible for providing security services in respect of the WAN Facilities located at or on District facilities or properties. The District will provide such security services in a commercially reasonable manner, in light of all security considerations applicable to the relevant facility or property.

(c) Compliance with Law. The District represents and warrants that it will operate and use the WAN Facilities in compliance with all applicable law.

(d) District Personnel. The District will ensure that its personnel and contractors, at all times, (i) are educated and trained in the proper use and operation of the WAN Facilities (ii) follow applicable operations and instruction manuals.

(e) Electrical Circuits and Energy. The District will provide all electrical circuits and all electrical energy required for the installation and operation of the WAN Facilities.

(f) Authority; Non-Violation. The District represents and warrants that (i) this Agreement has been duly authorized, executed, an delivered by the District, and (ii) the execution, delivery, and performance of this Agreement do not and will not conflict with, breach, or otherwise violate any of the organizational or governing documents of the District or any agreement or instrument to which the District is a party or by which the District is bound.

(g) Insurance. The District will procure and maintain insurance policies covering all loss and damage in respect of the WAN Facilities located at facilities under the District's control, including without limitation all materials and components located at District facilities prior to, during, or after the installation process, with appropriate coverage limits and other terms and conditions. The District will cause such insurance policies (i) to name LSN as an additional insured, (ii) to be endorsed to require at least 30 days notice to LSN prior to the effective date of any termination or cancellation of coverage, and (iii) to provide that in the event of any payment of any loss or damage thereunder, the insurers will have no rights of recovery against LSN. Upon request by LSN, the District agrees to provide proof of insurance meeting the requirements of this Section 8(g).

9. LSN Warranties and Disclaimers. Subject in all cases to Section 17(i) below, LSN agrees as follows:

(a) Compliance with Law. LSN represents and warrants that it will comply with all applicable laws in installing and providing the WAN Facilities.

(b) Authority; Non-Violation. LSN represents and warrants that (i) this Agreement has been duly authorized, executed, an delivered by LSN, and (ii) the execution, delivery, and performance of this Agreement do not and will not conflict with, breach, or otherwise violate any of the organizational or governing documents of LSN or any agreement or instrument to which LSN is a party or by which LSN is bound.

(c) Non-Wan Facilities and Services. LSN makes no representation or warranty whatsoever regarding facilities and components that are not WAN Facilities. At the District's request, LSN agrees to work on behalf of the District to resolve warranty claims and other problems regarding such facilities and services, for a reasonable fee.

(d) WAN Facility Testing. LSN will verify in writing that all WAN Facilities are in good working order at the time of initial installation.

(e) Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, LSN DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE WAN FACILITIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Alterations and Attachments. The District may not make any alterations or attachments to the WAN Facilities without LSN's prior written consent. Unless agreed to in writing by LSN, LSN has no maintenance or other obligations whatsoever with respect to any alterations or attachments made to the WAN Facilities by the District. If LSN provides any maintenance or other services in respect of any such alterations or attachments, LSN will provide such services subject to its standard charges, terms, and conditions. LSN is not responsible for any malfunction, non-performance, or performances degradation of the WAN Facilities, or any inability of LSN to satisfy its obligations under this Agreement, caused by, or resulting directly or indirectly from, any alteration or attachment made to the WAN Facilities by the District, or any other action by the District. The District is solely responsible for, and agrees to indemnify LSN against, all claims and damages caused by, or resulting directly or indirectly from, any alteration or attachment made to the WAN Facilities by the District.

11. Termination. Either party may terminate this Agreement for cause by giving written notice to the other party, and this Agreement will be terminated immediately upon such notice, as follows:

(a) By LSN. As it relates to termination by LSN, "for cause" means (i) the District's failure or refusal to make any payment due to LSN hereunder within 10 days after the District receives written notice from LSN of such failure or refusal, (ii) the District's continuing failure or refusal to perform any other material obligation under this Agreement, subject to a reasonable cure period, or (iii) willful misconduct, embezzlement, or other illegal or unethical acts by the District.

(b) By the District. As it relates to termination by the District, "for cause" means (i) LSN's continuing failure or refusal to perform any material obligation under this Agreement, subject to a reasonable cure period or (ii) willful misconduct, embezzlement, or other illegal or unethical acts by LSN. "Material Obligation" is defined as failing to provide 99.9% uptime on the fiber connectivity with no less than a 2% reduction in signal strength as calculated from the initial fiber tests provided under 6(m). "Reasonable cure period" is defined at 48-hours from the date the trouble report is transmitted to LSN by the District unless the trouble/failure is related to occurrences of Force Majeure as defined by Paragraph (16) herein, at which time LSN and the District will coordinate to resolve the issue as quickly as possible. "Continuing Failure" is defined as three failures of a Material Obligation within a calendar quarter , excluding a Force Majeure occurrence.

For clarity, upon the termination of this Agreement for cause by LSN under Section 11(a) above, LSN will be entitled to recover as damages the remainder of the non-recurring charges as detailed and amortized on the below Deferred Capital Fee Schedule and pro-rated as to the balance of the current term.

If the Service Order is terminated in this month of the initial Term, the Deferred Capital Fee is:

Month 0-12: $999,995

Month 13-24: $799,996

Month 25-36: $599,997

Month 37-48: $399,998

Month 49-60: $199,999

12. Effect of Termination or Expiration: Upon the termination or expiration of this Agreement, LSN will have the right to remove any WAN Facilities located at facilities under the District's control, and the parties agree to cooperate in effecting any such removal by LSN, as LSN may reasonably direct. Notwithstanding the foregoing, following such termination or expiration, LSN may elect to leave in place any WAN Facilities located at facilities and properties under the District's control, and to use such WAN Facilities for other customers. In the event that LSN elects to so leave in place any WAN Facilities, the District agrees to provide LSN with continued access to District facilities for maintenance purposes, as described in Section 6(k) above.

13. Confidential Information. Each party acknowledges (a) that it will have access to confidential information of the other party, (b) that such information constitutes valuable, special, and unique property of the other party, and (c) that no right or license is granted to such party with respect to such information, except as specifically set forth in this Agreement. Each party agrees that it will not at any time, in any manner whatsoever, whether directly or indirectly, disclose to any person or entity, or use, any confidential information of the other party, except as required by law or as necessary for the performance or enforcement of this Agreement. For purposes of this Agreement, the term "confidential information" means all non-public and proprietary information of or concerning one party that is disclosed or made available to the other party (including its employees or other representatives), including, without limitation, the terms of and prices under this Agreement and any non-public information concerning a party's business, operations, plans, processes, products (including related manuals and support materials), systems, marketing information, diagnostics, specifications, know-how, personnel, patrons, students, or data of any kind. Each party will ensure that its employees and other representatives comply with the confidentiality obligations under this Agreement. Each party agrees that it will not copy the confidential information of the other party other than on an "as necessary" basis in connection with the performance or enforcement of this Agreement. Upon the request of other party, or upon the termination or expiration of this Agreement, each party agrees to return or destroy any confidential information of the other party in its possession. The parties acknowledge that remedies at law may be inadequate to protect against any actual or threatened breach of the confidentiality obligations under this Agreement, and, without prejudice to any other rights and remedies otherwise available, agree to the granting of injunctive relief without proof of actual damages. The parties agree that this Section 13 will survive the termination or expiration of this Agreement.

LightStream

14. Independent Contractor Status. In the performance of its duties under this Agreement, LSN occupies the position of an independent contractor with respect to the District. Nothing contained herein may be construed as making the parties hereto partners or joint venturers, or creating a principal and agent relationship. LSN has no authority to create any obligation or responsibility on behalf of, or in the name of, the District, or otherwise to bind the District in any way.

15. Notices. Any notice, demand, waiver, or consent under this Agreement must be in writing and delivered by facsimile (receipt confirmed), by prepaid registered or certified mail (with return receipt requested), or by a national overnight courier service, addressed as follows:

If to LSN:

LightStream Networks, LLC

Attn: Legal

1021 Newington Circle

Forney, TX 75126

If by overnight carrier:

LightStream Networks, LLC

1021 Newington Circle

Forney, TX 75126

LightStream

If to the District: Mustang Public Schools
Attn: _____
_____
_____

_____

Copy to:

All such notices, demands, waivers, and consents will be effective upon receipt or refusal of delivery, whichever occurs first. Either party may change its address or facsimile number for purposes of this Section 15 by giving notice to the other party in accordance with this Section 15.

16. Force Majeure. Neither party will be liable for the failure to fulfill its obligations under this Agreement if and to the extent such failure is caused by an occurrence beyond its reasonable control, including, without limitation: expropriation or confiscation of facilities, compliance with any order or decree of any governmental authority; acts of war or terrorism, floods or abnormal severe weather; riots, rebellion, or sabotage; fires or explosions; labor disputes, strikes, or other concerted acts of workmen; accidents or other casualty; and failures of utilities, local exchange carriers, cities, municipalities, and other political subdivision to follow laws, agreements, or contracts. Further, neither party will be liable for delays caused by the inaction of utilities, local exchange carriers, cities, municipalities, or other political subdivisions in granting access to rights of way, poles, or any other required items needed for the installation or operation of the WAN Facilities.

17. Miscellaneous.

(a) Waivers. Any failure or delay by either party in exercising any right or remedy under this Agreement will not constitute a waiver of that right or remedy. Any waiver by either party of any right or remedy under this Agreement must be in writing and signed by the party waiving the right or remedy.

(b) Governing Law. The laws of the state of Texas govern this Agreement, without regard to conflicts of law principles.

(c) Entire Agreement. This Agreement, including the schedules attached hereto, constitutes the entire contract between the parties with respect to the subject matter hereof, and supersedes any and all other prior agreements or understandings, written or oral, including any and all documents exchanged between the parties in any competitive bidding process for the WAN Facilities (or similar facilities and services).

(d) Amendments. Any amendment to this Agreement must be in writing and signed by both parties.

(e) Assignment. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party, which may not withhold or delay its consent unreasonably. Notwithstanding the preceding sentence, LSN may, without the District's consent, (i) assign its rights and obligations under this Agreement to an affiliate, (ii) assign its right to receive payments under this Agreement to any creditor, and (iii) assign its rights and obligations under this Agreement to an entity acquiring all or substantially all of LSN's assets. Any purported assignment prohibited by this provision will be null and void.

(f) Successors and Assigns. This Agreement is binding upon and inures to the benefit of the successors and permitted assigns of the parties to this Agreement.

(g) Headings. The headings contained in this Agreement are for convenience of reference only and may not be utilized in construing or interpreting this Agreement.

(h) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but which together will constitute but one and the same instrument.

(i) Limitations on Damages. LSN will not be liable to the other party for any indirect or consequential damages, including but not limited to, lost profits or business revenue, lost business, failure to realize expected savings, lost or damaged data, other commercial or economic loss of any kind, whether or not such damages are foreseeable by either party.

(j) Construction. This Agreement is to be construed as the joint and equal work product of each party, and may not be interpreted more or less favorably in respect of either party on account of its preparation or drafting.

(k) Delivery by Facsimile Transmission. This Agreement may be delivered by facsimile transmission of signed signature pages, with executed originals to follow by overnight courier or certified mail (return receipt requested).

(l) Severability. In the event that any term or provision of this Agreement is held invalid or unenforceable by any court having jurisdiction over this Agreement (i) the subject-matter or portion(s) of the Agreement ruled invalid or unenforceable and all necessarily-related provisions shall be addressed by the parties via an amendment ("Amendment") that shall substitute valid and enforceable provisions; and (ii) it will not affect the validity or enforceability of the remaining terms and provisions of this Agreement not otherwise addressed within the Amendment. In the event the parties cannot reach a mutually acceptable Amendment within 30 days of the final ruling of the highest court to which the matter is taken, the Agreement shall terminate retroactively as of the date of the last court's decision or as otherwise directed by the court.

(m) Waiver of Jury Trial. Each party waives trial by jury with respect to any dispute regarding or arising under this Agreement.

(n) Time Limit for Legal Actions. All legal action, regardless of its form, relating to or arising under this Agreement must be commenced within the requisite period of time required for such action under the Texas Statute of Limitations.

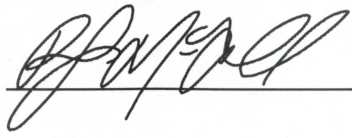
(o) Dispute Resolution. Each party agrees that, prior to taking any legal action, regardless of its form, relating to or arising under this Agreement, it will work in good faith with the other party in an effort to resolve the disputed matter.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the dates set forth below.

LightStream

LightStream Networks, LLC

Name: Robert McCall

Signature: 

Title: President

Date: 2/08/24

Mustang Public Schools

Name: _____

Signature: _____

Title: _____

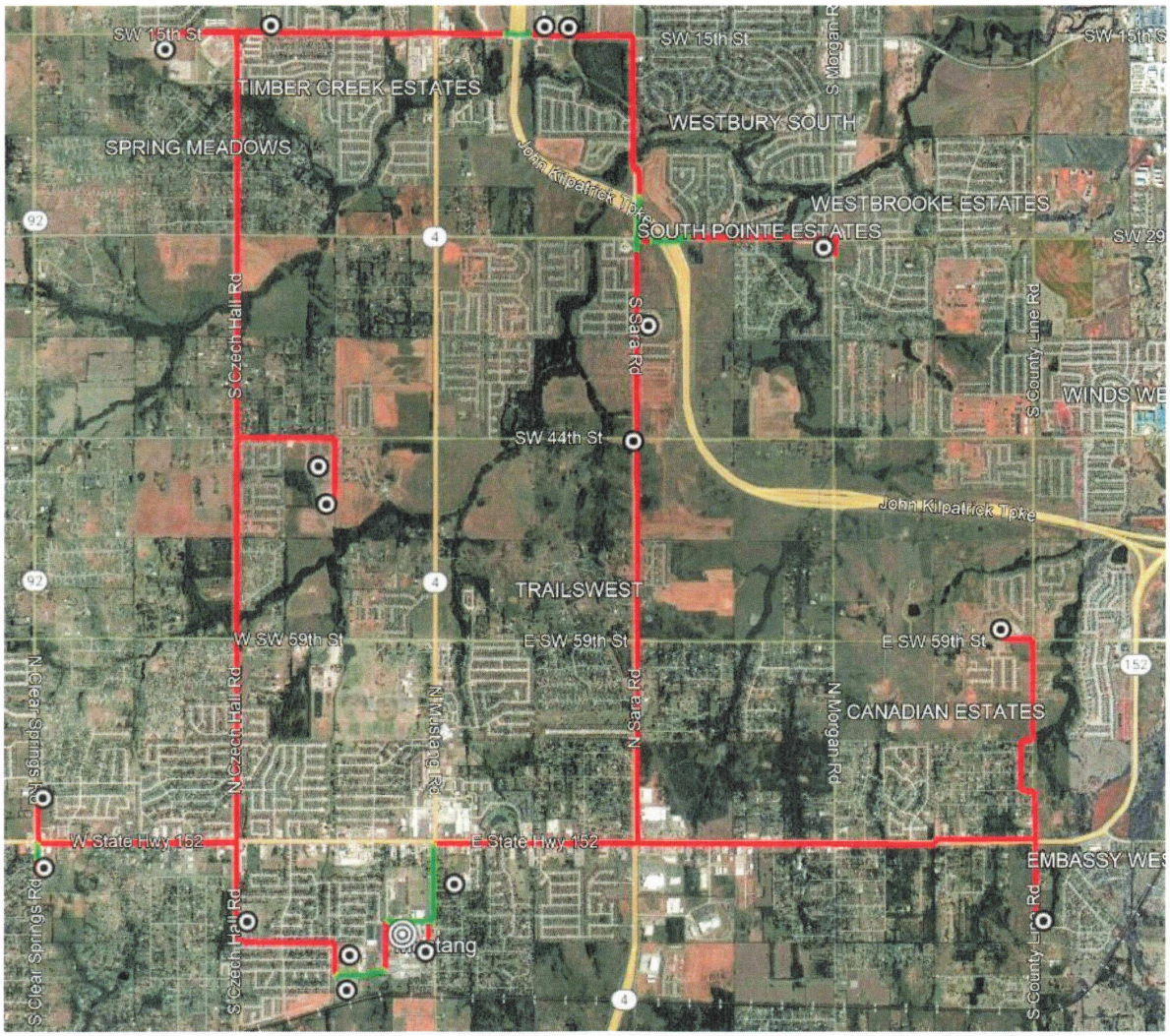
Date: _____

Schedule A – WAN Facilities

WAN Facilities:

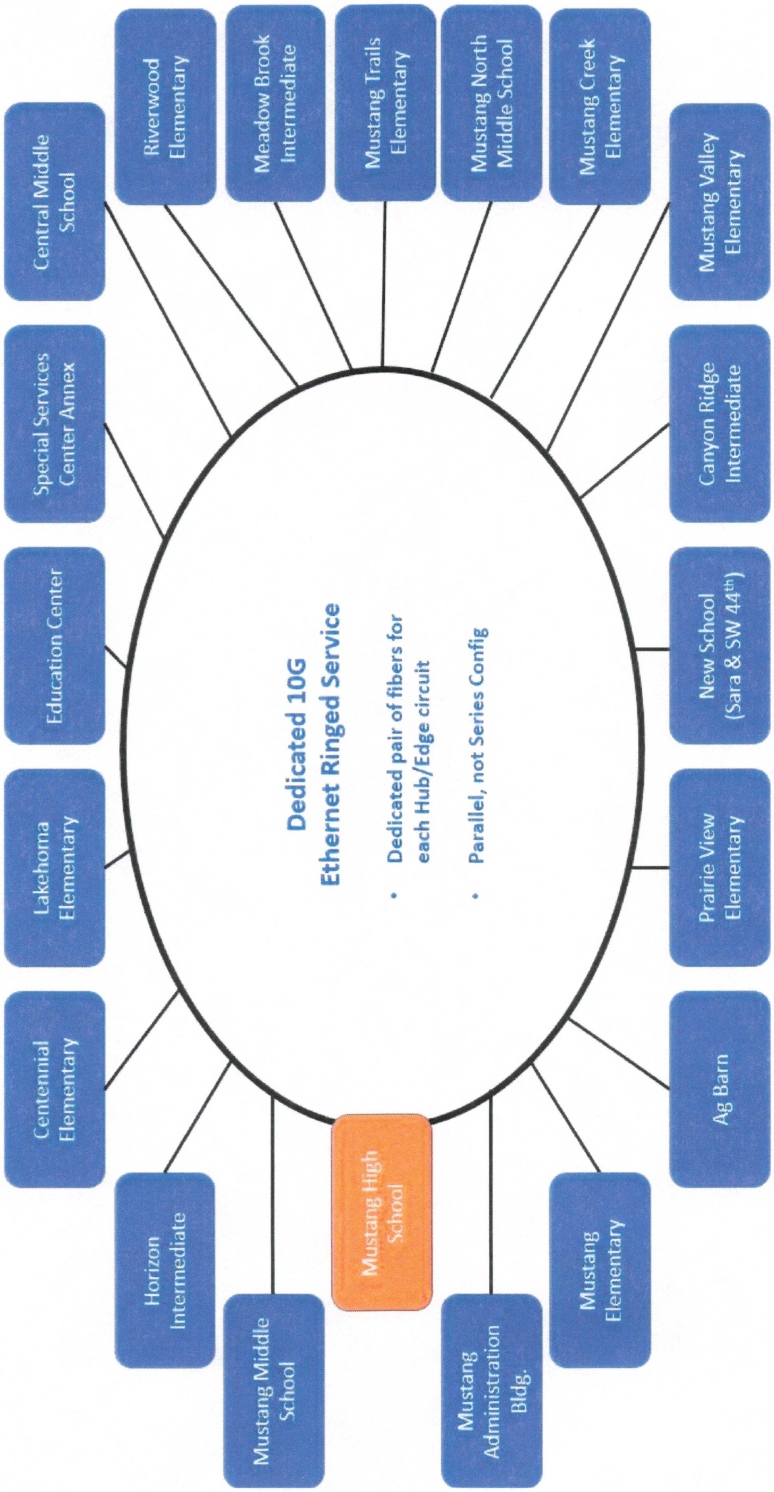
10G Ethernet bandwidth capacity over single-mode fiber optic cable to the following District locations (see maps below):

Canyon Ridge Intermediate	3600 S Sara Rd	Yukon	OK	73099
Centennial Elementary	700 Czech Hall Rd	Mustang	OK	73064
Central Middle Schools	11820 SW 44th St	Mustang	OK	73064
Mustang Creek Elementary	10821 SW 15th Street	Yukon	OK	73099
Mustang Education Center	400 Clear Springs Rd	Mustang	OK	73064
Horizon intermediate	430 W Forrester	Mustang	OK	73064
Mustang Public Schools (MERC)	909 S Mustang Rd	Mustang	OK	73064
Lakehoma Elementary	220 Clear Springs Road	Mustang	Ok	73064
Meadow Brook Intermediate	12500 SW 15th St	Yukon	ok	73099
Mustang Elementary	400 S Mustang Rd	Mustang	OK	73064
Mustang South Middle School	1145 S Heights Dr	Mustang	OK	73064
Mustang North Middle School	10901 SW 15th St	Yukon	OK	73099
Mustang High School	801 S Snyder	Mustang	OK	73064
Prairie View Elementary	9201 SW 59th Street	OKC	OK	73179
Riverwood Elementary	11800 SW 44th Street	Yukon	OK	73099
Mustang Trails Elementary	12025 SW 15th St	Yukon	OK	73099
Mustang Valley Elementary	3001 S Morgan Rd	Oklahoma City	OK	73099
Special Services Center Annex	120 Chisholm Trail Way	Mustang	OK	73064
Mustang High School -Ag Annex	8909 SW 80th	Oklahoma City	OK	73169
New Elementary #9	Sw 44th and Sara Rd	Oklahoma City	OK	73099


SW 15th St
TIMBER CREEK ESTATES
SPRING MEADOWS
SW 15th St
WESTBURY SOUTH
S Morgan Rd
John Kilpatrick Tpke
WESTBROOKE ESTATES
SOUTH POINTE ESTATES
S Czech Hall Rd
S Sara Rd
S County Line Rd
SW 44th St
John Kilpatrick Tpke
TRAILSWEST
W SW 59th St
E SW 59th St
E SW 59th St
N Clear Springs Rd
N Czech Hall Rd
N Mustang Rd
N Sara Rd
N Morgan Rd
CANADIAN ESTATES
W State Hwy 152
E State Hwy 152
S Clear Springs Rd
S Czech Hall Rd
S County Line Rd

LightStream

Logical Network Design:



LightStream

Schedule B – Installation Timeline

Anticipated delivery of service shall occur approximately 60 days after receiving written notification from the District of an affirmative FCDL, and the acquisition of all necessary permits, licenses pole attachment agreements and rights of way to complete the project.

Schedule C – Fees and Payment Schedule

Installation or Other Up-Front Fees

None

Monthly Fees

Monthly lease payments of $25,000 for a period of 12 months beginning upon the delivery of service.

Other Fees

All applicable taxes and fees, including and not limited to the following: federal, state, local use, excise, sales or privilege taxes, gross receipts, franchise, occupation taxes, duties, regulatory fees or similar liabilities shall be paid by the District in addition to the regular charges under this Agreement unless exempt per Section 7 (d) of this Agreement.

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, Chief Financial Officer

Date: February 12, 2024

Contract Vendor: IntraFi Network / OLAP / Nexbank **Time Frame:** Starting February 13, 2024

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

This agreement is with IntraFi Network Deposits, serviced by the Bank of New York Mellon. The processing will be managed by OLAP through a sub-agreement with Nexbank.

The IntraFi Network system is the parent organization of IntraFi Cash Services and the Insured Cash Sweep (ICS) Service.

ICS allows us to electronically invest funds on a next-day-liquid basis in banks across the country. The IntraFi system ensures that no deposit in a single bank exceeds the FDIC Insurance limit of $250,000, which meets the asset security requirements mandated by Oklahoma Statute.

This agreement will allow us to transfer funds through OLAP to maximize our interest earnings.

IntraFi Network Deposits | Formerly CDARS® and ICS® deposit products

IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

You, the undersigned, enter into this IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

Nexbank

This Agreement states the terms and conditions on which we will endeavor to place deposits for you at other financial institutions through the DDA-MMDA Option of IntraFi℠ Network Deposits℠. IntraFi Network Deposits is a product of IntraFi Network LLC ("*IntraFi*") that encompasses services for placing deposits at depository institutions.

This Agreement is an amended version of the ICS Deposit Placement Agreement ("*ICS DPA*"). The DDA-MMDA Option of IntraFi Network Deposits ("*DDA-MMDA Option*") is the deposit placement functionality formerly known as part of ICS®, the Insured Cash Sweep® service. IntraFi is the entity formerly known as Promontory Interfinancial Network, LLC.

During a branding transition period, you may see references to ICS on statements or other documents. These references are to the DDA-MMDA Option of IntraFi Network Deposits.

1. Deposit Placement

1.1. IntraFi Network Deposits DDA-MMDA Option

(a) **Schedule 1** describes the procedure by which we will place deposits for you through the DDA-MMDA Option. **Schedule 2** includes descriptions of the account type and placement feature that we will use.

(b) Each depository institution at which we place deposits for you through the DDA-MMDA Option ("*Destination Institution*") will be one at which deposit accounts are insured by the Federal Deposit Insurance Corporation ("*FDIC*") up to the FDIC standard maximum deposit insurance amount ("*SMDIA*") of $250,000.

(c) Subject to the terms and conditions of this Agreement, when we place deposits in a deposit account at a Destination Institution for your funds placed through the DDA-MMDA Option ("*Deposit Account*"), the amount of our outstanding placements for you at the Destination Institution through the DDA-MMDA Option and through the CD Option of IntraFi Network Deposits, which is the deposit placement functionality formerly known as part of CDARS®, the Certificate of Deposit Account Registry Service®, will not exceed $250,000.

(d) The Bank of New York Mellon ("*BNY Mellon*") provides services that support deposit placement through the DDA-MMDA Option. BNY Mellon's services include acting as our sub-custodian and settlement agent.

(e) You must be capable of using, and you agree to use, the Depositor Control Panel ("*DCP*"), an online tool, to review provisional allocations of deposits and for other purposes. You also agree to receive notices that may be posted on the DCP or sent to you by email.

1.2. Deposit Accounts

(a) Deposits that we place for you in Deposit Accounts will be "deposits," as defined by federal law, at the Destination Institutions.

(b) Each Deposit Account, including the principal balance and the accrued interest, will be a deposit obligation solely of the Destination Institution at which it is held. It will not be a deposit obligation of us or of IntraFi, BNY Mellon, or any other person or entity.

2. Your Relationship With Us

2.1. Agency and Custodial Relationship

(a) We will act as your agent in placing deposits for you through the DDA-MMDA Option. Under a separate agreement with you that grants us custodial powers ("*Custodial Agreement*"), we will also act as your custodian for the Deposit Accounts.

(b) Each Deposit Account will be recorded (i) on the records of the Destination Institution in the name of BNY Mellon, as our sub-custodian, (ii) on the records of BNY Mellon in our name, as your custodian, and (iii) on our records in your name. The recording will occur in a manner that permits the Deposit Account to be FDIC-insured to the same extent as if it were recorded on the records of Destination Institution in your name.

(c) For purposes of Article 8 of the Uniform Commercial Code, we will act as your securities intermediary for, and will treat as financial assets, the Deposit Accounts and all your security entitlements and

other related interests and assets with respect to the Deposit Accounts, and we will treat you as entitled to exercise the rights that constitute the Deposit Accounts.

(d) All interests that we hold for the Deposit Accounts will be held by us only as your securities intermediary and will not be our property. You will be the owner of the funds in the Deposit Accounts and any interest on those funds.

2.2. Termination of Custodial Relationship

(a) Either you or we may terminate the custodial relationship between you and us at any time. You may not transfer the Deposit Accounts to another custodian, but you may dismiss us as your custodian for a Deposit Account and request that it be recorded on the records of the Destination Institution in your name.

(b) We will endeavor to cause any request from you pursuant to Section 2.2(a) to be promptly forwarded to the Destination Institution. Each Destination Institution has agreed that it will promptly fulfill any such request, subject to its customer identification policies and other account opening terms and conditions.

(c) If a Deposit Account has been recorded on the records of a Destination Institution in your name pursuant to this Section 2, you will be able to enforce your rights in the Deposit Account directly against the Destination Institution, but we will no longer have any custodial responsibility for it and you will not be able to enforce any rights against the Destination Institution through us.

(d) If we were to become insolvent, our receiver or other successor in interest could transfer custody of the Deposit Accounts, and our rights and obligations under this Agreement, to a new custodian. Alternatively, you could exercise your right to have the Deposit Accounts recorded on the records of the Destination Institutions in your name pursuant to this Section 2.

3. Custodial Account and Interest Rate

3.1. Custodial Account

(a) As your custodian, we will open on our records, either directly or with the assistance of BNY Mellon, a custodial account in which we will hold your interests in the Deposit Accounts ("*Custodial Account*"). We may permit you to have multiple Custodial Accounts.

(b) On the signature page of this Agreement, you will enter a unique alphanumeric identifier for you ("*Depositor Identifier*"), which will be associated with the Custodial Account. You will enter as your Depositor Identifier your federal taxpayer identification number ("*TIN*"), unless you do not have a TIN, in which case you will enter an alternate identifier that we approve.

(c) If you use an alternate identifier, you must use the same alternate identifier for all placements of deposits for you, by us or by any other financial institution, through the DDA-MMDA Option or through the CD Option of IntraFi Network Deposits. If you later obtain a TIN, you must promptly report it to us and to any such other institutions, and we may use it as your Depositor Identifier.

3.2. Interest Rate

(a) The interest rate for the Deposit Accounts at Destination Institutions on any day will be the then-current rate that we specify, which may be any rate (including zero) and which we may modify at any time ("*Interest Rate*"). Through your continued participation in the DDA-MMDA Option, you accept each applicable Interest Rate.

(b) If we permit you to have more than one Custodial Account, we may specify a different Interest Rate for each Custodial Account.

(c) Payment of the full amount of all accrued interest on a Deposit Account at a Destination Institution will be solely the responsibility of the Destination Institution. Neither we nor any other person or entity will be indebted to you for such payment.

4. Placement Procedures

4.1. Account Type, DDA-MMDA Option Settlement, and Statements

(a) Settlement of payments to and from participating institutions in the DDA-MMDA Option through BNY Mellon that includes the type of deposits we place for you ("*DDA-MMDA Option Settlement*") will occur each day that is not a Saturday, a Sunday, or another day on which banks in New York, New York, are authorized or required by law or regulation to close ("*Business Day*").

(b) You may confirm through the DCP (i) the aggregate principal balance in the Deposit Accounts ("*Program Balance*") and (ii) the principal balance and accrued interest at each Destination Institution as of the preceding Business Day or, after DDA-MMDA Option Settlement-related processing, as of that Business Day.

(c) We will provide you with periodic account statements that include, as of the end of the statement period, your Program Balance, your principal balance at

each Destination Institution, the total interest you have earned on the Deposit Accounts during the period, and the rate of return you have earned on the daily average closing principal balance for the period ("*Statement Period Yield*").

(d) The account information available on the DCP as described in Section 4.1(b), and the periodic statements described in Section 4.1(c), will be the only evidence that you receive of your ownership of the funds. You should retain the account statements.

4.2. Triggering Events

(a) Schedule 1 sets forth events for triggering a transfer of funds from a root account with us that contains your funds ("*Root Account*") to the Deposit Accounts at DDA-MMDA Option Settlement ("*Program Deposit*") or a transfer of funds from the Deposit Accounts to the Root Account at DDA-MMDA Option Settlement ("*Program Withdrawal*").

(b) An event for triggering a Program Deposit or a Program Withdrawal ("*Triggering Event*") will be any such event described in Schedule 1.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement after you were given notice of amendment, the content of Schedule 1 to this Agreement is the same as the content of Schedule 1 to the version you signed, subject to the following changes:

(i) "ICS" is changed to "the DDA-MMDA Option of IntraFi Network Deposits."

(ii) "Transaction Account," if it appears, is changed to "Root Account."

4.3. Program Deposits

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.3(b), a Triggering Event for a Program Deposit will result in a transfer of funds to the Deposit Accounts at DDA-MMDA Option Settlement the *next* Business Day ("*Regular Program Deposit*").

(b) Schedule 1 states whether a transfer of funds to the Deposit Accounts at DDA-MMDA Option Settlement on the *same* Business Day ("*Same-Day Program Deposit*") is available and, if so, the cutoff time for you to request a Same-Day Program Deposit ("*Same-Day Deposit Cutoff Time*"). If so stated, a request that we receive and accept before the Same-Day Deposit Cutoff Time will be a Triggering Event for a Same-Day Program Deposit.

(c) We may impose a maximum Program Balance amount for deposits that we place for you through the DDA-MMDA Option and will inform you of any such amount we impose. Even if a Triggering Event for a Program Deposit occurs, we may choose not to transfer the amount to the Deposit Accounts if it would cause the Program Balance to exceed the maximum. In addition, we may choose not to transfer to the Deposit Accounts an amount that we have credited to the Root Account, but have not yet collected from a third party.

4.4. Program Withdrawals

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.4(b), a Triggering Event for a Program Withdrawal will result in a transfer of funds from the Deposit Accounts at DDA-MMDA Option Settlement the *next* Business Day ("*Regular Program Withdrawal*").

(b) Schedule 1 states whether the transfer of funds from your Deposit Accounts at DDA-MMDA Option Settlement on the *same* Business Day ("*Same-Day Program Withdrawal*") is available and, if so, the cutoff time for you to request a Same-Day Program Withdrawal ("*Same-Day Withdrawal Cutoff Time*"). If Section 1 so states, a request that we receive and accept before the Same-Day Withdrawal Cutoff Time will be a Triggering Event for a Same-Day Program Withdrawal.

4.5. Withdrawal Advances; Security Interest

(a) If Schedule 1 states that we will advance funds to you in anticipation of a Program Withdrawal, or if we otherwise decide in our discretion to advance funds to you in anticipation of a Program Withdrawal, you will owe the amount of these funds to us and we will retain from the funds we receive at DDA-MMDA Option Settlement the amount we have advanced to you.

(b) With respect to any amount that you owe to us pursuant to Section 4.5(a):

(i) you grant us, and acknowledge that we have, a security interest in, and a lien on, the Deposit Accounts, related security entitlements, and other related interests and assets that we may hold for you as custodian and securities intermediary pursuant to the Custodial Agreement for the amount that you owe to us,

(ii) if a Destination Institution fails before a Program Withdrawal is completed, we may retain the amount of the Program Withdrawal from the proceeds of your FDIC insurance claim to satisfy the amount that you owe to us, and

(iii) to the extent that the amount that you owe to us is not satisfied from the interests and assets we are holding for you pursuant to the Custodial Agreement, or from the proceeds of any FDIC insurance claim, the amount remains owed by you to us and is payable on demand.

(c) If, in a separate agreement, you have granted us a security interest in the Deposit Accounts or in any security entitlements or other interests or assets relating to the Deposit Accounts as collateral for a loan to you or otherwise, we may decline to honor a request for a Program Withdrawal, or decline to honor a debit transaction in the Root Account that would trigger a Program Withdrawal or be funded by a Program Withdrawal, to the extent the Program Withdrawal would cause your Program Balance to fall below the loan amount or other amount that you have agreed to maintain in the Deposit Accounts or to which the security interest applies. If, in a separate agreement, you have granted us a security interest in the Root Account, we also may decline to honor transactions in the Root Account in accordance with the separate agreement.

4.6. Account Type and Withdrawal Limit, If Any

(a) Deposits that we place for you through the DDA-MMDA Option at a Destination Institution will be placed in a Deposit Account that is a demand deposit account ("*DDA*") or a Deposit Account that is a money market deposit account ("*MMDA*"), as provided in Section 1 of Schedule 2.

(b) Section 1 of Schedule 2 provides (i) that we will place deposits for you in DDAs, (ii) that we will place deposits for you in MMDAs, or (iii) that we may place deposits for you in DDAs or MMDAs.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, the following applies:

(i) If the version you signed provided that we would place deposits for you in DDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in DDAs."

(ii) If the version you signed provided that we would place deposits for you in MMDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in MMDAs."

(iii) If the version you signed provided that we might place deposits for you in DDAs or MMDAs, Section 1 of Schedule 2 is deemed to state: "We may place deposits for you in DDAs or MMDAs."

(d) Section 1 of Schedule 2 also provides, if MMDAs will or may be used, (i) that an MMDA Program Withdrawal limit of six per month applies or (ii) that no MMDA Program Withdrawal limit applies.

(e) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, and if the version you provided that MMDAs would or might be used, the following applies:

(i) If the version you signed provided that an MMDA Program Withdrawal limit would apply and we have not informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, in addition to the statement given in Section 4.6(c), "You may use up to six MMDA Program Withdrawals per month."

(ii) If the version you signed provided that an MMDA Program Withdrawal limit would not apply or we have informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, in addition to the statement given in Section 4.6(c), "No MMDA Program Withdrawal limit applies."

(f) If a Program Withdrawal limit applies and you exceed the six permitted Program Withdrawals from MMDAs in a month:

(i) We may (A) transfer all the remaining funds in the MMDAs to the Root Account associated with the Custodial Account for the MMDAs or (B), if you also have a Custodial Account for DDA deposits, transfer all the remaining funds in the MMDAs to the Custodial Account for DDA deposits.

(ii) In subsequent months we may effect either such transfer at the time of your sixth Program Withdrawal.

(g) If you exceed the six permitted Program Withdrawals from MMDAs in multiple months, we may also make the Custodial Account for the MMDAs ineligible for Program Deposits.

5. Placement Feature

5.1. Reciprocal and One-Way

(a) If we are an FDIC-insured depository institution, we are eligible to use a feature of the DDA-MMDA Option in which, when we place deposits, we receive matching deposits placed by other participating institutions in the DDA-MMDA Option and may pay a fee to IntraFi ("*Reciprocal Feature*").

(b) Whether or not we are eligible to use the Reciprocal Feature, we are eligible to use a feature of the DDA-MMDA Option in which, when we place deposits, we do not receive matching deposits, but we and IntraFi may receive fees from Destination Institutions ("*One-Way Feature*").

(c) Section 2 of Schedule 2 provides (i) that we may use either the Reciprocal Feature or the One-Way Feature, (ii) that we will use only the Reciprocal Feature, or (iii) that we will use only the One-Way Feature.

(d) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, the following applies:

(i) Section 2 of Schedule 2 is deemed to provide that we may use either the Reciprocal Feature or the One-Way Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we might use either ICS Reciprocal or ICS One-Way was checked.

(ii) Section 2 of Schedule 2 is deemed to provide that we will use only the Reciprocal Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we would use only ICS Reciprocal was checked.

(iii) Section 2 of Schedule 2 is deemed to provide that we will use only the One-Way Feature if Schedule 4 to the version that you signed contained no check boxes regarding the use of ICS Reciprocal or ICS One-Way.

5.2. Placement Feature and Rate

(a) Interest on the Deposit Accounts will be earned at the specified Interest Rate regardless of whether the Reciprocal Feature or the One-Way Feature is used.

(b) When the Reciprocal Feature is used, the fee paid to IntraFi may affect rate determination. When the One-Way Feature is used, fees paid by Destination Institutions, or cost-of-funds rates for Destination Institutions, may affect rate determination.

(c) If we are eligible to use the Reciprocal Feature, and you authorize us to use either the Reciprocal Feature or the One-Way Feature, we may use a feature with greater benefits to you, to us, or both.

5.3. Placement Requirements

(a) Under the laws of some states, governmental units may submit deposits for placement through a deposit placement network only if the placing institution is located in the state and receives matching deposits of an equal maturity, if any, and an equal amount.

(b) If you are a state governmental unit, or if you are otherwise subject to restrictions on the placement of deposits for you, you are responsible for determining whether deposit placement in accordance with this Agreement satisfies any applicable restrictions.

6. Daily Allocation and Depositor Control

6.1. Daily Allocation; Review and Consent

(a) The DDA-MMDA Option process for allocating Program Deposits, Program Withdrawals, and funds already on deposit reflects various considerations, including the need for certain Destination Institutions to receive deposits in amounts that they have placed for their own customers and possible limits on the amounts that an institution is authorized to place or a Destination Institution has agreed to receive. Applicable deposit amounts may change from day to day. Accordingly, the allocation of funds takes place each Business Day.

(b) The set of Destination Institutions to which your funds on deposit are allocated on a Business Day, and the amount allocated to each Destination Institution, may differ from a previous Business Day's allocation. A different allocation may involve the movement of funds from one Destination Institution to another Destination Institution, even though you do not have a Program Deposit or a Program Withdrawal. Such movements of funds will not affect the Interest Rate.

(c) You exercise control over the allocation of your funds through direct contact with us and through the DCP. You are responsible for reviewing the important information we provide you through the DCP, including information regarding proposed allocations that we provide each Business Day. In addition, on request at any time, we will provide you with a list of all Destination Institutions.

(d) Although we will not allocate your funds to Destination Institutions that you exclude or reject as set forth below, you authorize and consent to the allocation of your funds at Destination Institutions that you approve, or do not exclude or reject, as set forth below.

6.2. Destination Institution Exclusions

(a) You may enter the name of any depository institution on a list of exclusions from eligibility to receive deposits we place for you through the DDA-MMDA Option ("*Exclusions List*").

(b) We may ask you to provide your initial Exclusions List by entering exclusions in Section 3(c) of Schedule 2 or by giving us notice of your Exclusions List in another manner we specify.

(c) If you signed a previous version of this Agreement identified as an ICS DPA and became a party to this amended version of the Agreement as a result of having been given notice of amendment, your Exclusions List will include any depository institutions you included in your List of Exclusions in the ICS DPA unless you have subsequently removed them.

(d) An Exclusions List will be effective within one Business Day after the first Business Day on which we have received the Exclusions List from you.

(e) You may add to or subtract from your Exclusions List by giving us notice in a manner we specify. If you add an exclusion in this manner, the new exclusion will be effective within one Business Day after the first Business Day on which we have received the notice from you.

6.3. Depositor Control Panel

(a) IntraFi will assist us in providing the DCP. The address of the Depositor Control Panel is https://www.depositorcontrol.com.

(b) You represent that you have a computer with Internet access, an e-mail address, the ability to download and print information from the DCP, and the knowledge and experience to use an online tool for DCP functionality. In addition, you acknowledge that you must obtain and maintain all equipment and services necessary for access to the DCP.

(c) To access the DCP, you will be required to enter your login credentials. Your initial user name will be the account number for the Root Account or such other user name as we specify. Your initial password will be the last four characters of the Depositor Identifier entered for the sole or primary Depositor on the signature page of this Agreement.

(d) You will also be required to enter the email address you have provided to us. We will separately advise you of any additional steps required of you by security controls.

6.4. Depositor Placement Review

(a) Each Business Day, your aggregate principal balance that will be in Deposit Accounts after that day's DDA-MMDA Option Settlement will be provisionally allocated to Destination Institutions. The amount allocated will reflect your Program Balance as of the last DDA-MMDA Option Settlement, plus any Program Deposit that will occur at the day's DDA-MMDA Option Settlement, minus any Program Withdrawal that will occur at the day's DDA-MMDA Option Settlement. The allocation may provide that previously-deposited funds will be removed from a Destination Institution and deposited in another Destination Institution.

(b) After the provisional allocation occurs on a Business Day, but before allocation becomes final at DDA-MMDA Option Settlement, Depositor Placement Review ("*DPR*") will occur through the DCP. Even if a Destination Institution is not on your Exclusions List, the final allocation that day will not allocate your funds to the Destination Institution if you reject it during DPR through the DCP. Your rejection of a Destination Institution will be effective only if you submit it before DPR ends.

(c) The DPR period each Business Day will be as follows: 3:00 PM to 3:15 PM Eastern time. Daylight Saving Time applies when nationally in effect. We may change the DPR period by posting notice on the DCP in advance of the change.

(d) In DPR, you will see a list of Destination Institutions to which your funds are proposed to be allocated at DDA-MMDA Option Settlement later that day ("*Proposed Placement List*"), reflecting the provisional allocation of all your funds, including funds that will be moved from one Destination Institution to another Destination Institution. The Proposed Placement List will include the principal balance allocated to each Destination Institution. If you review

the Proposed Placement List, and you click the approval button or you do not reject any of the Destination Institutions on the list, you will be approving the allocation and your funds will be allocated in accordance with the list.

(e) If you reject any of the Destination Institutions on the Proposed Placement List, you will be approving allocation to Destination Institutions on the list that you do not reject. After entering rejections, if sufficient time remains in DPR, you will have the opportunity to review a list of other Destination Institutions to which your funds could be allocated ("*Alternate Placement List*"). If you click the approval button for the Alternate Placement List, or you do not reject any of the Destination Institutions on it, you will be approving the allocation of your funds to any of the listed Destination Institutions. If you reject any of the Destination Institutions on the Alternate Placement List, you will be approving allocation to listed Destination Institutions that you do not reject. Your funds may be allocated to any combination of Destination Institutions on the Proposed Placement List and the Alternate Placement List that you do not reject.

(f) If the provisional allocation on a Business Day would result in funds of yours currently at a Destination Institution being moved to another Destination Institution and you reject the other Destination Institution in DPR that Business Day, the funds will not necessarily remain at the first Destination Institution. The funds will be allocated to a Destination Institution that you do not reject or returned to the Root Account.

(g) A Destination Institution that you reject in DPR will also be added to your Exclusions List, for purposes of future allocations, within one Business Day after the Business Day on which you submit the rejection.

(h) We do not guarantee that all your funds will be allocated to Destination Institutions on any particular day, even if they were allocated to Destination Institutions on a previous day. Exclusions and rejections of Destination Institutions may increase the chance that funds will not be allocated. If funds not yet transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will remain in the Root Account. If funds previously transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will be returned to the Root Account.

7. FDIC Insurance Considerations

7.1. Deposit Insurance Coverage

(a) You may obtain information about FDIC deposit insurance coverage by visiting the FDIC website at www.fdic.gov or by contacting the FDIC by letter, email, or telephone.

(b) All of your deposits at a Destination Institution in the same insurable capacity (whether you are acting directly or through an intermediary) will be aggregated for the SMDIA. You should add to your Exclusions List any depository institution at which you have other deposits in the same insurable capacity. Insurable capacities include, among others, individual accounts and joint accounts.

(c) You are responsible for determining whether deposits we place for you are maintained in separate insurable capacities. Separate divisions within a corporate entity are not eligible for separate insurance coverage, and a separate TIN or other Depositor Identifier does not establish a separate insurable capacity.

(d) We will use the Depositor Identifier to identify you, and we will place deposits for you on the understanding that you are not submitting deposits for placement under more than one Depositor Identifier in the same insurable capacity.

(e) The requirements for FDIC deposit insurance coverage of the deposits of governmental units, including the United States government, state and local governments, the District of Columbia, and the Commonwealth of Puerto Rico, are set forth in FDIC regulations. If you are a governmental unit, you are responsible for determining whether the requirements for deposit insurance have been met. We are not responsible for losses resulting from the placement of deposits that are not eligible for FDIC deposit insurance.

(f) Records that we maintain, or that BNY Mellon maintains for us, reflecting ownership of the Deposit Accounts will be used to establish your eligibility for deposit insurance coverage. Accordingly, you must immediately report to us any changes in ownership information so that there will be accurate information to provide to the FDIC if a Destination Institution fails and the FDIC pays its insured deposits by cash payment. The FDIC could also require you to provide additional documentation.

7.2. Responsibility to Monitor Deposits; Available Information

(a) You are responsible for monitoring the total amount of your funds at each Destination Institution in each insurable capacity to determine the extent of FDIC deposit insurance coverage available to you for deposits at that Destination Institution. You should confirm that each placement of your funds at Destination Institutions is consistent with your exclusions and rejections.

(b) You can obtain publicly available financial information on Destination Institutions from the National Information Center of the Federal Reserve System at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

7.3. Uninsured Deposits

(a) Although we will not place a deposit for you through the DDA-MMDA Option at any one Destination Institution in an amount that exceeds the SMDIA, a deposit that we place for you will not be eligible for FDIC insurance coverage at a Destination Institution before it becomes a deposit at the Destination Institution or after it is withdrawn from the Destination Institution.

(i) If we are an FDIC-insured depository institution and the Root Account is eligible for FDIC insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the SMDIA of $250,000.

(ii) If we are a credit union the share accounts of which are insured by the National Credit Union Administration ("*NCUA*") and the Root Account is a share account with us that is eligible for NCUA insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the NCUA standard maximum share insurance amount of $250,000.

(iii) If we are not an FDIC-insured depository institution or the Root Account is not eligible for FDIC insurance coverage, a deposit in the Root Account will not be FDIC-insured. If we are not an NCUA-insured credit union or the Root Account is not eligible for NCUA insurance coverage, a deposit in the Root Account will not be NCUA-insured.

(b) If you cannot accept the risk of having a deposit with us that is not fully insured, you will be responsible for making arrangements with us, if we offer them, to have the deposits collateralized, protected by a properly-executed repurchase sweep arrangement, or otherwise adequately protected, in a manner consistent with applicable law. You should consult your legal advisor to determine whether a collateralization arrangement is consistent with applicable law.

(c) If you cannot accept the risk of having a deposit with us that is not fully insured, and we do not offer arrangements of the kind described in Section 7.3(b) or we offer them but you do not make such arrangements with us, you should not submit deposits for placement through the DDA-MMDA Option.

7.4. Deposit Insurance Payments

(a) In case of the liquidation of, or other closing or winding up of the affairs of, an insured depository institution, the FDIC is generally required by law to pay each insured deposit "as soon as possible," either by cash payment or by transferring the deposit to another insured depository institution. It is possible, however, that an insurance payment could be delayed. Neither we nor any other person or entity will be obligated to advance funds to you with respect to an insurance payment or to make any payment to you in satisfaction of a loss you might incur as a result of a delay in an insurance payment.

(b) If a Destination Institution at which we place deposits for you is closed and the FDIC does not transfer deposits that include your funds to another insured depository institution, but will make a deposit insurance cash payment, we will cause a deposit insurance claim for your funds to be filed with the FDIC, and we will credit to you the proceeds of the deposit insurance claim that we receive for your funds, subject to any valid security interest.

(c) If the FDIC makes a deposit insurance cash payment for a Deposit Account at a closed Destination Institution, the FDIC is required by law to pay the principal amount plus unpaid accrued interest to the date of the closing of the Destination Institution, as prescribed by law, subject to the SMDIA. No interest is earned on a Deposit Account at a Destination Institution after it closes.

(d) If the FDIC transfers the deposits of a closed Destination Institution to another insured depository institution, the acquiring institution may assume a Deposit Account. The acquiring institution may change the rate at which it pays interest on the assumed Deposit Account, subject to your right to withdraw the funds.

8. Additional Considerations

8.1. Compare Rates

(a) We are not acting as your investment advisor, and we are not advising you about alternative investments. You are responsible for comparing the rates of return and other features of the Deposit Accounts to other available deposit accounts and other kinds of investments before choosing placement through the DDA-MMDA Option.

(b) The Interest Rate may be higher or lower than a cost-of-funds rate for a Destination Institution, an interest rate for another customer, or interest rates on comparable deposits available directly from us, from the Destination Institutions at which the Deposit Accounts are held, from other Destination Institutions, or from insured depository institutions that are not Destination Institutions.

8.2. Allocation Considerations

(a) The DDA-MMDA Option allocation process is subject to applicable law and may be affected by our objectives, IntraFi's objectives, or both, including administrative convenience, reduction of costs, and enhancement of profits.

(b) Participating institutions in the DDA-MMDA Option service may make compensatory payments resulting in payments to other participating institutions, or receive compensatory payments resulting from payments by other participating institutions, including compensatory payments that reflect the difference between an interest rate for deposits placed by an institution and a rate at which the receiving institution would otherwise pay interest.

8.3. Mutual Institution Rights

(a) Your funds may be placed in a Deposit Account at a Destination Institution that is in the mutual form of organization. Such a Deposit Account will be recorded on the records of the mutual institution in the name of the sub-custodian and not in your name. The sub-custodian will not attend or vote at any meeting of the depositor members of a mutual institution, or exercise any subscription rights in a mutual institution's mutual-to-stock conversion, either on its own behalf or on your behalf.

(b) If we receive from the sub-custodian notice of a meeting of depositor members of a mutual institution or other materials or information relating to a mutual institution's mutual-to-stock conversion, we may forward such notice, materials, or information to you. If you wish to receive such notice, materials, or information directly from the mutual institution, or if you wish to attend or vote at any meeting of the depositor members of the mutual institution or receive subscription rights, you must, before the applicable record date (a date that is usually at least one year before the mutual institution's board of directors adopts a plan of conversion), dismiss us as your custodian and have the Deposit Account recorded on the records of the mutual institution in your name pursuant to Section 2.2.

9. Other Provisions

9.1. Release and Use of Identifying Information

(a) We may provide information that identifies you ("*Identifying Information*"), including your name, your TIN or other Depositor Identifier, and information on your deposits, to a party that provides services in connection with the DDA-MMDA Option ("*Service Provider*"), including IntraFi and BNY Mellon. A Service Provider may use Identifying Information in providing services in connection with the DDA-MMDA Option.

(b) We or a Service Provider may also provide Identifying Information to a Destination Institution, but will do so only to the extent necessary to comply with a request by you or your agent or to comply with applicable law. In addition, we or a Service Provider may provide Identifying Information to the FDIC in connection with a deposit insurance claim.

(c) Except as provided in Section 9.1(a) or Section 9.1(b), we will not provide Identifying Information to any party unless we determine that (i) we are required by applicable law to do so or (ii) we are permitted by applicable law to do so and have reasonable grounds to do so to protect our own legal or business interests or the legal or business interests of IntraFi or BNY Mellon.

(d) IntraFi may use and disclose any and all analyses, comparisons, indexes, or other data or information assembled, compiled, or otherwise developed by IntraFi, including information regarding aggregated activity of the DDA-MMDA Option depositors, as long as it does not individually identify you.

9.2. Tax Reporting and Withholding

(a) To the extent required by applicable law, we will file with the U.S. Internal Revenue Service ("IRS"), and furnish to you, IRS Form 1099-INT or its equivalent,

or IRS Form 1042-S or its equivalent, for interest paid on the Deposit Accounts by the Destination Institutions.

(b) If we are notified by the IRS that backup withholding is required for interest on the Deposit Accounts, or if we otherwise determine that we are required by applicable law to collect such backup withholding, we will collect it and pay it to the IRS.

9.3. Liability and Dispute Resolution

(a) We will maintain, directly or through a Service Provider, appropriate records of our placements for you. We will not place deposits for you through the DDA-MMDA Option at a Destination Institution that is the subject of a then-effective exclusion on your Exclusions List, at a Destination Institution that is the subject of a then-effective rejection by you, or at a Destination Institution under one Depositor Identifier in an amount that exceeds the SMDIA.

(b) If all or part of your deposit at a Destination Institution is uninsured because of our failure to comply with the requirements set forth in Section 9.3(a), and if the Destination Institution fails and you do not otherwise recover the uninsured portion, we will reimburse you for your documented loss of the uninsured portion that you do not otherwise recover.

(c) SUBJECT TO OUR REIMBURSEMENT OBLIGATION IN SECTION 9.3(b), AND EXCEPT AS MAY BE OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE, AND IN NO EVENT WILL INTRAFI OR BNY MELLON BE LIABLE, TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSS OR DAMAGE INCURRED OR ALLEGEDLY INCURRED IN CONNECTION WITH THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE, INTRAFI, AND BNY MELLON WILL NOT HAVE ANY LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR: (i) ANY LOSS ARISING OUT OF OR RELATING TO A CAUSE OVER WHICH WE DO NOT HAVE DIRECT CONTROL, INCLUDING THE FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, GOVERNMENT RESTRICTIONS, OR FORCE MAJEURE (*E.G.*, EARTHQUAKE, FLOOD, SEVERE OR EXTRAORDINARY WEATHER CONDITIONS, NATURAL DISASTERS OR OTHER ACT OF GOD, FIRE, ACTS OF WAR, TERRORIST ATTACKS, INSURRECTION, RIOT, STRIKES, LABOR DISPUTES OR SIMILAR PROBLEMS, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS, SYSTEM OR POWER FAILURES, OR EQUIPMENT OR SOFTWARE MALFUNCTION), (ii) DELAY IN ANY FDIC INSURANCE PAYMENT, (iii) THE FINANCIAL CONDITION OF ANY DESTINATION INSTITUTION OR THE ACCURACY OF ANY FINANCIAL INFORMATION ABOUT ANY DESTINATION INSTITUTION, OR (iv) ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS).

(d) ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE GOVERNED BY THE DISPUTE RESOLUTION, ARBITRATION, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTES PROVISIONS, IF ANY, CONTAINED IN THE CUSTODIAL AGREEMENT.

9.4. Miscellaneous

(a) This Agreement constitutes the entire agreement between you and us relating to the placement of deposits through the DDA-MMDA Option and any other matter herein, supersedes prior agreements, understandings, negotiations, representations, and proposals, whether written or oral, relating to any matter herein, and may not be amended by any oral representation or oral agreement. This Section 9.4(a)will not affect the validity of any addenda into which we have entered with you.

(b) Schedule 1 and Schedule 2 are incorporated into and made part of this Agreement. We may amend this Agreement, including any Schedule, prospectively by giving you written notice of the amendment at least fourteen (14) days before the effective date of the amendment, which will be specified in the amendment or, if no effective date is specified in the amendment, the date that is fourteen (14) days after we give you written notice of the amendment. We may provide written notice of the amendment by means of a posting on the DCP, an entry on your account statement, an email message, or a printed letter.

(c) Either party may terminate this Agreement on written notice to the other, but the obligations of both parties will survive with respect to any funds deposited at the time of termination. In addition, the provisions of this Section 9.4 will survive termination.

(d) Except as provided in Section 2.2(d), this Agreement may not be assigned, in whole or in part, by either party except by operation of law or as required by applicable law, and any purported assignment in violation hereof is void.

(e) The headings in this Agreement are not intended to describe, interpret, define, or limit the scope, meaning, or intent of this Agreement or any clause in it. Except as otherwise specified, a reference to a Section is a reference to a section of this Agreement. A reference to a Schedule is a reference to a schedule to this Agreement. The term "applicable law" refers to all applicable statutes, rules, regulations, and judicial

orders, whether federal, state, or local. The words "include," "includes," and "including" do not imply exclusion.

(f) This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement will be valid, binding, and enforceable against you and us when executed by one of the following means that we accept: (i) an original manual signature, (ii) a DocuSign® eSignature or another electronic signature that we accept, or (iii) a faxed, scanned (including in a Portable Document Format or PDF document), or photocopied signature that we accept. Each DocuSign® eSignature, other electronic signature, or faxed, scanned, or photocopied signature that we accept shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original signature, and you and we waive any objection to the contrary.

The remainder of this page is intentionally left blank.

IntraFi Network Deposits | Formerly CDARS® and ICS® deposit products

By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: Nexbank

Signature: _____

Name and title of authorized signatory:

_____

_____

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: Mustang Public Schools

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

IntraFi Network Deposits | Formerly CDARS® and ICS® deposit products

Schedule 1 to IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

Program Deposits and Program Withdrawals

This **Schedule 1** is part of the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 1 have the meanings, if any, assigned elsewhere in the Agreement.

1. Specified Terms

(a) For DDAs, the Target Balance, Minimum Sweep Amount, and Minimum Return Amount are as follows:

Target Balance	Minimum Sweep Amount	Minimum Return Amount
$ 0	$ 0	$ 0

(b) For MMDAs, the Target Balance, Minimum Sweep Amount, and Minimum Return Amount are as follows:

Target Balance	Minimum Sweep Amount	Minimum Return Amount
$	$	$

(c) The Same-Day Deposit Cutoff Time is as follows:

_____ (insert time) ☐ AM ☐ PM (check AM or PM) ☐ Eastern ☐ Central ☐ Mountain ☐ Pacific (check time zone)

Daylight Saving Time applies when nationally in effect unless checked here ☐

2. Program Deposits

(a) The Triggering Event for a Regular Program Deposit is a net change in your Root Account balance that causes it to exceed the Target Balance by more than the Minimum Sweep Amount. After posting all your Root Account activity for a Business Day, we will determine whether your Root Account balance exceeds the Target Balance by more than the Minimum Sweep Amount. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the amount by which your Root Account balance exceeds the Target Balance to the Deposit Accounts at DDA-MMDA Option Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Deposit is a Same-Day Program Deposit request by you that we receive and accept before the Same-Day Deposit Cutoff Time on a Business Day. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at DDA-MMDA Option Settlement later on the same Business Day.

(c) If a Triggering Event for a Program Deposit occurs, we may debit the Root Account and credit a holding account before the transfer of funds to the Deposit Accounts occurs at DDA-MMDA Option Settlement.

3. Program Withdrawals

(a) All Program Withdrawals will be Regular Program Withdrawals, which occur on the Business Day following the Triggering Event. The Triggering Event for a Program Withdrawal is a net change in your Root Account balance, after the posting of all your Root Account activity for a Business Day, that causes it (exclusive of any amounts that we credit as advances in anticipation of a Program Withdrawal) to be less than the Target Balance by more than the Minimum Return Amount. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer an amount from the Deposit Accounts at DDA-MMDA Option Settlement on the next Business Day, up to the available amount in the Deposit Accounts, sufficient to restore your Root Account balance to the Target Balance.

(b) Subject to the terms and conditions of this Agreement, and subject to the rules and cutoff times that otherwise apply to root accounts with us, we will honor your debit transactions in the Root Account so long as the sum of your Root Account balance and your balance in the Deposit Accounts of the applicable type, after taking into account any pending Program Deposits and any pending Program Withdrawals, is not less than zero. We will do so even if the amount of the debit transaction exceeds your Root Account balance. You will owe us any amounts that we credit as advances in anticipation of a Program Deposit and we will retain those amounts from the funds we receive at DDA-MMDA Option Settlement.

(c) If a Triggering Event for a Program Withdrawal occurs, we may credit the Root Account and debit a holding account before the transfer of funds from the Deposit Accounts occurs at DDA-MMDA Option Settlement.

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Schedule 2 to IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement

Account Type, Placement Feature, and Exclusions

This **Schedule 2** is part of the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 2 have the meanings, if any, assigned elsewhere in the Agreement.

1. Account Type

☐ We will place deposits for you in DDAs.

☐ We will place deposits for you in MMDAs.

☑ We may place deposits for you in DDAs or in MMDAs.

(Check one above.)

→

☐ You may use up to six MMDA Program Withdrawals per month.

☐ No per-month MMDA Program Withdrawal limit applies.

(If MMDAs will or may be used, check one above.)

2. Placement Feature

☐ We may use the Reciprocal Feature, the One-Way Feature, or both in placing deposits for you.

☑ We will use only the Reciprocal Feature in placing deposits for you.

☐ We will use only the One-Way Feature in placing deposits for you.

(Check one above.)

3. Exclusions

(a) You may place depository institutions on your Exclusions List by identifying them in the list below, unless we specify another means by which you will provide your Exclusions List.

(b) The Exclusions List should include the city and state of the depository institution's main office (rather than the city and state of a branch location). The Exclusions List may also include the institution's FDIC certificate number or transit routing number. If you do not list any exclusions enter "none" under Name of Institution on the first line (but your signature after a blank list will constitute your acknowledgment that you have not listed any exclusions).

(c) Exclusions List:

Name of Depository Institution	City and State	FDIC Certificate or Routing Number
PIA AGREEMENT ON FILE		

(Add lines if necessary.)

Signature of sole or primary Depositor

Custodial Agreement

You, the undersigned, enter into this Custodial Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

Nexbank

1. Pursuant to this Agreement, you authorize us to hold and act as your custodian with respect to all deposit accounts, including all time deposits, money market deposit accounts, and demand deposit accounts, issued or established pursuant to the IntraFi Network Deposits CD Deposit Placement Agreement, the IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement, or a predecessor agreement ("*Deposit Accounts*") for funds of yours placed as deposits through the IntraFi℠ Network Deposits℠ CD Option ("*CD Option*"), formerly known as CDARS®, or the IntraFi Network Deposits DDA-MMDA Option ("*DDA-MMDA Option*"), formerly known as ICS®, and all your security entitlements and other related interests and assets with respect to the Deposit Accounts ("*Related Entitlements*"). The custodial account in which we will hold the Deposit Accounts and Related Entitlements ("*Custodial Account*") comprises all the CD Option and DDA-MMDA Option custodial accounts that we maintain for you.

2. As your custodian, we may (i) cause the Deposit Accounts to be titled in our name or in the name of our sub-custodian, (ii) collect for your account all interest and other payments of income or principal pertaining to the Deposit Accounts, (iii) endorse on your behalf any check or other instrument received for your account that requires endorsement, (iv) in accordance with your instructions, deposit your funds in, or withdraw your funds from, the Deposit Accounts, (v) in accordance with your instructions, deliver or transfer funds from another account with us to the Deposit Accounts or deliver or transfer funds from the Deposit Accounts to another account with us, (vi) for Deposit Accounts that are time deposits, surrender for payment for your account maturing CDs and those for which early withdrawal is requested, (vii) execute and deliver or file on your behalf all appropriate receipts and releases and other instruments, including whatever certificates may be required from custodians or may be necessary to obtain exemption from taxes and to name you when required for the purpose of the instrument, and (viii) take such other actions as are customary or necessary to effectuate the purposes of this Agreement.

3. For purposes of Article 8 of the Uniform Commercial Code in applicable state law ("*UCC*"), we will act as your securities intermediary for, and will treat as financial assets, any Deposit Accounts and Related Entitlements that we hold for you pursuant to this Agreement. The Custodial Account will be a securities account, as defined in the UCC.

4. We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for records research, imaging, photocopying, and handling costs by the party that served the process, we may charge such costs to your account, in addition to any minimum fee we charge for complying with legal processes.

5. We may honor any legal process that is served personally, by mail, or by electronic mail or facsimile transmission at any of our offices or an office of our agent (including locations other than where the funds, records, or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

6. We will have no liability to you for any good-faith act or omission by us in connection with this Agreement. You agree to indemnify us and our sub-custodian, and to hold us and our sub-custodian harmless from, all expenses (including counsel fees), liabilities, and claims arising out of any good-faith act or omission by us in connection with this Agreement or compliance with any legal process relating to the Custodial Account that we believe (correctly or otherwise) to be valid. You agree to pay any service charges that we impose on the Custodial Account.

7. You may be an individual in an individual capacity, more than one individual in a joint capacity, or a trust, partnership, corporation, or other legal entity. We may accept instructions on your behalf from any individual who signs this Agreement as or on behalf of a Depositor and from any of the following individuals:

Name	Title or Legal Capacity
James O Davis	CEO
David J Lutter	SVP
Laura A Clarke	SVP
Gregory A Kubitz	SVP
Paula J Cooper	SVP

(Add lines if necessary.)

The remainder of this page is intentionally left blank.

By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this Custodial Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: Nexbank

Signature: _____

Name and title of authorized signatory:

_____

_____

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: Mustang Public Schools

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, Chief Financial Officer

Date: February 12, 2024

Contract Vendor: IntraFi Network / Bank of Oklahoma **Time Frame:** Starting February 13, 2024

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

This agreement is with IntraFi Network Deposits, serviced by the Bank of New York Mellon. The processing will be managed by Bank of Oklahoma (BOKF).

The IntraFi Network system is the parent organization of IntraFi Cash Services and the Insured Cash Sweep (ICS) Service.

ICS allows us to electronically invest funds on a next-day-liquid basis in banks across the country. The IntraFi system ensures that no deposit in a single bank exceeds the FDIC Insurance limit of $250,000, which meets the asset security requirements mandated by Oklahoma Statute.

This agreement will allow us to transfer funds through BOK to maximize our interest earnings.

IntraFi

ICS Deposit Placement Agreement

You, the undersigned, enter into this ICS Deposit Placement Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

This Agreement states the terms and conditions on which we will endeavor to place deposits for you at other financial institutions through ICS®, the IntraFi Cash Service℠ of IntraFi Network LLC ("*IntraFi*") for placing deposits at depository institutions.

1. Deposit Placement

1.1. Agreement and Schedules

(a) **Schedule 1** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Daily Rate. **Schedule 2** describes the account type and placement feature that we will use. **Schedule 3** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Fixed Rate if we offer such placement.

(b) Each participating institution in ICS that is an insured depository institution ("*Destination Institution*") will be one at which deposit accounts are insured by the Federal Deposit Insurance Corporation ("*FDIC*") up to the FDIC standard maximum deposit insurance amount ("*SMDIA*") of $250,000.

(c) Subject to the terms and conditions of this Agreement, when we place deposits in a deposit account at a Destination Institution for your funds placed through ICS ("*Deposit Account*"), the amount of our outstanding placements for you at the Destination Institution through ICS and through CDARS®, the Certificate of Deposit Account Registry Service®, will not exceed $250,000.

(d) The Bank of New York Mellon ("*BNY Mellon*") provides services that support deposit placement through ICS. BNY Mellon's services include acting as our sub-custodian and settlement agent.

(e) You must be capable of using, and you agree to use, the Depositor Control Panel ("*DCP*"), an online tool, to review provisional allocations of deposits and for other purposes. You also agree to receive notices that may be posted on the DCP or sent to you by email.

1.2. Deposit Accounts

(a) Deposits that we place for you in Deposit Accounts will be "deposits," as defined by federal law, at the Destination Institutions.

(b) Each Deposit Account, including the principal balance and the accrued interest, will be a deposit obligation solely of the Destination Institution at which it is held. It will not be a deposit obligation of us or of IntraFi, BNY Mellon, or any other person or entity.

2. Your Relationship With Us

2.1. Agency and Custodial Relationship

(a) We will act as your agent in placing deposits for you through ICS. Under a separate agreement with you that grants us custodial powers ("*Custodial Agreement*"), we will also act as your custodian for the Deposit Accounts.

(b) Each Deposit Account will be recorded (i) on the records of a Destination Institution in the name of BNY Mellon, as our sub-custodian, (ii) on the records of BNY Mellon in our name, as your custodian, and (iii) on our records in your name. The recording will occur in a manner that permits the Deposit Account to be FDIC-insured to the same extent as if it were recorded on the records of a Destination Institution in your name.

(c) For purposes of Article 8 of the Uniform Commercial Code, we will act as your securities intermediary for, and will treat as financial assets, the Deposit Accounts and all your security entitlements and other related interests and assets with respect to the Deposit Accounts, and we will treat you as entitled to exercise the rights that constitute the Deposit Accounts.

(d) All interests that we hold for the Deposit Accounts will be held by us only as your securities intermediary and will not be our property. You will be the owner of the funds in the Deposit Accounts and any interest on those funds.

2.2. Termination of Custodial Relationship

(a) Either you or we may terminate the custodial relationship between you and us at any time. You may

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not transfer the Deposit Accounts to another custodian, but you may dismiss us as your custodian for a Deposit Account and request that it be recorded on the records of the Destination Institution in your name.

(b) We will endeavor to cause any request from you pursuant to Section 2.2(a) to be promptly forwarded to the Destination Institution. Each Destination Institution has agreed that it will promptly fulfill any such request, subject to its customer identification policies and other account opening terms and conditions.

(c) If a Deposit Account has been recorded on the records of a Destination Institution in your name pursuant to this Section 2, you will be able to enforce your rights in the Deposit Account directly against the Destination Institution, but we will no longer have any custodial responsibility for it and you will not be able to enforce any rights against the Destination Institution through us.

(d) If we were to become insolvent, our receiver or other successor in interest could transfer custody of the Deposit Accounts, and our rights and obligations under this Agreement, to a new custodian. Alternatively, you could exercise your right to have the Deposit Accounts recorded on the records of the Destination Institutions in your name pursuant to this Section 2.

3. Custodial Account and Interest Rate

3.1. Custodial Account

(a) As your custodian, we will open on our records, either directly or with the assistance of BNY Mellon, a custodial account in which we will hold your interests in the Deposit Accounts ("*Custodial Account*"). We may permit you to have multiple Custodial Accounts.

(b) On the signature page of this Agreement, you will enter a unique alphanumeric identifier for you ("*Depositor Identifier*"), which will be associated with the Custodial Account. You will enter as your Depositor Identifier your federal taxpayer identification number ("*TIN*"), unless you do not have a TIN, in which case you will enter an alternate identifier that we approve.

(c) If you use an alternate identifier, you must use the same alternate identifier for all placements of deposits for you, by us or by any other financial institution, through ICS or through CDARS. If you later obtain a TIN, you must promptly report it to us and to any such other institutions, and we may use it as your Depositor Identifier.

3.2. Interest Rate

(a) In ICS-Daily Rate, the interest rate for the Deposit Accounts at Destination Institutions ("*Interest Rate*") will be the then-current rate that we specify, which may be any rate (including zero) and which we may modify at any time. Through your continued participation in ICS-Daily Rate, you accept each applicable Interest Rate.

(b) In ICS-Fixed Rate, if offered, the Interest Rate will be determined as set forth in Schedule 3.

(c) If we permit you to have more than one Custodial Account, we may specify a different Interest Rate for each Custodial Account.

(d) Payment of the full amount of all accrued interest on a Deposit Account at a Destination Institution will be solely the responsibility of the Destination Institution. Neither we nor any other person or entity will be indebted to you for such payment.

4. Placement Procedures

4.1. Account Type, ICS Settlement, and Statements

(a) Settlement of payments to and from participating institutions in ICS through BNY Mellon that includes the type of deposits we place for you ("*ICS Settlement*") will occur each day that is not a Saturday, a Sunday, or another day on which banks in New York, New York, are authorized or required by law or regulation to close ("*Business Day*").

(b) You may confirm through the DCP (i) the aggregate principal balance in the Deposit Accounts ("*Program Balance*") and (ii) the principal balance and accrued interest of the Deposit Accounts at each Destination Institution as of the preceding Business Day or, after ICS Settlement-related processing, as of that Business Day.

(c) We will provide you with a periodic statement of custodial holdings for your funds placed through ICS that will include, as of the end of the statement period, your Program Balance, your principal balance at each Destination Institution, the total interest you have earned on the Deposit Accounts during the period, and the rate of return you have earned on the daily average closing principal balance for the period ("*Statement Period Yield*").

(d) The account information available on the DCP as described in Section 4.1(b), and the periodic statements described in Section 4.1(c), will be the only

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evidence that you receive of your ownership of the funds. You should retain the account statements.

4.2. Triggering Events

(a) Funds will be transferred to or from the Deposit Accounts in response to an event specified in this Agreement that triggers such movement ("*Triggering Event*"). A Triggering Event may result in a transfer of funds from a root account with us that contains your funds ("*Root Account*") to the Deposit Accounts at ICS Settlement ("*Program Deposit*") or a transfer of funds from the Deposit Accounts to the Root Account at ICS Settlement ("*Program Withdrawal*").

(b) For ICS-Daily Rate, Schedule 1 sets forth Triggering Events applicable to your deposits. For ICS-Fixed Rate, Schedule 3 set forth Triggering Events applicable to your deposits.

4.3. Program Deposits

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.3(b), a Triggering Event for a Program Deposit will result in a transfer of funds to the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Deposit*").

(b) Schedule 1 states whether, in ICS-Daily Rate, a transfer of funds to the Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Deposit*") is available and, if so, the cutoff time for you to request a Same-Day Program Deposit ("*Same-Day Deposit Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Deposit Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Deposit.

(c) We may impose a maximum Program Balance amount for deposits that we place for you through ICS and will inform you of any such amount we impose. Even if a Triggering Event for a Program Deposit occurs, we may choose not to transfer the amount to the Deposit Accounts if it would cause the Program Balance to exceed the maximum. In addition, we may choose not to transfer to the Deposit Accounts an amount that we have credited to the Root Account, but have not yet collected from a third party.

4.4. Program Withdrawals

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.4(b), a Triggering Event for a Program Withdrawal will result in a transfer of funds from the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Withdrawal*").

(b) Schedule 1 states whether, in ICS-Daily Rate, the transfer of funds from your Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Withdrawal*") is available and, if so, the cutoff time for you to request a Same-Day Program Withdrawal ("*Same-Day Withdrawal Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Withdrawal Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Withdrawal.

4.5. Withdrawal Advances; Security Interest

(a) If Schedule 1 states that we will advance funds to you in anticipation of a Program Withdrawal, or if we otherwise decide in our discretion to advance funds to you in anticipation of a Program Withdrawal, you will owe the amount of these funds to us and we will retain from the funds we receive at ICS Settlement the amount we have advanced to you.

(b) With respect to any amount that you owe to us pursuant to Section 4.5(a):

(i) you grant us, and acknowledge that we have, a security interest in, and a lien on, the Deposit Accounts, related security entitlements, and other related interests and assets that we may hold for you as custodian and securities intermediary pursuant to the Custodial Agreement for the amount that you owe to us,

(ii) if a Destination Institution fails before a Program Withdrawal is completed, we may retain the amount of the Program Withdrawal from the proceeds of your FDIC insurance claim to satisfy the amount that you owe to us, and

(iii) to the extent that the amount that you owe to us is not satisfied from the interests and assets we are holding for you pursuant to the Custodial Agreement, or from the proceeds of any FDIC insurance claim, the amount remains owed by you to us and is payable on demand.

(c) If, in a separate agreement, you have granted us a security interest in the Deposit Accounts or in any security entitlements or other interests or assets relating to the Deposit Accounts as collateral for a loan to you or otherwise, we may decline to honor a request for a Program Withdrawal, or decline to honor a debit transaction in the Root Account that would trigger a

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Program Withdrawal or be funded by a Program Withdrawal, to the extent the Program Withdrawal would cause your Program Balance to fall below the loan amount or other amount that you have agreed to maintain in the Deposit Accounts or to which the security interest applies. If, in a separate agreement, you have granted us a security interest in the Root Account, we also may decline to honor transactions in the Root Account in accordance with the separate agreement.

4.6. Account Type and Withdrawal Limit, If Any

(a) Deposits that we place for you through ICS-Daily Rate at a Destination Institution will be placed in a Deposit Account that is a demand deposit account ("*DDA*") or a Deposit Account that is a money market deposit account ("*MMDA*"), as provided in Section 1 of Schedule 2.

(b) Section 1 of Schedule 2 provides (i) that we will place deposits for you in DDAs, (ii) that we will place deposits for you in MMDAs, or (iii) that we may place deposits for you in DDAs or MMDAs.

(c) Section 1 of Schedule 2 also provides, if MMDAs will or may be used, (i) that an MMDA Program Withdrawal limit of six per month applies or (ii) that no MMDA Program Withdrawal limit applies.

(d) If a Program Withdrawal limit applies and you exceed the six permitted Program Withdrawals from MMDAs in a month:

(i) We may (A) transfer all the remaining funds in the MMDAs to the Root Account associated with the Custodial Account for the MMDAs or (B), if you also have a Custodial Account for DDA deposits, transfer all the remaining funds in the MMDAs to the Custodial Account for DDA deposits.

(ii) In subsequent months we may effect either such transfer at the time of your sixth Program Withdrawal.

(e) If you exceed the six permitted Program Withdrawals from MMDAs in multiple months, we may also make the Custodial Account for the MMDAs ineligible for Program Deposits.

5. Placement Feature

5.1. Reciprocal and One-Way

(a) If we are an FDIC-insured depository institution, we are eligible to use a feature of ICS in which, when we place deposits, we receive matching deposits placed by other participating institutions in ICS and may pay a fee to IntraFi ("*Reciprocal Feature*").

(b) Whether or not we are eligible to use the Reciprocal Feature, we are eligible to use a feature of ICS in which, when we place deposits, we do not receive matching deposits, but we and IntraFi may receive fees from Destination Institutions ("*One-Way Feature*").

(c) Section 2 of Schedule 2 provides (i) that we may use either the Reciprocal Feature or the One-Way Feature, (ii) that we will use only the Reciprocal Feature, or (iii) that we will use only the One-Way Feature.

5.2. Placement Feature and Rate

(a) Interest on the Deposit Accounts will be earned at the specified Interest Rate regardless of whether the Reciprocal Feature or the One-Way Feature is used.

(b) When the Reciprocal Feature is used, the fee paid to IntraFi may affect rate determination. When the One-Way Feature is used, fees paid by Destination Institutions, or cost-of-funds rates for Destination Institutions, may affect rate determination.

(c) If we are eligible to use the Reciprocal Feature, and you authorize us to use either the Reciprocal Feature or the One-Way Feature, we may use a feature with greater benefits to you, to us, or both.

5.3. Placement Requirements

(a) Under the laws of some states, governmental units may submit deposits for placement through a deposit placement network only if the placing institution is located in the state and receives matching deposits of an equal maturity, if any, and an equal amount.

(b) If you are a state governmental unit, or if you are otherwise subject to restrictions on the placement of deposits for you, you are responsible for determining whether deposit placement in accordance with this Agreement satisfies any applicable restrictions.

6. Daily Allocation and Depositor Control

6.1. Daily Allocation; Review and Consent

(a) The process for allocating Program Deposits, Program Withdrawals, and funds already on deposit reflects various considerations, including the need for certain Destination Institutions to receive deposits in amounts that they have placed for their own customers and possible limits on the amounts that an institution is authorized to place or a Destination Institution has

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agreed to receive. Applicable deposit amounts may change from day to day. Accordingly, the allocation of funds takes place each Business Day.

(b) The set of Destination Institutions to which your funds on deposit are allocated on a Business Day, and the amount allocated to each Destination Institution, may differ from a previous Business Day's allocation. A different allocation may involve the movement of funds from one Destination Institution to another Destination Institution, even though you do not have a Program Deposit or a Program Withdrawal. Such movements of funds will not affect the Interest Rate.

(c) You exercise control over the allocation of your funds through direct contact with us and through the DCP. You are responsible for reviewing the important information we provide you through the DCP, including information regarding proposed allocations that we provide each Business Day. In addition, on request at any time, we will provide you with a list of all Destination Institutions.

(d) Although we will not allocate your funds to Destination Institutions that you exclude or reject as set forth below, you authorize and consent to the allocation of your funds at Destination Institutions that you approve, or do not exclude or reject, as set forth below.

6.2. Destination Institution Exclusions

(a) You may enter the name of any depository institution on a list of exclusions from eligibility to receive deposits we place for you through ICS ("*Exclusions List*").

(b) We may ask you to provide your initial Exclusions List by entering exclusions in Section 3(c) of Schedule 2 or by giving us notice of your Exclusions List in another manner we specify.

(c) An Exclusions List will be effective within one Business Day after the first Business Day on which we have received the Exclusions List from you.

(d) You may add to or subtract from your Exclusions List by giving us notice in a manner we specify or by using functionality provided within the Depositor Control Panel. If you do so, the revised Exclusions List will be effective within one Business Day after the first Business Day on which we have received the notice or you have used the functionality.

6.3. Depositor Control Panel

(a) IntraFi will assist us in providing the DCP. The address of the Depositor Control Panel is https://www.depositorcontrol.com.

(b) You represent that you have a computer with Internet access, an e-mail address, the ability to download and print information from the DCP, and the knowledge and experience to use an online tool for DCP functionality. In addition, you acknowledge that you must obtain and maintain all equipment and services necessary for access to the DCP.

(c) To access the DCP, you must create login credentials. To create your login credentials, click on "Getting Started" on the DCP home page. Alternatively, we may send to you an email containing a link that will enable you to create login credentials.

(d) From within the DCP, you may invite a user to create login credentials that will permit the user to access your DCP account. Such users may have access to your account information and DCP functionality, and you are responsible for their acts or omissions.

6.4. Depositor Placement Review

(a) Each Business Day, your aggregate principal balance that will be in Deposit Accounts after that day's ICS Settlement will be provisionally allocated to Destination Institutions. The amount allocated will reflect your Program Balance as of the last ICS Settlement, plus any Program Deposit that will occur at the day's ICS Settlement, minus any Program Withdrawal that will occur at the day's ICS Settlement. The allocation may provide that previously-deposited funds will be removed from a Destination Institution and deposited in another Destination Institution.

(b) After the provisional allocation occurs on a Business Day, but before allocation becomes final at ICS Settlement, Depositor Placement Review ("*DPR*") will occur through the DCP. Even if a Destination Institution is not on your Exclusions List, the final allocation that day will not allocate your funds to the Destination Institution if you reject it during DPR through the DCP. Your rejection of a Destination Institution will be effective only if you submit it before DPR ends.

(c) The DPR period each Business Day will be as follows: 3:00 PM to 3:15 PM Eastern time. Daylight Saving Time applies when nationally in effect. We may change the DPR period by posting notice on the DCP in advance of the change.

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(d) In DPR, you will see a list of Destination Institutions to which your funds are proposed to be allocated at ICS Settlement later that day ("*Proposed Placement List*"), reflecting the provisional allocation of all your funds, including funds that will be moved from one Destination Institution to another Destination Institution. The Proposed Placement List will include the principal balance allocated to each Destination Institution. If you review the Proposed Placement List, and you click the approval button or you do not reject any of the Destination Institutions on the list, you will be approving the allocation and your funds will be allocated in accordance with the list.

(e) If you reject any of the Destination Institutions on the Proposed Placement List, you will be approving allocation to Destination Institutions on the list that you do not reject. After entering rejections, if sufficient time remains in DPR, you will have the opportunity to review a list of other Destination Institutions to which your funds could be allocated ("*Alternate Placement List*"). If you click the approval button for the Alternate Placement List, or you do not reject any of the Destination Institutions on it, you will be approving the allocation of your funds to any of the listed Destination Institutions. If you reject any of the Destination Institutions on the Alternate Placement List, you will be approving allocation to listed Destination Institutions that you do not reject. Your funds may be allocated to any combination of Destination Institutions on the Proposed Placement List and the Alternate Placement List that you do not reject.

(f) If the provisional allocation on a Business Day would result in funds of yours currently at a Destination Institution being moved to another Destination Institution and you reject the other Destination Institution in DPR that Business Day, the funds will not necessarily remain at the first Destination Institution. The funds will be allocated to a Destination Institution that you do not reject or returned to the Root Account.

(g) A Destination Institution that you reject in DPR will also be added to your Exclusions List, for purposes of future allocations, within one Business Day after the Business Day on which you submit the rejection.

(h) We do not guarantee that all your funds will be allocated to Destination Institutions on any particular day, even if they were allocated to Destination Institutions on a previous day. Exclusions and rejections of Destination Institutions may increase the chance that funds will not be allocated. If funds not yet transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will remain in the Root Account. If funds previously transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will be returned to the Root Account.

7. FDIC Insurance Considerations

7.1. Deposit Insurance Coverage

(a) You may obtain information about FDIC deposit insurance coverage by visiting the FDIC website at http://www.fdic.gov or by contacting the FDIC by letter, email, or telephone.

(b) All of your deposits at a Destination Institution in the same insurable capacity (whether you are acting directly or through an intermediary) will be aggregated for the SMDIA. You should add to your Exclusions List any depository institution at which you have other deposits in the same insurable capacity. Insurable capacities include, among others, individual accounts and joint accounts.

(c) You are responsible for determining whether deposits we place for you are maintained in separate insurable capacities. Separate divisions within a corporate entity are not eligible for separate insurance coverage, and a separate TIN or other Depositor Identifier does not establish a separate insurable capacity.

(d) We will use the Depositor Identifier to identify you, and we will place deposits for you on the understanding that you are not submitting deposits for placement under more than one Depositor Identifier in the same insurable capacity.

(e) The requirements for FDIC deposit insurance coverage of the deposits of governmental units, including the United States government, state and local governments, the District of Columbia, and the Commonwealth of Puerto Rico, are set forth in FDIC regulations. If you are a governmental unit, you are responsible for determining whether the requirements for deposit insurance have been met. We are not responsible for losses resulting from the placement of deposits that are not eligible for FDIC deposit insurance.

(f) Records that we maintain, or that BNY Mellon maintains for us, reflecting ownership of the Deposit Accounts will be used to establish your eligibility for deposit insurance coverage. Accordingly, you must immediately report to us any changes in ownership information so that there will be accurate information to provide to the FDIC if a Destination Institution fails and the FDIC pays its insured deposits by cash payment.

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The FDIC could also require you to provide additional documentation.

7.2. Responsibility to Monitor Deposits; Available Information

(a) You are responsible for monitoring the total amount of your funds at each Destination Institution in each insurable capacity to determine the extent of FDIC deposit insurance coverage available to you for deposits at that Destination Institution. You should confirm that each placement of your funds at Destination Institutions is consistent with your exclusions and rejections.

(b) You can obtain publicly available financial information on Destination Institutions from the National Information Center of the Federal Reserve System at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

7.3. Uninsured Deposits

(a) Although we will not place a deposit for you through ICS at any one Destination Institution in an amount that exceeds the SMDIA, a deposit that we place for you will not be eligible for FDIC insurance coverage at a Destination Institution before it becomes a deposit at the Destination Institution or after it is withdrawn from the Destination Institution.

(i) If we are an FDIC-insured depository institution and the Root Account is eligible for FDIC insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the SMDIA of $250,000.

(ii) If we are a credit union the share accounts of which are insured by the National Credit Union Administration ("*NCUA*") and the Root Account is a share account with us that is eligible for NCUA insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the NCUA standard maximum share insurance amount of $250,000.

(iii) If we are not an FDIC-insured depository institution or the Root Account is not eligible for FDIC insurance coverage, a deposit in the Root Account will not be FDIC-insured. If we are not an NCUA-insured credit union or the Root Account is not eligible for NCUA insurance coverage, a deposit in the Root Account will not be NCUA-insured.

(b) If you cannot accept the risk of having a deposit with us that is not fully insured, you will be responsible for making arrangements with us, if we offer them, to have the deposits collateralized, protected by a properly-executed repurchase sweep arrangement, or otherwise adequately protected, in a manner consistent with applicable law. You should consult your legal advisor to determine whether a collateralization arrangement is consistent with applicable law.

(c) If you cannot accept the risk of having a deposit with us that is not fully insured, and we do not offer arrangements of the kind described in Section 7.3(b) or we offer them but you do not make such arrangements with us, you should not submit deposits for placement through ICS.

7.4. Deposit Insurance Payments

(a) In case of the liquidation of, or other closing or winding up of the affairs of, an insured depository institution, the FDIC is generally required by law to pay each insured deposit "as soon as possible," either by cash payment or by transferring the deposit to another insured depository institution. It is possible, however, that an insurance payment could be delayed. Neither we nor any other person or entity will be obligated to advance funds to you with respect to an insurance payment or to make any payment to you in satisfaction of a loss you might incur as a result of a delay in an insurance payment.

(b) If a Destination Institution at which we place deposits for you is closed and the FDIC does not transfer deposits that include your funds to another insured depository institution, but will make a deposit insurance cash payment, we will cause a deposit insurance claim for your funds to be filed with the FDIC, and we will credit to you the proceeds of the deposit insurance claim that we receive for your funds, subject to any valid security interest.

(c) If the FDIC makes a deposit insurance cash payment for a Deposit Account at a closed Destination Institution, the FDIC is required by law to pay the principal amount plus unpaid accrued interest to the date of the closing of the Destination Institution, as prescribed by law, subject to the SMDIA. No interest is earned on a Deposit Account at a Destination Institution after it closes.

(d) If the FDIC transfers the deposits of a closed Destination Institution to another insured depository institution, the acquiring institution may assume a Deposit Account. The acquiring institution may change the rate at which it pays interest on the assumed Deposit Account, subject to your right to withdraw the funds.

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8. Additional Considerations

8.1. Compare Rates

(a) We are not acting as your investment advisor, and we are not advising you about alternative investments. You are responsible for comparing the rates of return and other features of the Deposit Accounts to other available deposit accounts and other kinds of investments before choosing placement through ICS.

(b) The Interest Rate may be higher or lower than a cost-of-funds rate for a Destination Institution, an interest rate for another customer, or interest rates on comparable deposits available directly from us, from the Destination Institutions at which the Deposit Accounts are held, from other Destination Institutions, or from insured depository institutions that are not Destination Institutions.

8.2. Allocation Considerations

(a) ICS allocation process is subject to applicable law and may be affected by our objectives, IntraFi's objectives, or both, including administrative convenience, reduction of costs, and enhancement of profits.

(b) Participating institutions in ICS service may make compensatory payments resulting in payments to other participating institutions, or receive compensatory payments resulting from payments by other participating institutions, including compensatory payments that reflect the difference between an interest rate for deposits placed by an institution and a rate at which the receiving institution would otherwise pay interest.

8.3. Mutual Institution Rights

(a) Your funds may be placed in a Deposit Account at a Destination Institution that is in the mutual form of organization. Such a Deposit Account will be recorded on the records of the mutual institution in the name of the sub-custodian and not in your name. The sub-custodian will not attend or vote at any meeting of the depositor members of a mutual institution, or exercise any subscription rights in a mutual institution's mutual-to-stock conversion, either on its own behalf or on your behalf.

(b) If we receive from the sub-custodian notice of a meeting of depositor members of a mutual institution or other materials or information relating to a mutual institution's mutual-to-stock conversion, we may forward such notice, materials, or information to you. If you wish to receive such notice, materials, or information directly from the mutual institution, or if you wish to attend or vote at any meeting of the depositor members of the mutual institution or receive subscription rights, you must, before the applicable record date (a date that is usually at least one year before the mutual institution's board of directors adopts a plan of conversion), dismiss us as your custodian and have the Deposit Account recorded on the records of the mutual institution in your name pursuant to Section 2.2.

9. Conforming Changes

(a) If you signed a previous version of this Agreement that was captioned "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedules 1 and 2 to this Agreement is the same as the content of Schedules 1 and 2 to the version that you signed, subject to the following changes:

(i) "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" is changed to "ICS Deposit Placement Agreement" and

(ii) "DDA-MMDA Option" is changed to "ICS."

(b) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedule 1 to this Agreement is the same as the content of Schedule 1 to the version that you signed, except that "Transaction Account," if it appears in the version that you signed, is changed to "Root Account."

(c) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 1 of Schedule 2 to this Agreement is as follows:

(i) If the version of the Agreement that you signed provided that we would place deposits for you only in DDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in DDAs."

(ii) If the version of the Agreement that you signed provided that we would place deposits for you only in MMDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in MMDAs."

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(iii) If the version of the Agreement that you signed provided that we might place deposits for you in DDAs or MMDAs, Section 1 of Schedule 2 is deemed to state: "We may place deposits for you in DDAs or MMDAs."

(iv) If the version of the Agreement that you signed provided that an MMDA Program Withdrawal limit would apply and we have not informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "You may use up to six MMDA Program Withdrawals per month."

(v) If the version you signed provided that an MMDA Program Withdrawal limit would not apply or we have informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "No MMDA Program Withdrawal limit applies."

(d) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 2 of Schedule 2 to this Agreement is as follows:

(i) Section 2 of Schedule 2 is deemed to provide that we may use either the Reciprocal Feature or the One-Way Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we might use either ICS Reciprocal or ICS One-Way was checked.

(ii) Section 2 of Schedule 2 is deemed to provide that we will use only the Reciprocal Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we would use only ICS Reciprocal was checked.

(iii) Section 2 of Schedule 2 is deemed to provide that we will use only the One-Way Feature if Schedule 4 to the version that you signed contained no check boxes regarding the use of ICS Reciprocal or ICS One-Way.

(e) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, Section 3 of Schedule 2 is deemed to include any depository institutions that you listed in the former Section 4 of this Agreement except to the extent that you have subsequently removed any such depository institution from your Exclusions List.

10. Other Provisions

10.1. Release and Use of Identifying Information

(a) We may provide information that identifies you ("*Identifying Information*"), including your name, your TIN or other Depositor Identifier, and information on your deposits, to a party that provides services in connection with ICS ("*Service Provider*"), including IntraFi and BNY Mellon. A Service Provider may use Identifying Information in providing services in connection with ICS.

(b) We or a Service Provider may also provide Identifying Information to a Destination Institution at which your funds are deposited, but will do so only to the extent necessary to comply with a request by you or your agent or to comply with applicable law. In addition, we or a Service Provider may provide Identifying Information to the FDIC in connection with a deposit insurance claim.

(c) Except as provided in Section 10.1(a) or Section 10.1(b), we will not provide Identifying Information to any party unless we determine that (i) we are required by applicable law to do so or (ii) we are permitted by applicable law to do so and have reasonable grounds to do so to protect our own legal or business interests or the legal or business interests of IntraFi or BNY Mellon.

(d) IntraFi may use and disclose any and all analyses, comparisons, indexes, or other data or information assembled, compiled, or otherwise developed by IntraFi, including information regarding aggregated activity of ICS depositors, as long as it does not individually identify you.

10.2. Tax Reporting and Withholding

(a) To the extent required by applicable law, we will file with the U.S. Internal Revenue Service ("IRS"), and furnish to you, IRS Form 1099-INT or its equivalent, or IRS Form 1042-S or its equivalent, for interest paid on the Deposit Accounts by the Destination Institutions.

(b) If we are notified by the IRS that backup withholding is required for interest on the Deposit Accounts, or if we otherwise determine that we are required by applicable law to collect such backup withholding, we will collect it and pay it to the IRS.

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10.3. Liability and Dispute Resolution

(a) We will maintain, directly or through a Service Provider, appropriate records of our placements for you. We will not place deposits for you through ICS at a Destination Institution that is the subject of a then-effective exclusion on your Exclusions List, at a Destination Institution that is the subject of a then-effective rejection by you, or at a Destination Institution under one Depositor Identifier in an amount that exceeds the SMDIA.

(b) If all or part of your funds in a Deposit Account at a Destination Institution are uninsured because of our failure to comply with the requirements set forth in Section 10.3(a), and if the Destination Institution fails and you do not otherwise recover the uninsured portion, we will reimburse you for your documented loss of the uninsured portion that you do not otherwise recover.

(c) SUBJECT TO OUR REIMBURSEMENT OBLIGATION IN SECTION 10.3(b), AND EXCEPT AS MAY BE OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE, AND IN NO EVENT WILL INTRAFI OR BNY MELLON BE LIABLE, TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSS OR DAMAGE INCURRED OR ALLEGEDLY INCURRED IN CONNECTION WITH THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE, INTRAFI, AND BNY MELLON WILL NOT HAVE ANY LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR: (i) ANY LOSS ARISING OUT OF OR RELATING TO A CAUSE OVER WHICH WE DO NOT HAVE DIRECT CONTROL, INCLUDING THE FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, GOVERNMENT RESTRICTIONS, OR FORCE MAJEURE (*E.G.*, EARTHQUAKE, FLOOD, SEVERE OR EXTRAORDINARY WEATHER CONDITIONS, NATURAL DISASTERS OR OTHER ACT OF GOD, FIRE, ACTS OF WAR, TERRORIST ATTACKS, INSURRECTION, RIOT, STRIKES, LABOR DISPUTES OR SIMILAR PROBLEMS, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS, SYSTEM OR POWER FAILURES, OR EQUIPMENT OR SOFTWARE MALFUNCTION), (ii) DELAY IN ANY FDIC INSURANCE PAYMENT, (iii) THE FINANCIAL CONDITION OF ANY DESTINATION INSTITUTION OR THE ACCURACY OF ANY FINANCIAL INFORMATION ABOUT ANY DESTINATION INSTITUTION, OR (iv) ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS).

(d) ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE GOVERNED BY THE DISPUTE RESOLUTION, ARBITRATION, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTES PROVISIONS, IF ANY, CONTAINED IN THE CUSTODIAL AGREEMENT.

10.4. Miscellaneous

(a) This Agreement constitutes the entire agreement between you and us relating to the placement of deposits through ICS and any other matter herein, supersedes prior agreements, understandings, negotiations, representations, and proposals, whether written or oral, relating to any matter herein, and may not be amended by any oral representation or oral agreement. This Section 10.4(a) will not affect the validity of any written addenda to this Agreement into which we have entered with you.

(b) Schedule 1 and Schedule 2 are incorporated into and made part of this Agreement. We may amend this Agreement, including any Schedule, prospectively by giving you written notice of the amendment at least fourteen (14) days before the effective date of the amendment, which will be specified in the amendment or, if no effective date is specified in the amendment, the date that is fourteen (14) days after we give you written notice of the amendment. We may provide written notice of the amendment by means of a posting on the DCP, an entry on your account statement, an email message, or a printed letter.

(c) Either party may terminate this Agreement on written notice to the other, but the obligations of both parties will survive with respect to any funds deposited at the time of termination. In addition, the provisions of this Section 10.4 will survive termination.

(d) Except as provided in Section 2.2(d), this Agreement may not be assigned, in whole or in part, by either party except by operation of law or as required by applicable law, and any purported assignment in violation hereof is void.

(e) The headings in this Agreement are not intended to describe, interpret, define, or limit the scope, meaning, or intent of this Agreement or any clause in it. Except as otherwise specified, a reference to a Section is a reference to a section of this Agreement. A reference to a Schedule is a reference to a schedule to this Agreement. The term "applicable law" refers to all applicable statutes, rules, regulations, and judicial orders, whether federal, state, or local. The words "include," "includes," and "including" do not imply exclusion.

(f) This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. This Agreement and, unless otherwise

provided in the Custodial Agreement, the Custodial Agreement will be valid, binding, and enforceable against you and us when executed by one of the following means that we accept: (i) an original manual signature, (ii) a DocuSign® eSignature or another electronic signature that we accept, or (iii) a faxed, scanned (including in a Portable Document Format or PDF document), or photocopied signature that we accept. Each DocuSign® eSignature, other electronic signature, or faxed, scanned, or photocopied signature that we accept shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original signature, and you and we waive any objection to the contrary.

The remainder of this page is intentionally left blank.

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By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this ICS Deposit Placement Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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Schedule 1 to ICS Deposit Placement Agreement

Program Deposits and Program Withdrawals

This **Schedule 1** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 1 have the meanings, if any, assigned elsewhere in the Agreement.

1. Specified Terms

The Same-Day Deposit Cutoff Time is as follows:

01:00	☐ AM	☑ PM	☐ Eastern	☑ Central	☐ Mountain	☐ Pacific
(insert time)	(check AM or PM)		(check time zone)			

Daylight Saving Time applies when nationally in effect unless checked here ☐

2. Program Deposits

(a) The Triggering Event for a Regular Program Deposit is a Regular Program Deposit request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Deposit is a Same-Day Program Deposit request by you that we receive and accept before the Same-Day Deposit Cutoff Time on a Business Day. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement later on the same Business Day.

(c) If a Triggering Event for a Program Deposit occurs, we may debit the Root Account and credit a holding account before the transfer of funds to the Deposit Accounts occurs at ICS Settlement.

3. Program Withdrawals

(a) The Triggering Event for a Regular Program Withdrawal is a Regular Program Withdrawal request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Withdrawal is a Same-Day Program Withdrawal request by you that we receive and accept before the Same-Day Withdrawal Cutoff Time on a Business Day. Subject to the other terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from your Deposit Accounts at ICS Settlement later the same Business Day.

(c) Subject to the terms and conditions of this Agreement, and subject to the rules and cutoff times that otherwise apply to root accounts with us, we may in our discretion advance funds to you in anticipation of a Program Withdrawal to honor your debit transactions in the Root Account so long as the sum of your Root Account balance and your balance in the Deposit Accounts of the applicable type, after taking into account any pending Program Deposits and any pending Program Withdrawals, is not less than zero. We may do so even if the amount of the debit transaction exceeds your Root Account balance. You will owe us any amounts that we credit as advances in anticipation of a Program Deposit and we will retain those amounts from the funds we receive at ICS Settlement.

(d) If a Triggering Event for a Program Withdrawal occurs, we may credit the Root Account and debit a holding account before the transfer of funds from the Deposit Accounts occurs at ICS Settlement.

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Schedule 2 to ICS Deposit Placement Agreement

Account Type, Placement Feature, and Exclusions

This **Schedule 2** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 2 have the meanings, if any, assigned elsewhere in the Agreement.

1. Account Type

☐ We will place deposits for you in DDAs.

☐ We will place deposits for you in MMDAs.

☑ We may place deposits for you in DDAs or in MMDAs.

(Check one above.)

→

☐ You may use up to six MMDA Program Withdrawals per month.

☑ No per-month MMDA Program Withdrawal limit applies.

(If MMDAs will or may be used, check one above.)

2. Placement Feature

☑ We may use the Reciprocal Feature, the One-Way Feature, or both in placing deposits for you.

☐ We will use only the Reciprocal Feature in placing deposits for you.

☐ We will use only the One-Way Feature in placing deposits for you.

(Check one above.)

3. Exclusions

(a) You may place depository institutions on your Exclusions List by identifying them in the list below, unless we specify another means by which you will provide your Exclusions List.

(b) The Exclusions List should include the city and state of the depository institution's main office (rather than the city and state of a branch location). The Exclusions List may also include the institution's FDIC certificate number or transit routing number. If you do not list any exclusions enter "none" under Name of Institution on the first line (but your signature after a blank list will constitute your acknowledgment that you have not listed any exclusions).

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(c) Exclusions List:

Name of Depository Institution	City and State	FDIC Certificate or Routing Number
ALL AMERICA BANK	OKLAHOMA CITY, OK	20093

(Add lines if necessary.)

Signature of sole or primary Depositor

Custodial Agreement

You, the undersigned, enter into this Custodial Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

1. Pursuant to this Agreement, you authorize us to hold and act as your custodian with respect to all deposit accounts, including all time deposits, money market deposit accounts, and demand deposit accounts, issued or established pursuant to the CDARS Deposit Placement Agreement, the ICS Deposit Placement Agreement, or a predecessor agreement ("*Deposit Accounts*") for funds of yours placed as deposits through CDARS®, the Certificate of Deposit Account Registry Service®, or ICS, the IntraFi® Cash Service, and all your security entitlements and other related interests and assets with respect to the Deposit Accounts ("*Related Entitlements*"). The custodial account in which we will hold the Deposit Accounts and Related Entitlements ("*Custodial Account*") comprises all the CDARS and ICS custodial accounts that we maintain for you.

2. As your custodian, we may (i) cause the Deposit Accounts to be titled in our name or in the name of our sub-custodian, (ii) collect for your account all interest and other payments of income or principal pertaining to the Deposit Accounts, (iii) endorse on your behalf any check or other instrument received for your account that requires endorsement, (iv) in accordance with your instructions, deposit your funds in, or withdraw your funds from, the Deposit Accounts, (v) in accordance with your instructions, deliver or transfer funds from another account with us to the Deposit Accounts or deliver or transfer funds from the Deposit Accounts to another account with us, (vi) for Deposit Accounts that are time deposits, surrender for payment for your account maturing CDs and those for which early withdrawal is requested, (vii) execute and deliver or file on your behalf all appropriate receipts and releases and other instruments, including whatever certificates may be required from custodians or may be necessary to obtain exemption from taxes and to name you when required for the purpose of the instrument, and (viii) take such other actions as are customary or necessary to effectuate the purposes of this Agreement.

3. For purposes of Article 8 of the Uniform Commercial Code in applicable state law ("*UCC*"), we will act as your securities intermediary for, and will treat as financial assets, any Deposit Accounts and Related Entitlements that we hold for you pursuant to this Agreement. The Custodial Account will be a securities account, as defined in the UCC.

4. We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for records research, imaging, photocopying, and handling costs by the party that served the process, we may charge such costs to your account, in addition to any minimum fee we charge for complying with legal processes.

5. We may honor any legal process that is served personally, by mail, or by electronic mail or facsimile transmission at any of our offices or an office of our agent (including locations other than where the funds, records, or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

6. We will have no liability to you for any good-faith act or omission by us in connection with this Agreement. You agree to indemnify us and our sub-custodian, and to hold us and our sub-custodian harmless from, all expenses (including counsel fees), liabilities, and claims arising out of any good-faith act or omission by us in connection with this Agreement or compliance with any legal process relating to the Custodial Account that we believe (correctly or otherwise) to be valid. You agree to pay any service charges that we impose on the Custodial Account.

7. You may be an individual in an individual capacity, more than one individual in a joint capacity, or a trust, partnership, corporation, or other legal entity. We may accept instructions on your behalf from any individual who signs this Agreement as or on behalf of a Depositor and from any of the following individuals:

Name	Title or Legal Capacity
RANDI SPENCER	ASST TREASURER

(Add lines if necessary.)

The remainder of this page is intentionally left blank.

By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this Custodial Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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ICS Deposit Placement Agreement

You, the undersigned, enter into this ICS Deposit Placement Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

This Agreement states the terms and conditions on which we will endeavor to place deposits for you at other financial institutions through ICS®, the IntraFi Cash Service℠ of IntraFi Network LLC ("*IntraFi*") for placing deposits at depository institutions.

1. Deposit Placement

1.1. Agreement and Schedules

(a) **Schedule 1** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Daily Rate. **Schedule 2** describes the account type and placement feature that we will use. **Schedule 3** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Fixed Rate if we offer such placement.

(b) Each participating institution in ICS that is an insured depository institution ("*Destination Institution*") will be one at which deposit accounts are insured by the Federal Deposit Insurance Corporation ("*FDIC*") up to the FDIC standard maximum deposit insurance amount ("*SMDIA*") of $250,000.

(c) Subject to the terms and conditions of this Agreement, when we place deposits in a deposit account at a Destination Institution for your funds placed through ICS ("*Deposit Account*"), the amount of our outstanding placements for you at the Destination Institution through ICS and through CDARS®, the Certificate of Deposit Account Registry Service®, will not exceed $250,000.

(d) The Bank of New York Mellon ("*BNY Mellon*") provides services that support deposit placement through ICS. BNY Mellon's services include acting as our sub-custodian and settlement agent.

(e) You must be capable of using, and you agree to use, the Depositor Control Panel ("*DCP*"), an online tool, to review provisional allocations of deposits and for other purposes. You also agree to receive notices that may be posted on the DCP or sent to you by email.

1.2. Deposit Accounts

(a) Deposits that we place for you in Deposit Accounts will be "deposits," as defined by federal law, at the Destination Institutions.

(b) Each Deposit Account, including the principal balance and the accrued interest, will be a deposit obligation solely of the Destination Institution at which it is held. It will not be a deposit obligation of us or of IntraFi, BNY Mellon, or any other person or entity.

2. Your Relationship With Us

2.1. Agency and Custodial Relationship

(a) We will act as your agent in placing deposits for you through ICS. Under a separate agreement with you that grants us custodial powers ("*Custodial Agreement*"), we will also act as your custodian for the Deposit Accounts.

(b) Each Deposit Account will be recorded (i) on the records of a Destination Institution in the name of BNY Mellon, as our sub-custodian, (ii) on the records of BNY Mellon in our name, as your custodian, and (iii) on our records in your name. The recording will occur in a manner that permits the Deposit Account to be FDIC-insured to the same extent as if it were recorded on the records of a Destination Institution in your name.

(c) For purposes of Article 8 of the Uniform Commercial Code, we will act as your securities intermediary for, and will treat as financial assets, the Deposit Accounts and all your security entitlements and other related interests and assets with respect to the Deposit Accounts, and we will treat you as entitled to exercise the rights that constitute the Deposit Accounts.

(d) All interests that we hold for the Deposit Accounts will be held by us only as your securities intermediary and will not be our property. You will be the owner of the funds in the Deposit Accounts and any interest on those funds.

2.2. Termination of Custodial Relationship

(a) Either you or we may terminate the custodial relationship between you and us at any time. You may

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not transfer the Deposit Accounts to another custodian, but you may dismiss us as your custodian for a Deposit Account and request that it be recorded on the records of the Destination Institution in your name.

(b) We will endeavor to cause any request from you pursuant to Section 2.2(a) to be promptly forwarded to the Destination Institution. Each Destination Institution has agreed that it will promptly fulfill any such request, subject to its customer identification policies and other account opening terms and conditions.

(c) If a Deposit Account has been recorded on the records of a Destination Institution in your name pursuant to this Section 2, you will be able to enforce your rights in the Deposit Account directly against the Destination Institution, but we will no longer have any custodial responsibility for it and you will not be able to enforce any rights against the Destination Institution through us.

(d) If we were to become insolvent, our receiver or other successor in interest could transfer custody of the Deposit Accounts, and our rights and obligations under this Agreement, to a new custodian. Alternatively, you could exercise your right to have the Deposit Accounts recorded on the records of the Destination Institutions in your name pursuant to this Section 2.

3. Custodial Account and Interest Rate

3.1. Custodial Account

(a) As your custodian, we will open on our records, either directly or with the assistance of BNY Mellon, a custodial account in which we will hold your interests in the Deposit Accounts ("*Custodial Account*"). We may permit you to have multiple Custodial Accounts.

(b) On the signature page of this Agreement, you will enter a unique alphanumeric identifier for you ("*Depositor Identifier*"), which will be associated with the Custodial Account. You will enter as your Depositor Identifier your federal taxpayer identification number ("*TIN*"), unless you do not have a TIN, in which case you will enter an alternate identifier that we approve.

(c) If you use an alternate identifier, you must use the same alternate identifier for all placements of deposits for you, by us or by any other financial institution, through ICS or through CDARS. If you later obtain a TIN, you must promptly report it to us and to any such other institutions, and we may use it as your Depositor Identifier.

3.2. Interest Rate

(a) In ICS-Daily Rate, the interest rate for the Deposit Accounts at Destination Institutions ("*Interest Rate*") will be the then-current rate that we specify, which may be any rate (including zero) and which we may modify at any time. Through your continued participation in ICS-Daily Rate, you accept each applicable Interest Rate.

(b) In ICS-Fixed Rate, if offered, the Interest Rate will be determined as set forth in Schedule 3.

(c) If we permit you to have more than one Custodial Account, we may specify a different Interest Rate for each Custodial Account.

(d) Payment of the full amount of all accrued interest on a Deposit Account at a Destination Institution will be solely the responsibility of the Destination Institution. Neither we nor any other person or entity will be indebted to you for such payment.

4. Placement Procedures

4.1. Account Type, ICS Settlement, and Statements

(a) Settlement of payments to and from participating institutions in ICS through BNY Mellon that includes the type of deposits we place for you ("*ICS Settlement*") will occur each day that is not a Saturday, a Sunday, or another day on which banks in New York, New York, are authorized or required by law or regulation to close ("*Business Day*").

(b) You may confirm through the DCP (i) the aggregate principal balance in the Deposit Accounts ("*Program Balance*") and (ii) the principal balance and accrued interest of the Deposit Accounts at each Destination Institution as of the preceding Business Day or, after ICS Settlement-related processing, as of that Business Day.

(c) We will provide you with a periodic statement of custodial holdings for your funds placed through ICS that will include, as of the end of the statement period, your Program Balance, your principal balance at each Destination Institution, the total interest you have earned on the Deposit Accounts during the period, and the rate of return you have earned on the daily average closing principal balance for the period ("*Statement Period Yield*").

(d) The account information available on the DCP as described in Section 4.1(b), and the periodic statements described in Section 4.1(c), will be the only

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evidence that you receive of your ownership of the funds. You should retain the account statements.

4.2. Triggering Events

(a) Funds will be transferred to or from the Deposit Accounts in response to an event specified in this Agreement that triggers such movement ("*Triggering Event*"). A Triggering Event may result in a transfer of funds from a root account with us that contains your funds ("*Root Account*") to the Deposit Accounts at ICS Settlement ("*Program Deposit*") or a transfer of funds from the Deposit Accounts to the Root Account at ICS Settlement ("*Program Withdrawal*").

(b) For ICS-Daily Rate, Schedule 1 sets forth Triggering Events applicable to your deposits. For ICS-Fixed Rate, Schedule 3 set forth Triggering Events applicable to your deposits.

4.3. Program Deposits

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.3(b), a Triggering Event for a Program Deposit will result in a transfer of funds to the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Deposit*").

(b) Schedule 1 states whether, in ICS-Daily Rate, a transfer of funds to the Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Deposit*") is available and, if so, the cutoff time for you to request a Same-Day Program Deposit ("*Same-Day Deposit Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Deposit Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Deposit.

(c) We may impose a maximum Program Balance amount for deposits that we place for you through ICS and will inform you of any such amount we impose. Even if a Triggering Event for a Program Deposit occurs, we may choose not to transfer the amount to the Deposit Accounts if it would cause the Program Balance to exceed the maximum. In addition, we may choose not to transfer to the Deposit Accounts an amount that we have credited to the Root Account, but have not yet collected from a third party.

4.4. Program Withdrawals

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.4(b), a Triggering Event for a Program Withdrawal will result in a transfer of funds from the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Withdrawal*").

(b) Schedule 1 states whether, in ICS-Daily Rate, the transfer of funds from your Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Withdrawal*") is available and, if so, the cutoff time for you to request a Same-Day Program Withdrawal ("*Same-Day Withdrawal Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Withdrawal Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Withdrawal.

4.5. Withdrawal Advances; Security Interest

(a) If Schedule 1 states that we will advance funds to you in anticipation of a Program Withdrawal, or if we otherwise decide in our discretion to advance funds to you in anticipation of a Program Withdrawal, you will owe the amount of these funds to us and we will retain from the funds we receive at ICS Settlement the amount we have advanced to you.

(b) With respect to any amount that you owe to us pursuant to Section 4.5(a):

(i) you grant us, and acknowledge that we have, a security interest in, and a lien on, the Deposit Accounts, related security entitlements, and other related interests and assets that we may hold for you as custodian and securities intermediary pursuant to the Custodial Agreement for the amount that you owe to us,

(ii) if a Destination Institution fails before a Program Withdrawal is completed, we may retain the amount of the Program Withdrawal from the proceeds of your FDIC insurance claim to satisfy the amount that you owe to us, and

(iii) to the extent that the amount that you owe to us is not satisfied from the interests and assets we are holding for you pursuant to the Custodial Agreement, or from the proceeds of any FDIC insurance claim, the amount remains owed by you to us and is payable on demand.

(c) If, in a separate agreement, you have granted us a security interest in the Deposit Accounts or in any security entitlements or other interests or assets relating to the Deposit Accounts as collateral for a loan to you or otherwise, we may decline to honor a request for a Program Withdrawal, or decline to honor a debit transaction in the Root Account that would trigger a

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Program Withdrawal or be funded by a Program Withdrawal, to the extent the Program Withdrawal would cause your Program Balance to fall below the loan amount or other amount that you have agreed to maintain in the Deposit Accounts or to which the security interest applies. If, in a separate agreement, you have granted us a security interest in the Root Account, we also may decline to honor transactions in the Root Account in accordance with the separate agreement.

4.6. Account Type and Withdrawal Limit, If Any

(a) Deposits that we place for you through ICS-Daily Rate at a Destination Institution will be placed in a Deposit Account that is a demand deposit account ("*DDA*") or a Deposit Account that is a money market deposit account ("*MMDA*"), as provided in Section 1 of Schedule 2.

(b) Section 1 of Schedule 2 provides (i) that we will place deposits for you in DDAs, (ii) that we will place deposits for you in MMDAs, or (iii) that we may place deposits for you in DDAs or MMDAs.

(c) Section 1 of Schedule 2 also provides, if MMDAs will or may be used, (i) that an MMDA Program Withdrawal limit of six per month applies or (ii) that no MMDA Program Withdrawal limit applies.

(d) If a Program Withdrawal limit applies and you exceed the six permitted Program Withdrawals from MMDAs in a month:

(i) We may (A) transfer all the remaining funds in the MMDAs to the Root Account associated with the Custodial Account for the MMDAs or (B), if you also have a Custodial Account for DDA deposits, transfer all the remaining funds in the MMDAs to the Custodial Account for DDA deposits.

(ii) In subsequent months we may effect either such transfer at the time of your sixth Program Withdrawal.

(e) If you exceed the six permitted Program Withdrawals from MMDAs in multiple months, we may also make the Custodial Account for the MMDAs ineligible for Program Deposits.

5. Placement Feature

5.1. Reciprocal and One-Way

(a) If we are an FDIC-insured depository institution, we are eligible to use a feature of ICS in which, when we place deposits, we receive matching deposits placed by other participating institutions in ICS and may pay a fee to IntraFi ("*Reciprocal Feature*").

(b) Whether or not we are eligible to use the Reciprocal Feature, we are eligible to use a feature of ICS in which, when we place deposits, we do not receive matching deposits, but we and IntraFi may receive fees from Destination Institutions ("*One-Way Feature*").

(c) Section 2 of Schedule 2 provides (i) that we may use either the Reciprocal Feature or the One-Way Feature, (ii) that we will use only the Reciprocal Feature, or (iii) that we will use only the One-Way Feature.

5.2. Placement Feature and Rate

(a) Interest on the Deposit Accounts will be earned at the specified Interest Rate regardless of whether the Reciprocal Feature or the One-Way Feature is used.

(b) When the Reciprocal Feature is used, the fee paid to IntraFi may affect rate determination. When the One-Way Feature is used, fees paid by Destination Institutions, or cost-of-funds rates for Destination Institutions, may affect rate determination.

(c) If we are eligible to use the Reciprocal Feature, and you authorize us to use either the Reciprocal Feature or the One-Way Feature, we may use a feature with greater benefits to you, to us, or both.

5.3. Placement Requirements

(a) Under the laws of some states, governmental units may submit deposits for placement through a deposit placement network only if the placing institution is located in the state and receives matching deposits of an equal maturity, if any, and an equal amount.

(b) If you are a state governmental unit, or if you are otherwise subject to restrictions on the placement of deposits for you, you are responsible for determining whether deposit placement in accordance with this Agreement satisfies any applicable restrictions.

6. Daily Allocation and Depositor Control

6.1. Daily Allocation; Review and Consent

(a) The process for allocating Program Deposits, Program Withdrawals, and funds already on deposit reflects various considerations, including the need for certain Destination Institutions to receive deposits in amounts that they have placed for their own customers and possible limits on the amounts that an institution is authorized to place or a Destination Institution has

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agreed to receive. Applicable deposit amounts may change from day to day. Accordingly, the allocation of funds takes place each Business Day.

(b) The set of Destination Institutions to which your funds on deposit are allocated on a Business Day, and the amount allocated to each Destination Institution, may differ from a previous Business Day's allocation. A different allocation may involve the movement of funds from one Destination Institution to another Destination Institution, even though you do not have a Program Deposit or a Program Withdrawal. Such movements of funds will not affect the Interest Rate.

(c) You exercise control over the allocation of your funds through direct contact with us and through the DCP. You are responsible for reviewing the important information we provide you through the DCP, including information regarding proposed allocations that we provide each Business Day. In addition, on request at any time, we will provide you with a list of all Destination Institutions.

(d) Although we will not allocate your funds to Destination Institutions that you exclude or reject as set forth below, you authorize and consent to the allocation of your funds at Destination Institutions that you approve, or do not exclude or reject, as set forth below.

6.2. Destination Institution Exclusions

(a) You may enter the name of any depository institution on a list of exclusions from eligibility to receive deposits we place for you through ICS ("*Exclusions List*").

(b) We may ask you to provide your initial Exclusions List by entering exclusions in Section 3(c) of Schedule 2 or by giving us notice of your Exclusions List in another manner we specify.

(c) An Exclusions List will be effective within one Business Day after the first Business Day on which we have received the Exclusions List from you.

(d) You may add to or subtract from your Exclusions List by giving us notice in a manner we specify or by using functionality provided within the Depositor Control Panel. If you do so, the revised Exclusions List will be effective within one Business Day after the first Business Day on which we have received the notice or you have used the functionality.

6.3. Depositor Control Panel

(a) IntraFi will assist us in providing the DCP. The address of the Depositor Control Panel is https://www.depositorcontrol.com.

(b) You represent that you have a computer with Internet access, an e-mail address, the ability to download and print information from the DCP, and the knowledge and experience to use an online tool for DCP functionality. In addition, you acknowledge that you must obtain and maintain all equipment and services necessary for access to the DCP.

(c) To access the DCP, you must create login credentials. To create your login credentials, click on "Getting Started" on the DCP home page. Alternatively, we may send to you an email containing a link that will enable you to create login credentials.

(d) From within the DCP, you may invite a user to create login credentials that will permit the user to access your DCP account. Such users may have access to your account information and DCP functionality, and you are responsible for their acts or omissions.

6.4. Depositor Placement Review

(a) Each Business Day, your aggregate principal balance that will be in Deposit Accounts after that day's ICS Settlement will be provisionally allocated to Destination Institutions. The amount allocated will reflect your Program Balance as of the last ICS Settlement, plus any Program Deposit that will occur at the day's ICS Settlement, minus any Program Withdrawal that will occur at the day's ICS Settlement. The allocation may provide that previously-deposited funds will be removed from a Destination Institution and deposited in another Destination Institution.

(b) After the provisional allocation occurs on a Business Day, but before allocation becomes final at ICS Settlement, Depositor Placement Review ("*DPR*") will occur through the DCP. Even if a Destination Institution is not on your Exclusions List, the final allocation that day will not allocate your funds to the Destination Institution if you reject it during DPR through the DCP. Your rejection of a Destination Institution will be effective only if you submit it before DPR ends.

(c) The DPR period each Business Day will be as follows: 3:00 PM to 3:15 PM Eastern time. Daylight Saving Time applies when nationally in effect. We may change the DPR period by posting notice on the DCP in advance of the change.

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(d) In DPR, you will see a list of Destination Institutions to which your funds are proposed to be allocated at ICS Settlement later that day ("*Proposed Placement List*"), reflecting the provisional allocation of all your funds, including funds that will be moved from one Destination Institution to another Destination Institution. The Proposed Placement List will include the principal balance allocated to each Destination Institution. If you review the Proposed Placement List, and you click the approval button or you do not reject any of the Destination Institutions on the list, you will be approving the allocation and your funds will be allocated in accordance with the list.

(e) If you reject any of the Destination Institutions on the Proposed Placement List, you will be approving allocation to Destination Institutions on the list that you do not reject. After entering rejections, if sufficient time remains in DPR, you will have the opportunity to review a list of other Destination Institutions to which your funds could be allocated ("*Alternate Placement List*"). If you click the approval button for the Alternate Placement List, or you do not reject any of the Destination Institutions on it, you will be approving the allocation of your funds to any of the listed Destination Institutions. If you reject any of the Destination Institutions on the Alternate Placement List, you will be approving allocation to listed Destination Institutions that you do not reject. Your funds may be allocated to any combination of Destination Institutions on the Proposed Placement List and the Alternate Placement List that you do not reject.

(f) If the provisional allocation on a Business Day would result in funds of yours currently at a Destination Institution being moved to another Destination Institution and you reject the other Destination Institution in DPR that Business Day, the funds will not necessarily remain at the first Destination Institution. The funds will be allocated to a Destination Institution that you do not reject or returned to the Root Account.

(g) A Destination Institution that you reject in DPR will also be added to your Exclusions List, for purposes of future allocations, within one Business Day after the Business Day on which you submit the rejection.

(h) We do not guarantee that all your funds will be allocated to Destination Institutions on any particular day, even if they were allocated to Destination Institutions on a previous day. Exclusions and rejections of Destination Institutions may increase the chance that funds will not be allocated. If funds not yet transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will remain in the Root Account. If funds previously transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will be returned to the Root Account.

7. FDIC Insurance Considerations

7.1. Deposit Insurance Coverage

(a) You may obtain information about FDIC deposit insurance coverage by visiting the FDIC website at http://www.fdic.gov or by contacting the FDIC by letter, email, or telephone.

(b) All of your deposits at a Destination Institution in the same insurable capacity (whether you are acting directly or through an intermediary) will be aggregated for the SMDIA. You should add to your Exclusions List any depository institution at which you have other deposits in the same insurable capacity. Insurable capacities include, among others, individual accounts and joint accounts.

(c) You are responsible for determining whether deposits we place for you are maintained in separate insurable capacities. Separate divisions within a corporate entity are not eligible for separate insurance coverage, and a separate TIN or other Depositor Identifier does not establish a separate insurable capacity.

(d) We will use the Depositor Identifier to identify you, and we will place deposits for you on the understanding that you are not submitting deposits for placement under more than one Depositor Identifier in the same insurable capacity.

(e) The requirements for FDIC deposit insurance coverage of the deposits of governmental units, including the United States government, state and local governments, the District of Columbia, and the Commonwealth of Puerto Rico, are set forth in FDIC regulations. If you are a governmental unit, you are responsible for determining whether the requirements for deposit insurance have been met. We are not responsible for losses resulting from the placement of deposits that are not eligible for FDIC deposit insurance.

(f) Records that we maintain, or that BNY Mellon maintains for us, reflecting ownership of the Deposit Accounts will be used to establish your eligibility for deposit insurance coverage. Accordingly, you must immediately report to us any changes in ownership information so that there will be accurate information to provide to the FDIC if a Destination Institution fails and the FDIC pays its insured deposits by cash payment.

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The FDIC could also require you to provide additional documentation.

7.2. Responsibility to Monitor Deposits; Available Information

(a) You are responsible for monitoring the total amount of your funds at each Destination Institution in each insurable capacity to determine the extent of FDIC deposit insurance coverage available to you for deposits at that Destination Institution. You should confirm that each placement of your funds at Destination Institutions is consistent with your exclusions and rejections.

(b) You can obtain publicly available financial information on Destination Institutions from the National Information Center of the Federal Reserve System at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

7.3. Uninsured Deposits

(a) Although we will not place a deposit for you through ICS at any one Destination Institution in an amount that exceeds the SMDIA, a deposit that we place for you will not be eligible for FDIC insurance coverage at a Destination Institution before it becomes a deposit at the Destination Institution or after it is withdrawn from the Destination Institution.

(i) If we are an FDIC-insured depository institution and the Root Account is eligible for FDIC insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the SMDIA of $250,000.

(ii) If we are a credit union the share accounts of which are insured by the National Credit Union Administration ("*NCUA*") and the Root Account is a share account with us that is eligible for NCUA insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the NCUA standard maximum share insurance amount of $250,000.

(iii) If we are not an FDIC-insured depository institution or the Root Account is not eligible for FDIC insurance coverage, a deposit in the Root Account will not be FDIC-insured. If we are not an NCUA-insured credit union or the Root Account is not eligible for NCUA insurance coverage, a deposit in the Root Account will not be NCUA-insured.

(b) If you cannot accept the risk of having a deposit with us that is not fully insured, you will be responsible for making arrangements with us, if we offer them, to have the deposits collateralized, protected by a properly-executed repurchase sweep arrangement, or otherwise adequately protected, in a manner consistent with applicable law. You should consult your legal advisor to determine whether a collateralization arrangement is consistent with applicable law.

(c) If you cannot accept the risk of having a deposit with us that is not fully insured, and we do not offer arrangements of the kind described in Section 7.3(b) or we offer them but you do not make such arrangements with us, you should not submit deposits for placement through ICS.

7.4. Deposit Insurance Payments

(a) In case of the liquidation of, or other closing or winding up of the affairs of, an insured depository institution, the FDIC is generally required by law to pay each insured deposit "as soon as possible," either by cash payment or by transferring the deposit to another insured depository institution. It is possible, however, that an insurance payment could be delayed. Neither we nor any other person or entity will be obligated to advance funds to you with respect to an insurance payment or to make any payment to you in satisfaction of a loss you might incur as a result of a delay in an insurance payment.

(b) If a Destination Institution at which we place deposits for you is closed and the FDIC does not transfer deposits that include your funds to another insured depository institution, but will make a deposit insurance cash payment, we will cause a deposit insurance claim for your funds to be filed with the FDIC, and we will credit to you the proceeds of the deposit insurance claim that we receive for your funds, subject to any valid security interest.

(c) If the FDIC makes a deposit insurance cash payment for a Deposit Account at a closed Destination Institution, the FDIC is required by law to pay the principal amount plus unpaid accrued interest to the date of the closing of the Destination Institution, as prescribed by law, subject to the SMDIA. No interest is earned on a Deposit Account at a Destination Institution after it closes.

(d) If the FDIC transfers the deposits of a closed Destination Institution to another insured depository institution, the acquiring institution may assume a Deposit Account. The acquiring institution may change the rate at which it pays interest on the assumed Deposit Account, subject to your right to withdraw the funds.

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8. Additional Considerations

8.1. Compare Rates

(a) We are not acting as your investment advisor, and we are not advising you about alternative investments. You are responsible for comparing the rates of return and other features of the Deposit Accounts to other available deposit accounts and other kinds of investments before choosing placement through ICS.

(b) The Interest Rate may be higher or lower than a cost-of-funds rate for a Destination Institution, an interest rate for another customer, or interest rates on comparable deposits available directly from us, from the Destination Institutions at which the Deposit Accounts are held, from other Destination Institutions, or from insured depository institutions that are not Destination Institutions.

8.2. Allocation Considerations

(a) ICS allocation process is subject to applicable law and may be affected by our objectives, IntraFi's objectives, or both, including administrative convenience, reduction of costs, and enhancement of profits.

(b) Participating institutions in ICS service may make compensatory payments resulting in payments to other participating institutions, or receive compensatory payments resulting from payments by other participating institutions, including compensatory payments that reflect the difference between an interest rate for deposits placed by an institution and a rate at which the receiving institution would otherwise pay interest.

8.3. Mutual Institution Rights

(a) Your funds may be placed in a Deposit Account at a Destination Institution that is in the mutual form of organization. Such a Deposit Account will be recorded on the records of the mutual institution in the name of the sub-custodian and not in your name. The sub-custodian will not attend or vote at any meeting of the depositor members of a mutual institution, or exercise any subscription rights in a mutual institution's mutual-to-stock conversion, either on its own behalf or on your behalf.

(b) If we receive from the sub-custodian notice of a meeting of depositor members of a mutual institution or other materials or information relating to a mutual institution's mutual-to-stock conversion, we may forward such notice, materials, or information to you. If you wish to receive such notice, materials, or information directly from the mutual institution, or if you wish to attend or vote at any meeting of the depositor members of the mutual institution or receive subscription rights, you must, before the applicable record date (a date that is usually at least one year before the mutual institution's board of directors adopts a plan of conversion), dismiss us as your custodian and have the Deposit Account recorded on the records of the mutual institution in your name pursuant to Section 2.2.

9. Conforming Changes

(a) If you signed a previous version of this Agreement that was captioned "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedules 1 and 2 to this Agreement is the same as the content of Schedules 1 and 2 to the version that you signed, subject to the following changes:

(i) "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" is changed to "ICS Deposit Placement Agreement" and

(ii) "DDA-MMDA Option" is changed to "ICS."

(b) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedule 1 to this Agreement is the same as the content of Schedule 1 to the version that you signed, except that "Transaction Account," if it appears in the version that you signed, is changed to "Root Account."

(c) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 1 of Schedule 2 to this Agreement is as follows:

(i) If the version of the Agreement that you signed provided that we would place deposits for you only in DDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in DDAs."

(ii) If the version of the Agreement that you signed provided that we would place deposits for you only in MMDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in MMDAs."

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(iii) If the version of the Agreement that you signed provided that we might place deposits for you in DDAs or MMDAs, Section 1 of Schedule 2 is deemed to state: "We may place deposits for you in DDAs or MMDAs."

(iv) If the version of the Agreement that you signed provided that an MMDA Program Withdrawal limit would apply and we have not informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "You may use up to six MMDA Program Withdrawals per month."

(v) If the version you signed provided that an MMDA Program Withdrawal limit would not apply or we have informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "No MMDA Program Withdrawal limit applies."

(d) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 2 of Schedule 2 to this Agreement is as follows:

(i) Section 2 of Schedule 2 is deemed to provide that we may use either the Reciprocal Feature or the One-Way Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we might use either ICS Reciprocal or ICS One-Way was checked.

(ii) Section 2 of Schedule 2 is deemed to provide that we will use only the Reciprocal Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we would use only ICS Reciprocal was checked.

(iii) Section 2 of Schedule 2 is deemed to provide that we will use only the One-Way Feature if Schedule 4 to the version that you signed contained no check boxes regarding the use of ICS Reciprocal or ICS One-Way.

(e) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, Section 3 of Schedule 2 is deemed to include any depository institutions that you listed in the former Section 4 of this Agreement except to the extent that you have subsequently removed any such depository institution from your Exclusions List.

10. Other Provisions

10.1. Release and Use of Identifying Information

(a) We may provide information that identifies you ("*Identifying Information*"), including your name, your TIN or other Depositor Identifier, and information on your deposits, to a party that provides services in connection with ICS ("*Service Provider*"), including IntraFi and BNY Mellon. A Service Provider may use Identifying Information in providing services in connection with ICS.

(b) We or a Service Provider may also provide Identifying Information to a Destination Institution at which your funds are deposited, but will do so only to the extent necessary to comply with a request by you or your agent or to comply with applicable law. In addition, we or a Service Provider may provide Identifying Information to the FDIC in connection with a deposit insurance claim.

(c) Except as provided in Section 10.1(a) or Section 10.1(b), we will not provide Identifying Information to any party unless we determine that (i) we are required by applicable law to do so or (ii) we are permitted by applicable law to do so and have reasonable grounds to do so to protect our own legal or business interests or the legal or business interests of IntraFi or BNY Mellon.

(d) IntraFi may use and disclose any and all analyses, comparisons, indexes, or other data or information assembled, compiled, or otherwise developed by IntraFi, including information regarding aggregated activity of ICS depositors, as long as it does not individually identify you.

10.2. Tax Reporting and Withholding

(a) To the extent required by applicable law, we will file with the U.S. Internal Revenue Service ("IRS"), and furnish to you, IRS Form 1099-INT or its equivalent, or IRS Form 1042-S or its equivalent, for interest paid on the Deposit Accounts by the Destination Institutions.

(b) If we are notified by the IRS that backup withholding is required for interest on the Deposit Accounts, or if we otherwise determine that we are required by applicable law to collect such backup withholding, we will collect it and pay it to the IRS.

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10.3. Liability and Dispute Resolution

(a) We will maintain, directly or through a Service Provider, appropriate records of our placements for you. We will not place deposits for you through ICS at a Destination Institution that is the subject of a then-effective exclusion on your Exclusions List, at a Destination Institution that is the subject of a then-effective rejection by you, or at a Destination Institution under one Depositor Identifier in an amount that exceeds the SMDIA.

(b) If all or part of your funds in a Deposit Account at a Destination Institution are uninsured because of our failure to comply with the requirements set forth in Section 10.3(a), and if the Destination Institution fails and you do not otherwise recover the uninsured portion, we will reimburse you for your documented loss of the uninsured portion that you do not otherwise recover.

(c) SUBJECT TO OUR REIMBURSEMENT OBLIGATION IN SECTION 10.3(b), AND EXCEPT AS MAY BE OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE, AND IN NO EVENT WILL INTRAFI OR BNY MELLON BE LIABLE, TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSS OR DAMAGE INCURRED OR ALLEGEDLY INCURRED IN CONNECTION WITH THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE, INTRAFI, AND BNY MELLON WILL NOT HAVE ANY LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR: (i) ANY LOSS ARISING OUT OF OR RELATING TO A CAUSE OVER WHICH WE DO NOT HAVE DIRECT CONTROL, INCLUDING THE FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, GOVERNMENT RESTRICTIONS, OR FORCE MAJEURE (*E.G.*, EARTHQUAKE, FLOOD, SEVERE OR EXTRAORDINARY WEATHER CONDITIONS, NATURAL DISASTERS OR OTHER ACT OF GOD, FIRE, ACTS OF WAR, TERRORIST ATTACKS, INSURRECTION, RIOT, STRIKES, LABOR DISPUTES OR SIMILAR PROBLEMS, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS, SYSTEM OR POWER FAILURES, OR EQUIPMENT OR SOFTWARE MALFUNCTION), (ii) DELAY IN ANY FDIC INSURANCE PAYMENT, (iii) THE FINANCIAL CONDITION OF ANY DESTINATION INSTITUTION OR THE ACCURACY OF ANY FINANCIAL INFORMATION ABOUT ANY DESTINATION INSTITUTION, OR (iv) ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS).

(d) ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE GOVERNED BY THE DISPUTE RESOLUTION, ARBITRATION, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTES PROVISIONS, IF ANY, CONTAINED IN THE CUSTODIAL AGREEMENT.

10.4. Miscellaneous

(a) This Agreement constitutes the entire agreement between you and us relating to the placement of deposits through ICS and any other matter herein, supersedes prior agreements, understandings, negotiations, representations, and proposals, whether written or oral, relating to any matter herein, and may not be amended by any oral representation or oral agreement. This Section 10.4(a) will not affect the validity of any written addenda to this Agreement into which we have entered with you.

(b) Schedule 1 and Schedule 2 are incorporated into and made part of this Agreement. We may amend this Agreement, including any Schedule, prospectively by giving you written notice of the amendment at least fourteen (14) days before the effective date of the amendment, which will be specified in the amendment or, if no effective date is specified in the amendment, the date that is fourteen (14) days after we give you written notice of the amendment. We may provide written notice of the amendment by means of a posting on the DCP, an entry on your account statement, an email message, or a printed letter.

(c) Either party may terminate this Agreement on written notice to the other, but the obligations of both parties will survive with respect to any funds deposited at the time of termination. In addition, the provisions of this Section 10.4 will survive termination.

(d) Except as provided in Section 2.2(d), this Agreement may not be assigned, in whole or in part, by either party except by operation of law or as required by applicable law, and any purported assignment in violation hereof is void.

(e) The headings in this Agreement are not intended to describe, interpret, define, or limit the scope, meaning, or intent of this Agreement or any clause in it. Except as otherwise specified, a reference to a Section is a reference to a section of this Agreement. A reference to a Schedule is a reference to a schedule to this Agreement. The term "applicable law" refers to all applicable statutes, rules, regulations, and judicial orders, whether federal, state, or local. The words "include," "includes," and "including" do not imply exclusion.

(f) This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. This Agreement and, unless otherwise

provided in the Custodial Agreement, the Custodial Agreement will be valid, binding, and enforceable against you and us when executed by one of the following means that we accept: (i) an original manual signature, (ii) a DocuSign® eSignature or another electronic signature that we accept, or (iii) a faxed, scanned (including in a Portable Document Format or PDF document), or photocopied signature that we accept. Each DocuSign® eSignature, other electronic signature, or faxed, scanned, or photocopied signature that we accept shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original signature, and you and we waive any objection to the contrary.

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By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this ICS Deposit Placement Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS ACTIVITY FUND

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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Schedule 1 to ICS Deposit Placement Agreement

Program Deposits and Program Withdrawals

This **Schedule 1** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 1 have the meanings, if any, assigned elsewhere in the Agreement.

1. Specified Terms

The Same-Day Deposit Cutoff Time is as follows:

01:00	☐ AM	☑ PM	☐ Eastern	☑ Central	☐ Mountain	☐ Pacific
(insert time)	(check AM or PM)		(check time zone)			

Daylight Saving Time applies when nationally in effect unless checked here ☐

2. Program Deposits

(a) The Triggering Event for a Regular Program Deposit is a Regular Program Deposit request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Deposit is a Same-Day Program Deposit request by you that we receive and accept before the Same-Day Deposit Cutoff Time on a Business Day. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement later on the same Business Day.

(c) If a Triggering Event for a Program Deposit occurs, we may debit the Root Account and credit a holding account before the transfer of funds to the Deposit Accounts occurs at ICS Settlement.

3. Program Withdrawals

(a) The Triggering Event for a Regular Program Withdrawal is a Regular Program Withdrawal request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Withdrawal is a Same-Day Program Withdrawal request by you that we receive and accept before the Same-Day Withdrawal Cutoff Time on a Business Day. Subject to the other terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from your Deposit Accounts at ICS Settlement later the same Business Day.

(c) Subject to the terms and conditions of this Agreement, and subject to the rules and cutoff times that otherwise apply to root accounts with us, we may in our discretion advance funds to you in anticipation of a Program Withdrawal to honor your debit transactions in the Root Account so long as the sum of your Root Account balance and your balance in the Deposit Accounts of the applicable type, after taking into account any pending Program Deposits and any pending Program Withdrawals, is not less than zero. We may do so even if the amount of the debit transaction exceeds your Root Account balance. You will owe us any amounts that we credit as advances in anticipation of a Program Deposit and we will retain those amounts from the funds we receive at ICS Settlement.

(d) If a Triggering Event for a Program Withdrawal occurs, we may credit the Root Account and debit a holding account before the transfer of funds from the Deposit Accounts occurs at ICS Settlement.

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Schedule 2 to ICS Deposit Placement Agreement

Account Type, Placement Feature, and Exclusions

This **Schedule 2** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 2 have the meanings, if any, assigned elsewhere in the Agreement.

1. Account Type

☐ We will place deposits for you in DDAs.

☐ We will place deposits for you in MMDAs.

☑ We may place deposits for you in DDAs or in MMDAs.

(Check one above.)

→

☐ You may use up to six MMDA Program Withdrawals per month.

☑ No per-month MMDA Program Withdrawal limit applies.

(If MMDAs will or may be used, check one above.)

2. Placement Feature

☑ We may use the Reciprocal Feature, the One-Way Feature, or both in placing deposits for you.

☐ We will use only the Reciprocal Feature in placing deposits for you.

☐ We will use only the One-Way Feature in placing deposits for you.

(Check one above.)

3. Exclusions

(a) You may place depository institutions on your Exclusions List by identifying them in the list below, unless we specify another means by which you will provide your Exclusions List.

(b) The Exclusions List should include the city and state of the depository institution's main office (rather than the city and state of a branch location). The Exclusions List may also include the institution's FDIC certificate number or transit routing number. If you do not list any exclusions enter "none" under Name of Institution on the first line (but your signature after a blank list will constitute your acknowledgment that you have not listed any exclusions).

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(c) Exclusions List:

Name of Depository Institution	City and State	FDIC Certificate or Routing Number
ALL AMERICA BANK	OKLAHOMA CITY, OK	20093

(Add lines if necessary.)

Signature of sole or primary Depositor

Custodial Agreement

You, the undersigned, enter into this Custodial Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

1. Pursuant to this Agreement, you authorize us to hold and act as your custodian with respect to all deposit accounts, including all time deposits, money market deposit accounts, and demand deposit accounts, issued or established pursuant to the CDARS Deposit Placement Agreement, the ICS Deposit Placement Agreement, or a predecessor agreement ("*Deposit Accounts*") for funds of yours placed as deposits through CDARS®, the Certificate of Deposit Account Registry Service®, or ICS, the IntraFi® Cash Service, and all your security entitlements and other related interests and assets with respect to the Deposit Accounts ("*Related Entitlements*"). The custodial account in which we will hold the Deposit Accounts and Related Entitlements ("*Custodial Account*") comprises all the CDARS and ICS custodial accounts that we maintain for you.

2. As your custodian, we may (i) cause the Deposit Accounts to be titled in our name or in the name of our sub-custodian, (ii) collect for your account all interest and other payments of income or principal pertaining to the Deposit Accounts, (iii) endorse on your behalf any check or other instrument received for your account that requires endorsement, (iv) in accordance with your instructions, deposit your funds in, or withdraw your funds from, the Deposit Accounts, (v) in accordance with your instructions, deliver or transfer funds from another account with us to the Deposit Accounts or deliver or transfer funds from the Deposit Accounts to another account with us, (vi) for Deposit Accounts that are time deposits, surrender for payment for your account maturing CDs and those for which early withdrawal is requested, (vii) execute and deliver or file on your behalf all appropriate receipts and releases and other instruments, including whatever certificates may be required from custodians or may be necessary to obtain exemption from taxes and to name you when required for the purpose of the instrument, and (viii) take such other actions as are customary or necessary to effectuate the purposes of this Agreement.

3. For purposes of Article 8 of the Uniform Commercial Code in applicable state law ("*UCC*"), we will act as your securities intermediary for, and will treat as financial assets, any Deposit Accounts and Related Entitlements that we hold for you pursuant to this Agreement. The Custodial Account will be a securities account, as defined in the UCC.

4. We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for records research, imaging, photocopying, and handling costs by the party that served the process, we may charge such costs to your account, in addition to any minimum fee we charge for complying with legal processes.

5. We may honor any legal process that is served personally, by mail, or by electronic mail or facsimile transmission at any of our offices or an office of our agent (including locations other than where the funds, records, or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

6. We will have no liability to you for any good-faith act or omission by us in connection with this Agreement. You agree to indemnify us and our sub-custodian, and to hold us and our sub-custodian harmless from, all expenses (including counsel fees), liabilities, and claims arising out of any good-faith act or omission by us in connection with this Agreement or compliance with any legal process relating to the Custodial Account that we believe (correctly or otherwise) to be valid. You agree to pay any service charges that we impose on the Custodial Account.

7. You may be an individual in an individual capacity, more than one individual in a joint capacity, or a trust, partnership, corporation, or other legal entity. We may accept instructions on your behalf from any individual who signs this Agreement as or on behalf of a Depositor and from any of the following individuals:

Name	Title or Legal Capacity
RANDI SPENCER	ASST TREASURER

(Add lines if necessary.)

The remainder of this page is intentionally left blank.

By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this Custodial Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS ACTIVITY FUND

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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ICS Deposit Placement Agreement

You, the undersigned, enter into this ICS Deposit Placement Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

This Agreement states the terms and conditions on which we will endeavor to place deposits for you at other financial institutions through ICS®, the IntraFi Cash Service℠ of IntraFi Network LLC ("*IntraFi*") for placing deposits at depository institutions.

1. Deposit Placement

1.1. Agreement and Schedules

(a) **Schedule 1** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Daily Rate. **Schedule 2** describes the account type and placement feature that we will use. **Schedule 3** describes the procedure by which we will place deposits for you through the form of ICS known as ICS-Fixed Rate if we offer such placement.

(b) Each participating institution in ICS that is an insured depository institution ("*Destination Institution*") will be one at which deposit accounts are insured by the Federal Deposit Insurance Corporation ("*FDIC*") up to the FDIC standard maximum deposit insurance amount ("*SMDIA*") of $250,000.

(c) Subject to the terms and conditions of this Agreement, when we place deposits in a deposit account at a Destination Institution for your funds placed through ICS ("*Deposit Account*"), the amount of our outstanding placements for you at the Destination Institution through ICS and through CDARS®, the Certificate of Deposit Account Registry Service®, will not exceed $250,000.

(d) The Bank of New York Mellon ("*BNY Mellon*") provides services that support deposit placement through ICS. BNY Mellon's services include acting as our sub-custodian and settlement agent.

(e) You must be capable of using, and you agree to use, the Depositor Control Panel ("*DCP*"), an online tool, to review provisional allocations of deposits and for other purposes. You also agree to receive notices that may be posted on the DCP or sent to you by email.

1.2. Deposit Accounts

(a) Deposits that we place for you in Deposit Accounts will be "deposits," as defined by federal law, at the Destination Institutions.

(b) Each Deposit Account, including the principal balance and the accrued interest, will be a deposit obligation solely of the Destination Institution at which it is held. It will not be a deposit obligation of us or of IntraFi, BNY Mellon, or any other person or entity.

2. Your Relationship With Us

2.1. Agency and Custodial Relationship

(a) We will act as your agent in placing deposits for you through ICS. Under a separate agreement with you that grants us custodial powers ("*Custodial Agreement*"), we will also act as your custodian for the Deposit Accounts.

(b) Each Deposit Account will be recorded (i) on the records of a Destination Institution in the name of BNY Mellon, as our sub-custodian, (ii) on the records of BNY Mellon in our name, as your custodian, and (iii) on our records in your name. The recording will occur in a manner that permits the Deposit Account to be FDIC-insured to the same extent as if it were recorded on the records of a Destination Institution in your name.

(c) For purposes of Article 8 of the Uniform Commercial Code, we will act as your securities intermediary for, and will treat as financial assets, the Deposit Accounts and all your security entitlements and other related interests and assets with respect to the Deposit Accounts, and we will treat you as entitled to exercise the rights that constitute the Deposit Accounts.

(d) All interests that we hold for the Deposit Accounts will be held by us only as your securities intermediary and will not be our property. You will be the owner of the funds in the Deposit Accounts and any interest on those funds.

2.2. Termination of Custodial Relationship

(a) Either you or we may terminate the custodial relationship between you and us at any time. You may

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not transfer the Deposit Accounts to another custodian, but you may dismiss us as your custodian for a Deposit Account and request that it be recorded on the records of the Destination Institution in your name.

(b) We will endeavor to cause any request from you pursuant to Section 2.2(a) to be promptly forwarded to the Destination Institution. Each Destination Institution has agreed that it will promptly fulfill any such request, subject to its customer identification policies and other account opening terms and conditions.

(c) If a Deposit Account has been recorded on the records of a Destination Institution in your name pursuant to this Section 2, you will be able to enforce your rights in the Deposit Account directly against the Destination Institution, but we will no longer have any custodial responsibility for it and you will not be able to enforce any rights against the Destination Institution through us.

(d) If we were to become insolvent, our receiver or other successor in interest could transfer custody of the Deposit Accounts, and our rights and obligations under this Agreement, to a new custodian. Alternatively, you could exercise your right to have the Deposit Accounts recorded on the records of the Destination Institutions in your name pursuant to this Section 2.

3. Custodial Account and Interest Rate

3.1. Custodial Account

(a) As your custodian, we will open on our records, either directly or with the assistance of BNY Mellon, a custodial account in which we will hold your interests in the Deposit Accounts ("*Custodial Account*"). We may permit you to have multiple Custodial Accounts.

(b) On the signature page of this Agreement, you will enter a unique alphanumeric identifier for you ("*Depositor Identifier*"), which will be associated with the Custodial Account. You will enter as your Depositor Identifier your federal taxpayer identification number ("*TIN*"), unless you do not have a TIN, in which case you will enter an alternate identifier that we approve.

(c) If you use an alternate identifier, you must use the same alternate identifier for all placements of deposits for you, by us or by any other financial institution, through ICS or through CDARS. If you later obtain a TIN, you must promptly report it to us and to any such other institutions, and we may use it as your Depositor Identifier.

3.2. Interest Rate

(a) In ICS-Daily Rate, the interest rate for the Deposit Accounts at Destination Institutions ("*Interest Rate*") will be the then-current rate that we specify, which may be any rate (including zero) and which we may modify at any time. Through your continued participation in ICS-Daily Rate, you accept each applicable Interest Rate.

(b) In ICS-Fixed Rate, if offered, the Interest Rate will be determined as set forth in Schedule 3.

(c) If we permit you to have more than one Custodial Account, we may specify a different Interest Rate for each Custodial Account.

(d) Payment of the full amount of all accrued interest on a Deposit Account at a Destination Institution will be solely the responsibility of the Destination Institution. Neither we nor any other person or entity will be indebted to you for such payment.

4. Placement Procedures

4.1. Account Type, ICS Settlement, and Statements

(a) Settlement of payments to and from participating institutions in ICS through BNY Mellon that includes the type of deposits we place for you ("*ICS Settlement*") will occur each day that is not a Saturday, a Sunday, or another day on which banks in New York, New York, are authorized or required by law or regulation to close ("*Business Day*").

(b) You may confirm through the DCP (i) the aggregate principal balance in the Deposit Accounts ("*Program Balance*") and (ii) the principal balance and accrued interest of the Deposit Accounts at each Destination Institution as of the preceding Business Day or, after ICS Settlement-related processing, as of that Business Day.

(c) We will provide you with a periodic statement of custodial holdings for your funds placed through ICS that will include, as of the end of the statement period, your Program Balance, your principal balance at each Destination Institution, the total interest you have earned on the Deposit Accounts during the period, and the rate of return you have earned on the daily average closing principal balance for the period ("*Statement Period Yield*").

(d) The account information available on the DCP as described in Section 4.1(b), and the periodic statements described in Section 4.1(c), will be the only

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evidence that you receive of your ownership of the funds. You should retain the account statements.

4.2. Triggering Events

(a) Funds will be transferred to or from the Deposit Accounts in response to an event specified in this Agreement that triggers such movement ("*Triggering Event*"). A Triggering Event may result in a transfer of funds from a root account with us that contains your funds ("*Root Account*") to the Deposit Accounts at ICS Settlement ("*Program Deposit*") or a transfer of funds from the Deposit Accounts to the Root Account at ICS Settlement ("*Program Withdrawal*").

(b) For ICS-Daily Rate, Schedule 1 sets forth Triggering Events applicable to your deposits. For ICS-Fixed Rate, Schedule 3 set forth Triggering Events applicable to your deposits.

4.3. Program Deposits

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.3(b), a Triggering Event for a Program Deposit will result in a transfer of funds to the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Deposit*").

(b) Schedule 1 states whether, in ICS-Daily Rate, a transfer of funds to the Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Deposit*") is available and, if so, the cutoff time for you to request a Same-Day Program Deposit ("*Same-Day Deposit Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Deposit Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Deposit.

(c) We may impose a maximum Program Balance amount for deposits that we place for you through ICS and will inform you of any such amount we impose. Even if a Triggering Event for a Program Deposit occurs, we may choose not to transfer the amount to the Deposit Accounts if it would cause the Program Balance to exceed the maximum. In addition, we may choose not to transfer to the Deposit Accounts an amount that we have credited to the Root Account, but have not yet collected from a third party.

4.4. Program Withdrawals

(a) Subject to the terms and conditions of this Agreement, and except as provided in Section 4.4(b), a Triggering Event for a Program Withdrawal will result in a transfer of funds from the Deposit Accounts at ICS Settlement the *next* Business Day ("*Regular Program Withdrawal*").

(b) Schedule 1 states whether, in ICS-Daily Rate, the transfer of funds from your Deposit Accounts at ICS Settlement on the *same* Business Day ("*Same-Day Program Withdrawal*") is available and, if so, the cutoff time for you to request a Same-Day Program Withdrawal ("*Same-Day Withdrawal Cutoff Time*"). If Schedule 1 so states, a request that we receive and accept before the Same-Day Withdrawal Cutoff Time will be a Triggering Event, in ICS-Daily Rate, for a Same-Day Program Withdrawal.

4.5. Withdrawal Advances; Security Interest

(a) If Schedule 1 states that we will advance funds to you in anticipation of a Program Withdrawal, or if we otherwise decide in our discretion to advance funds to you in anticipation of a Program Withdrawal, you will owe the amount of these funds to us and we will retain from the funds we receive at ICS Settlement the amount we have advanced to you.

(b) With respect to any amount that you owe to us pursuant to Section 4.5(a):

(i) you grant us, and acknowledge that we have, a security interest in, and a lien on, the Deposit Accounts, related security entitlements, and other related interests and assets that we may hold for you as custodian and securities intermediary pursuant to the Custodial Agreement for the amount that you owe to us,

(ii) if a Destination Institution fails before a Program Withdrawal is completed, we may retain the amount of the Program Withdrawal from the proceeds of your FDIC insurance claim to satisfy the amount that you owe to us, and

(iii) to the extent that the amount that you owe to us is not satisfied from the interests and assets we are holding for you pursuant to the Custodial Agreement, or from the proceeds of any FDIC insurance claim, the amount remains owed by you to us and is payable on demand.

(c) If, in a separate agreement, you have granted us a security interest in the Deposit Accounts or in any security entitlements or other interests or assets relating to the Deposit Accounts as collateral for a loan to you or otherwise, we may decline to honor a request for a Program Withdrawal, or decline to honor a debit transaction in the Root Account that would trigger a

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Program Withdrawal or be funded by a Program Withdrawal, to the extent the Program Withdrawal would cause your Program Balance to fall below the loan amount or other amount that you have agreed to maintain in the Deposit Accounts or to which the security interest applies. If, in a separate agreement, you have granted us a security interest in the Root Account, we also may decline to honor transactions in the Root Account in accordance with the separate agreement.

4.6. Account Type and Withdrawal Limit, If Any

(a) Deposits that we place for you through ICS-Daily Rate at a Destination Institution will be placed in a Deposit Account that is a demand deposit account ("*DDA*") or a Deposit Account that is a money market deposit account ("*MMDA*"), as provided in Section 1 of Schedule 2.

(b) Section 1 of Schedule 2 provides (i) that we will place deposits for you in DDAs, (ii) that we will place deposits for you in MMDAs, or (iii) that we may place deposits for you in DDAs or MMDAs.

(c) Section 1 of Schedule 2 also provides, if MMDAs will or may be used, (i) that an MMDA Program Withdrawal limit of six per month applies or (ii) that no MMDA Program Withdrawal limit applies.

(d) If a Program Withdrawal limit applies and you exceed the six permitted Program Withdrawals from MMDAs in a month:

(i) We may (A) transfer all the remaining funds in the MMDAs to the Root Account associated with the Custodial Account for the MMDAs or (B), if you also have a Custodial Account for DDA deposits, transfer all the remaining funds in the MMDAs to the Custodial Account for DDA deposits.

(ii) In subsequent months we may effect either such transfer at the time of your sixth Program Withdrawal.

(e) If you exceed the six permitted Program Withdrawals from MMDAs in multiple months, we may also make the Custodial Account for the MMDAs ineligible for Program Deposits.

5. Placement Feature

5.1. Reciprocal and One-Way

(a) If we are an FDIC-insured depository institution, we are eligible to use a feature of ICS in which, when we place deposits, we receive matching deposits placed by other participating institutions in ICS and may pay a fee to IntraFi ("*Reciprocal Feature*").

(b) Whether or not we are eligible to use the Reciprocal Feature, we are eligible to use a feature of ICS in which, when we place deposits, we do not receive matching deposits, but we and IntraFi may receive fees from Destination Institutions ("*One-Way Feature*").

(c) Section 2 of Schedule 2 provides (i) that we may use either the Reciprocal Feature or the One-Way Feature, (ii) that we will use only the Reciprocal Feature, or (iii) that we will use only the One-Way Feature.

5.2. Placement Feature and Rate

(a) Interest on the Deposit Accounts will be earned at the specified Interest Rate regardless of whether the Reciprocal Feature or the One-Way Feature is used.

(b) When the Reciprocal Feature is used, the fee paid to IntraFi may affect rate determination. When the One-Way Feature is used, fees paid by Destination Institutions, or cost-of-funds rates for Destination Institutions, may affect rate determination.

(c) If we are eligible to use the Reciprocal Feature, and you authorize us to use either the Reciprocal Feature or the One-Way Feature, we may use a feature with greater benefits to you, to us, or both.

5.3. Placement Requirements

(a) Under the laws of some states, governmental units may submit deposits for placement through a deposit placement network only if the placing institution is located in the state and receives matching deposits of an equal maturity, if any, and an equal amount.

(b) If you are a state governmental unit, or if you are otherwise subject to restrictions on the placement of deposits for you, you are responsible for determining whether deposit placement in accordance with this Agreement satisfies any applicable restrictions.

6. Daily Allocation and Depositor Control

6.1. Daily Allocation; Review and Consent

(a) The process for allocating Program Deposits, Program Withdrawals, and funds already on deposit reflects various considerations, including the need for certain Destination Institutions to receive deposits in amounts that they have placed for their own customers and possible limits on the amounts that an institution is authorized to place or a Destination Institution has

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agreed to receive. Applicable deposit amounts may change from day to day. Accordingly, the allocation of funds takes place each Business Day.

(b) The set of Destination Institutions to which your funds on deposit are allocated on a Business Day, and the amount allocated to each Destination Institution, may differ from a previous Business Day's allocation. A different allocation may involve the movement of funds from one Destination Institution to another Destination Institution, even though you do not have a Program Deposit or a Program Withdrawal. Such movements of funds will not affect the Interest Rate.

(c) You exercise control over the allocation of your funds through direct contact with us and through the DCP. You are responsible for reviewing the important information we provide you through the DCP, including information regarding proposed allocations that we provide each Business Day. In addition, on request at any time, we will provide you with a list of all Destination Institutions.

(d) Although we will not allocate your funds to Destination Institutions that you exclude or reject as set forth below, you authorize and consent to the allocation of your funds at Destination Institutions that you approve, or do not exclude or reject, as set forth below.

6.2. Destination Institution Exclusions

(a) You may enter the name of any depository institution on a list of exclusions from eligibility to receive deposits we place for you through ICS ("*Exclusions List*").

(b) We may ask you to provide your initial Exclusions List by entering exclusions in Section 3(c) of Schedule 2 or by giving us notice of your Exclusions List in another manner we specify.

(c) An Exclusions List will be effective within one Business Day after the first Business Day on which we have received the Exclusions List from you.

(d) You may add to or subtract from your Exclusions List by giving us notice in a manner we specify or by using functionality provided within the Depositor Control Panel. If you do so, the revised Exclusions List will be effective within one Business Day after the first Business Day on which we have received the notice or you have used the functionality.

6.3. Depositor Control Panel

(a) IntraFi will assist us in providing the DCP. The address of the Depositor Control Panel is https://www.depositorcontrol.com.

(b) You represent that you have a computer with Internet access, an e-mail address, the ability to download and print information from the DCP, and the knowledge and experience to use an online tool for DCP functionality. In addition, you acknowledge that you must obtain and maintain all equipment and services necessary for access to the DCP.

(c) To access the DCP, you must create login credentials. To create your login credentials, click on "Getting Started" on the DCP home page. Alternatively, we may send to you an email containing a link that will enable you to create login credentials.

(d) From within the DCP, you may invite a user to create login credentials that will permit the user to access your DCP account. Such users may have access to your account information and DCP functionality, and you are responsible for their acts or omissions.

6.4. Depositor Placement Review

(a) Each Business Day, your aggregate principal balance that will be in Deposit Accounts after that day's ICS Settlement will be provisionally allocated to Destination Institutions. The amount allocated will reflect your Program Balance as of the last ICS Settlement, plus any Program Deposit that will occur at the day's ICS Settlement, minus any Program Withdrawal that will occur at the day's ICS Settlement. The allocation may provide that previously-deposited funds will be removed from a Destination Institution and deposited in another Destination Institution.

(b) After the provisional allocation occurs on a Business Day, but before allocation becomes final at ICS Settlement, Depositor Placement Review ("*DPR*") will occur through the DCP. Even if a Destination Institution is not on your Exclusions List, the final allocation that day will not allocate your funds to the Destination Institution if you reject it during DPR through the DCP. Your rejection of a Destination Institution will be effective only if you submit it before DPR ends.

(c) The DPR period each Business Day will be as follows: 3:00 PM to 3:15 PM Eastern time. Daylight Saving Time applies when nationally in effect. We may change the DPR period by posting notice on the DCP in advance of the change.

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(d) In DPR, you will see a list of Destination Institutions to which your funds are proposed to be allocated at ICS Settlement later that day ("*Proposed Placement List*"), reflecting the provisional allocation of all your funds, including funds that will be moved from one Destination Institution to another Destination Institution. The Proposed Placement List will include the principal balance allocated to each Destination Institution. If you review the Proposed Placement List, and you click the approval button or you do not reject any of the Destination Institutions on the list, you will be approving the allocation and your funds will be allocated in accordance with the list.

(e) If you reject any of the Destination Institutions on the Proposed Placement List, you will be approving allocation to Destination Institutions on the list that you do not reject. After entering rejections, if sufficient time remains in DPR, you will have the opportunity to review a list of other Destination Institutions to which your funds could be allocated ("*Alternate Placement List*"). If you click the approval button for the Alternate Placement List, or you do not reject any of the Destination Institutions on it, you will be approving the allocation of your funds to any of the listed Destination Institutions. If you reject any of the Destination Institutions on the Alternate Placement List, you will be approving allocation to listed Destination Institutions that you do not reject. Your funds may be allocated to any combination of Destination Institutions on the Proposed Placement List and the Alternate Placement List that you do not reject.

(f) If the provisional allocation on a Business Day would result in funds of yours currently at a Destination Institution being moved to another Destination Institution and you reject the other Destination Institution in DPR that Business Day, the funds will not necessarily remain at the first Destination Institution. The funds will be allocated to a Destination Institution that you do not reject or returned to the Root Account.

(g) A Destination Institution that you reject in DPR will also be added to your Exclusions List, for purposes of future allocations, within one Business Day after the Business Day on which you submit the rejection.

(h) We do not guarantee that all your funds will be allocated to Destination Institutions on any particular day, even if they were allocated to Destination Institutions on a previous day. Exclusions and rejections of Destination Institutions may increase the chance that funds will not be allocated. If funds not yet transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will remain in the Root Account. If funds previously transferred to the Deposit Accounts are not allocated to a Destination Institution on a Business Day, the funds will be returned to the Root Account.

7. FDIC Insurance Considerations

7.1. Deposit Insurance Coverage

(a) You may obtain information about FDIC deposit insurance coverage by visiting the FDIC website at http://www.fdic.gov or by contacting the FDIC by letter, email, or telephone.

(b) All of your deposits at a Destination Institution in the same insurable capacity (whether you are acting directly or through an intermediary) will be aggregated for the SMDIA. You should add to your Exclusions List any depository institution at which you have other deposits in the same insurable capacity. Insurable capacities include, among others, individual accounts and joint accounts.

(c) You are responsible for determining whether deposits we place for you are maintained in separate insurable capacities. Separate divisions within a corporate entity are not eligible for separate insurance coverage, and a separate TIN or other Depositor Identifier does not establish a separate insurable capacity.

(d) We will use the Depositor Identifier to identify you, and we will place deposits for you on the understanding that you are not submitting deposits for placement under more than one Depositor Identifier in the same insurable capacity.

(e) The requirements for FDIC deposit insurance coverage of the deposits of governmental units, including the United States government, state and local governments, the District of Columbia, and the Commonwealth of Puerto Rico, are set forth in FDIC regulations. If you are a governmental unit, you are responsible for determining whether the requirements for deposit insurance have been met. We are not responsible for losses resulting from the placement of deposits that are not eligible for FDIC deposit insurance.

(f) Records that we maintain, or that BNY Mellon maintains for us, reflecting ownership of the Deposit Accounts will be used to establish your eligibility for deposit insurance coverage. Accordingly, you must immediately report to us any changes in ownership information so that there will be accurate information to provide to the FDIC if a Destination Institution fails and the FDIC pays its insured deposits by cash payment.

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The FDIC could also require you to provide additional documentation.

7.2. Responsibility to Monitor Deposits; Available Information

(a) You are responsible for monitoring the total amount of your funds at each Destination Institution in each insurable capacity to determine the extent of FDIC deposit insurance coverage available to you for deposits at that Destination Institution. You should confirm that each placement of your funds at Destination Institutions is consistent with your exclusions and rejections.

(b) You can obtain publicly available financial information on Destination Institutions from the National Information Center of the Federal Reserve System at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

7.3. Uninsured Deposits

(a) Although we will not place a deposit for you through ICS at any one Destination Institution in an amount that exceeds the SMDIA, a deposit that we place for you will not be eligible for FDIC insurance coverage at a Destination Institution before it becomes a deposit at the Destination Institution or after it is withdrawn from the Destination Institution.

(i) If we are an FDIC-insured depository institution and the Root Account is eligible for FDIC insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the SMDIA of $250,000.

(ii) If we are a credit union the share accounts of which are insured by the National Credit Union Administration ("*NCUA*") and the Root Account is a share account with us that is eligible for NCUA insurance coverage, a deposit in the Root Account will be aggregated with your other deposits with us in the same insurable capacity for application of the NCUA standard maximum share insurance amount of $250,000.

(iii) If we are not an FDIC-insured depository institution or the Root Account is not eligible for FDIC insurance coverage, a deposit in the Root Account will not be FDIC-insured. If we are not an NCUA-insured credit union or the Root Account is not eligible for NCUA insurance coverage, a deposit in the Root Account will not be NCUA-insured.

(b) If you cannot accept the risk of having a deposit with us that is not fully insured, you will be responsible for making arrangements with us, if we offer them, to have the deposits collateralized, protected by a properly-executed repurchase sweep arrangement, or otherwise adequately protected, in a manner consistent with applicable law. You should consult your legal advisor to determine whether a collateralization arrangement is consistent with applicable law.

(c) If you cannot accept the risk of having a deposit with us that is not fully insured, and we do not offer arrangements of the kind described in Section 7.3(b) or we offer them but you do not make such arrangements with us, you should not submit deposits for placement through ICS.

7.4. Deposit Insurance Payments

(a) In case of the liquidation of, or other closing or winding up of the affairs of, an insured depository institution, the FDIC is generally required by law to pay each insured deposit "as soon as possible," either by cash payment or by transferring the deposit to another insured depository institution. It is possible, however, that an insurance payment could be delayed. Neither we nor any other person or entity will be obligated to advance funds to you with respect to an insurance payment or to make any payment to you in satisfaction of a loss you might incur as a result of a delay in an insurance payment.

(b) If a Destination Institution at which we place deposits for you is closed and the FDIC does not transfer deposits that include your funds to another insured depository institution, but will make a deposit insurance cash payment, we will cause a deposit insurance claim for your funds to be filed with the FDIC, and we will credit to you the proceeds of the deposit insurance claim that we receive for your funds, subject to any valid security interest.

(c) If the FDIC makes a deposit insurance cash payment for a Deposit Account at a closed Destination Institution, the FDIC is required by law to pay the principal amount plus unpaid accrued interest to the date of the closing of the Destination Institution, as prescribed by law, subject to the SMDIA. No interest is earned on a Deposit Account at a Destination Institution after it closes.

(d) If the FDIC transfers the deposits of a closed Destination Institution to another insured depository institution, the acquiring institution may assume a Deposit Account. The acquiring institution may change the rate at which it pays interest on the assumed Deposit Account, subject to your right to withdraw the funds.

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8. Additional Considerations

8.1. Compare Rates

(a) We are not acting as your investment advisor, and we are not advising you about alternative investments. You are responsible for comparing the rates of return and other features of the Deposit Accounts to other available deposit accounts and other kinds of investments before choosing placement through ICS.

(b) The Interest Rate may be higher or lower than a cost-of-funds rate for a Destination Institution, an interest rate for another customer, or interest rates on comparable deposits available directly from us, from the Destination Institutions at which the Deposit Accounts are held, from other Destination Institutions, or from insured depository institutions that are not Destination Institutions.

8.2. Allocation Considerations

(a) ICS allocation process is subject to applicable law and may be affected by our objectives, IntraFi's objectives, or both, including administrative convenience, reduction of costs, and enhancement of profits.

(b) Participating institutions in ICS service may make compensatory payments resulting in payments to other participating institutions, or receive compensatory payments resulting from payments by other participating institutions, including compensatory payments that reflect the difference between an interest rate for deposits placed by an institution and a rate at which the receiving institution would otherwise pay interest.

8.3. Mutual Institution Rights

(a) Your funds may be placed in a Deposit Account at a Destination Institution that is in the mutual form of organization. Such a Deposit Account will be recorded on the records of the mutual institution in the name of the sub-custodian and not in your name. The sub-custodian will not attend or vote at any meeting of the depositor members of a mutual institution, or exercise any subscription rights in a mutual institution's mutual-to-stock conversion, either on its own behalf or on your behalf.

(b) If we receive from the sub-custodian notice of a meeting of depositor members of a mutual institution or other materials or information relating to a mutual institution's mutual-to-stock conversion, we may forward such notice, materials, or information to you. If you wish to receive such notice, materials, or information directly from the mutual institution, or if you wish to attend or vote at any meeting of the depositor members of the mutual institution or receive subscription rights, you must, before the applicable record date (a date that is usually at least one year before the mutual institution's board of directors adopts a plan of conversion), dismiss us as your custodian and have the Deposit Account recorded on the records of the mutual institution in your name pursuant to Section 2.2.

9. Conforming Changes

(a) If you signed a previous version of this Agreement that was captioned "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedules 1 and 2 to this Agreement is the same as the content of Schedules 1 and 2 to the version that you signed, subject to the following changes:

(i) "IntraFi Network Deposits DDA-MMDA Deposit Placement Agreement" is changed to "ICS Deposit Placement Agreement" and

(ii) "DDA-MMDA Option" is changed to "ICS."

(b) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Schedule 1 to this Agreement is the same as the content of Schedule 1 to the version that you signed, except that "Transaction Account," if it appears in the version that you signed, is changed to "Root Account."

(c) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 1 of Schedule 2 to this Agreement is as follows:

(i) If the version of the Agreement that you signed provided that we would place deposits for you only in DDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in DDAs."

(ii) If the version of the Agreement that you signed provided that we would place deposits for you only in MMDAs, Section 1 of Schedule 2 is deemed to state: "We will place deposits for you in MMDAs."

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(iii) If the version of the Agreement that you signed provided that we might place deposits for you in DDAs or MMDAs, Section 1 of Schedule 2 is deemed to state: "We may place deposits for you in DDAs or MMDAs."

(iv) If the version of the Agreement that you signed provided that an MMDA Program Withdrawal limit would apply and we have not informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "You may use up to six MMDA Program Withdrawals per month."

(v) If the version you signed provided that an MMDA Program Withdrawal limit would not apply or we have informed you that we will not enforce such a limit, Section 1 of Schedule 2 is deemed to state, "No MMDA Program Withdrawal limit applies."

(d) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, the content of Section 2 of Schedule 2 to this Agreement is as follows:

(i) Section 2 of Schedule 2 is deemed to provide that we may use either the Reciprocal Feature or the One-Way Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we might use either ICS Reciprocal or ICS One-Way was checked.

(ii) Section 2 of Schedule 2 is deemed to provide that we will use only the Reciprocal Feature if (A) Schedule 4 to the version that you signed contained two check boxes, one stating that we might use either ICS Reciprocal or ICS One-Way and the other stating that we would use only ICS Reciprocal, and (B) the box stating that we would use only ICS Reciprocal was checked.

(iii) Section 2 of Schedule 2 is deemed to provide that we will use only the One-Way Feature if Schedule 4 to the version that you signed contained no check boxes regarding the use of ICS Reciprocal or ICS One-Way.

(e) If you signed a previous version of this Agreement that was captioned "ICS Deposit Placement Agreement" and became a party to the current version of the Agreement as a result of having been given notice of amendment, Section 3 of Schedule 2 is deemed to include any depository institutions that you listed in the former Section 4 of this Agreement except to the extent that you have subsequently removed any such depository institution from your Exclusions List.

10. Other Provisions

10.1. Release and Use of Identifying Information

(a) We may provide information that identifies you ("*Identifying Information*"), including your name, your TIN or other Depositor Identifier, and information on your deposits, to a party that provides services in connection with ICS ("*Service Provider*"), including IntraFi and BNY Mellon. A Service Provider may use Identifying Information in providing services in connection with ICS.

(b) We or a Service Provider may also provide Identifying Information to a Destination Institution at which your funds are deposited, but will do so only to the extent necessary to comply with a request by you or your agent or to comply with applicable law. In addition, we or a Service Provider may provide Identifying Information to the FDIC in connection with a deposit insurance claim.

(c) Except as provided in Section 10.1(a) or Section 10.1(b), we will not provide Identifying Information to any party unless we determine that (i) we are required by applicable law to do so or (ii) we are permitted by applicable law to do so and have reasonable grounds to do so to protect our own legal or business interests or the legal or business interests of IntraFi or BNY Mellon.

(d) IntraFi may use and disclose any and all analyses, comparisons, indexes, or other data or information assembled, compiled, or otherwise developed by IntraFi, including information regarding aggregated activity of ICS depositors, as long as it does not individually identify you.

10.2. Tax Reporting and Withholding

(a) To the extent required by applicable law, we will file with the U.S. Internal Revenue Service ("IRS"), and furnish to you, IRS Form 1099-INT or its equivalent, or IRS Form 1042-S or its equivalent, for interest paid on the Deposit Accounts by the Destination Institutions.

(b) If we are notified by the IRS that backup withholding is required for interest on the Deposit Accounts, or if we otherwise determine that we are required by applicable law to collect such backup withholding, we will collect it and pay it to the IRS.

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10.3. Liability and Dispute Resolution

(a) We will maintain, directly or through a Service Provider, appropriate records of our placements for you. We will not place deposits for you through ICS at a Destination Institution that is the subject of a then-effective exclusion on your Exclusions List, at a Destination Institution that is the subject of a then-effective rejection by you, or at a Destination Institution under one Depositor Identifier in an amount that exceeds the SMDIA.

(b) If all or part of your funds in a Deposit Account at a Destination Institution are uninsured because of our failure to comply with the requirements set forth in Section 10.3(a), and if the Destination Institution fails and you do not otherwise recover the uninsured portion, we will reimburse you for your documented loss of the uninsured portion that you do not otherwise recover.

(c) SUBJECT TO OUR REIMBURSEMENT OBLIGATION IN SECTION 10.3(b), AND EXCEPT AS MAY BE OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE, AND IN NO EVENT WILL INTRAFI OR BNY MELLON BE LIABLE, TO YOU OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSS OR DAMAGE INCURRED OR ALLEGEDLY INCURRED IN CONNECTION WITH THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, WE, INTRAFI, AND BNY MELLON WILL NOT HAVE ANY LIABILITY TO YOU OR ANY OTHER PERSON OR ENTITY FOR: (i) ANY LOSS ARISING OUT OF OR RELATING TO A CAUSE OVER WHICH WE DO NOT HAVE DIRECT CONTROL, INCLUDING THE FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER INTERCONNECT PROBLEMS, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, GOVERNMENT RESTRICTIONS, OR FORCE MAJEURE (*E.G.*, EARTHQUAKE, FLOOD, SEVERE OR EXTRAORDINARY WEATHER CONDITIONS, NATURAL DISASTERS OR OTHER ACT OF GOD, FIRE, ACTS OF WAR, TERRORIST ATTACKS, INSURRECTION, RIOT, STRIKES, LABOR DISPUTES OR SIMILAR PROBLEMS, ACCIDENT, ACTION OF GOVERNMENT, COMMUNICATIONS, SYSTEM OR POWER FAILURES, OR EQUIPMENT OR SOFTWARE MALFUNCTION), (ii) DELAY IN ANY FDIC INSURANCE PAYMENT, (iii) THE FINANCIAL CONDITION OF ANY DESTINATION INSTITUTION OR THE ACCURACY OF ANY FINANCIAL INFORMATION ABOUT ANY DESTINATION INSTITUTION, OR (iv) ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS).

(d) ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE GOVERNED BY THE DISPUTE RESOLUTION, ARBITRATION, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTES PROVISIONS, IF ANY, CONTAINED IN THE CUSTODIAL AGREEMENT.

10.4. Miscellaneous

(a) This Agreement constitutes the entire agreement between you and us relating to the placement of deposits through ICS and any other matter herein, supersedes prior agreements, understandings, negotiations, representations, and proposals, whether written or oral, relating to any matter herein, and may not be amended by any oral representation or oral agreement. This Section 10.4(a) will not affect the validity of any written addenda to this Agreement into which we have entered with you.

(b) Schedule 1 and Schedule 2 are incorporated into and made part of this Agreement. We may amend this Agreement, including any Schedule, prospectively by giving you written notice of the amendment at least fourteen (14) days before the effective date of the amendment, which will be specified in the amendment or, if no effective date is specified in the amendment, the date that is fourteen (14) days after we give you written notice of the amendment. We may provide written notice of the amendment by means of a posting on the DCP, an entry on your account statement, an email message, or a printed letter.

(c) Either party may terminate this Agreement on written notice to the other, but the obligations of both parties will survive with respect to any funds deposited at the time of termination. In addition, the provisions of this Section 10.4 will survive termination.

(d) Except as provided in Section 2.2(d), this Agreement may not be assigned, in whole or in part, by either party except by operation of law or as required by applicable law, and any purported assignment in violation hereof is void.

(e) The headings in this Agreement are not intended to describe, interpret, define, or limit the scope, meaning, or intent of this Agreement or any clause in it. Except as otherwise specified, a reference to a Section is a reference to a section of this Agreement. A reference to a Schedule is a reference to a schedule to this Agreement. The term "applicable law" refers to all applicable statutes, rules, regulations, and judicial orders, whether federal, state, or local. The words "include," "includes," and "including" do not imply exclusion.

(f) This Agreement and, unless otherwise provided in the Custodial Agreement, the Custodial Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. This Agreement and, unless otherwise

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provided in the Custodial Agreement, the Custodial Agreement will be valid, binding, and enforceable against you and us when executed by one of the following means that we accept: (i) an original manual signature, (ii) a DocuSign® eSignature or another electronic signature that we accept, or (iii) a faxed, scanned (including in a Portable Document Format or PDF document), or photocopied signature that we accept. Each DocuSign® eSignature, other electronic signature, or faxed, scanned, or photocopied signature that we accept shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original signature, and you and we waive any objection to the contrary.

The remainder of this page is intentionally left blank.

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By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this ICS Deposit Placement Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS SINKING FUND

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

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Schedule 1 to ICS Deposit Placement Agreement

Program Deposits and Program Withdrawals

This **Schedule 1** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 1 have the meanings, if any, assigned elsewhere in the Agreement.

1. Specified Terms

The Same-Day Deposit Cutoff Time is as follows:

01:00	☐ AM	☑ PM	☐ Eastern	☑ Central	☐ Mountain	☐ Pacific
(insert time)	(check AM or PM)			(check time zone)		

Daylight Saving Time applies when nationally in effect unless checked here ☐

2. Program Deposits

(a) The Triggering Event for a Regular Program Deposit is a Regular Program Deposit request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Deposit is a Same-Day Program Deposit request by you that we receive and accept before the Same-Day Deposit Cutoff Time on a Business Day. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount to the Deposit Accounts at ICS Settlement later on the same Business Day.

(c) If a Triggering Event for a Program Deposit occurs, we may debit the Root Account and credit a holding account before the transfer of funds to the Deposit Accounts occurs at ICS Settlement.

3. Program Withdrawals

(a) The Triggering Event for a Regular Program Withdrawal is a Regular Program Withdrawal request by you that we receive and accept. Subject to the terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from the Deposit Accounts at ICS Settlement on the next Business Day.

(b) The Triggering Event for a Same-Day Program Withdrawal is a Same-Day Program Withdrawal request by you that we receive and accept before the Same-Day Withdrawal Cutoff Time on a Business Day. Subject to the other terms and conditions of this Agreement, if such a Triggering Event occurs, we will transfer the requested amount from your Deposit Accounts at ICS Settlement later the same Business Day.

(c) Subject to the terms and conditions of this Agreement, and subject to the rules and cutoff times that otherwise apply to root accounts with us, we may in our discretion advance funds to you in anticipation of a Program Withdrawal to honor your debit transactions in the Root Account so long as the sum of your Root Account balance and your balance in the Deposit Accounts of the applicable type, after taking into account any pending Program Deposits and any pending Program Withdrawals, is not less than zero. We may do so even if the amount of the debit transaction exceeds your Root Account balance. You will owe us any amounts that we credit as advances in anticipation of a Program Deposit and we will retain those amounts from the funds we receive at ICS Settlement.

(d) If a Triggering Event for a Program Withdrawal occurs, we may credit the Root Account and debit a holding account before the transfer of funds from the Deposit Accounts occurs at ICS Settlement.

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Schedule 2 to ICS Deposit Placement Agreement

Account Type, Placement Feature, and Exclusions

This **Schedule 2** is part of the ICS Deposit Placement Agreement ("*Agreement*"). Terms not defined in this Schedule 2 have the meanings, if any, assigned elsewhere in the Agreement.

1. Account Type

☐ We will place deposits for you in DDAs.

☐ We will place deposits for you in MMDAs.

☑ We may place deposits for you in DDAs or in MMDAs.

(Check one above.)

→

☐ You may use up to six MMDA Program Withdrawals per month.

☑ No per-month MMDA Program Withdrawal limit applies.

(If MMDAs will or may be used, check one above.)

2. Placement Feature

☑ We may use the Reciprocal Feature, the One-Way Feature, or both in placing deposits for you.

☐ We will use only the Reciprocal Feature in placing deposits for you.

☐ We will use only the One-Way Feature in placing deposits for you.

(Check one above.)

3. Exclusions

(a) You may place depository institutions on your Exclusions List by identifying them in the list below, unless we specify another means by which you will provide your Exclusions List.

(b) The Exclusions List should include the city and state of the depository institution's main office (rather than the city and state of a branch location). The Exclusions List may also include the institution's FDIC certificate number or transit routing number. If you do not list any exclusions enter "none" under Name of Institution on the first line (but your signature after a blank list will constitute your acknowledgment that you have not listed any exclusions).

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(c) Exclusions List:

Name of Depository Institution	City and State	FDIC Certificate or Routing Number
ALL AMERICA BANK	OKLAHOMA CITY, OK	20093

(Add lines if necessary.)

Signature of sole or primary Depositor

Custodial Agreement

You, the undersigned, enter into this Custodial Agreement ("*Agreement*") with the following financial institution ("*we*" or "*us*"):

BOKF NA

1. Pursuant to this Agreement, you authorize us to hold and act as your custodian with respect to all deposit accounts, including all time deposits, money market deposit accounts, and demand deposit accounts, issued or established pursuant to the CDARS Deposit Placement Agreement, the ICS Deposit Placement Agreement, or a predecessor agreement ("*Deposit Accounts*") for funds of yours placed as deposits through CDARS®, the Certificate of Deposit Account Registry Service®, or ICS, the IntraFi® Cash Service, and all your security entitlements and other related interests and assets with respect to the Deposit Accounts ("*Related Entitlements*"). The custodial account in which we will hold the Deposit Accounts and Related Entitlements ("*Custodial Account*") comprises all the CDARS and ICS custodial accounts that we maintain for you.

2. As your custodian, we may (i) cause the Deposit Accounts to be titled in our name or in the name of our sub-custodian, (ii) collect for your account all interest and other payments of income or principal pertaining to the Deposit Accounts, (iii) endorse on your behalf any check or other instrument received for your account that requires endorsement, (iv) in accordance with your instructions, deposit your funds in, or withdraw your funds from, the Deposit Accounts, (v) in accordance with your instructions, deliver or transfer funds from another account with us to the Deposit Accounts or deliver or transfer funds from the Deposit Accounts to another account with us, (vi) for Deposit Accounts that are time deposits, surrender for payment for your account maturing CDs and those for which early withdrawal is requested, (vii) execute and deliver or file on your behalf all appropriate receipts and releases and other instruments, including whatever certificates may be required from custodians or may be necessary to obtain exemption from taxes and to name you when required for the purpose of the instrument, and (viii) take such other actions as are customary or necessary to effectuate the purposes of this Agreement.

3. For purposes of Article 8 of the Uniform Commercial Code in applicable state law ("*UCC*"), we will act as your securities intermediary for, and will treat as financial assets, any Deposit Accounts and Related Entitlements that we hold for you pursuant to this Agreement. The Custodial Account will be a securities account, as defined in the UCC.

4. We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for records research, imaging, photocopying, and handling costs by the party that served the process, we may charge such costs to your account, in addition to any minimum fee we charge for complying with legal processes.

5. We may honor any legal process that is served personally, by mail, or by electronic mail or facsimile transmission at any of our offices or an office of our agent (including locations other than where the funds, records, or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

6. We will have no liability to you for any good-faith act or omission by us in connection with this Agreement. You agree to indemnify us and our sub-custodian, and to hold us and our sub-custodian harmless from, all expenses (including counsel fees), liabilities, and claims arising out of any good-faith act or omission by us in connection with this Agreement or compliance with any legal process relating to the Custodial Account that we believe (correctly or otherwise) to be valid. You agree to pay any service charges that we impose on the Custodial Account.

7. You may be an individual in an individual capacity, more than one individual in a joint capacity, or a trust, partnership, corporation, or other legal entity. We may accept instructions on your behalf from any individual who signs this Agreement as or on behalf of a Depositor and from any of the following individuals:

Name	Title or Legal Capacity
RANDI SPENCER	ASST TREASURER

(Add lines if necessary.)

The remainder of this page is intentionally left blank.

By signing below, you ("*Depositor*") and we ("*Relationship Institution*") agree to be legally bound by this Custodial Agreement, effective when you and we have signed it. If the Custodial Account will be a joint account, each owner of the Custodial Account must sign this Agreement.

RELATIONSHIP INSTITUTION

Institution: BOKF NA

Signature: _____

Name and title of authorized signatory:

David Hudson

SVP

Date signed: _____

SOLE OR PRIMARY DEPOSITOR

Depositor: MUSTANG PUBLIC SCHOOLS SINKING FUND

Signature: _____

Name and title of authorized signatory (if not individual):

Jeff Landes

Board Treasurer

Depositor TIN or approved alternate identifier (and type):

73-0766864

Email: landesj@mustangps.org

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

ADDITIONAL DEPOSITOR (FOR JOINT ACCOUNT)

Depositor: _____

Signature: _____

Depositor TIN or approved alternate identifier (and type):

_____

Email: _____

Date signed: _____

(Add signature lines as needed.)

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, Chief Financial Officer

Date: February 12, 2024

Contract Vendor: Ramp Business Corporation **Time Frame:** Starting February 12, 2024

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Ramp is a provider of Purchasing Cards (P-Cards) for businesses. The District will begin with a monthly credit limit of $35,000 which will be automatically adjusted as necessary. Approval to use this Vendor will authorize the CFO to electronically execute the Application and proceed with testing. If the finance office is satisfied with the Vendor's service, we will phase out the use of the P-Card system currently in place with Commerce Bank.

Ramp is a finance automation platform for modern businesses

We help companies control spend, automate accounting, and manage vendors together in one place; We help the average customer save 5% per year on expenses.

Awards

#1 Most Innovative North America Company FAST COMPANY
The Fintech 50 List 2023 Forbes
CNBC Disruptor 50 List 2023
Time 100
#1 Startup in America

20,000+
customers

$20B+
payments processed annually

$600M+
customer savings since 2019

195+
countries supported

125+
currencies supported

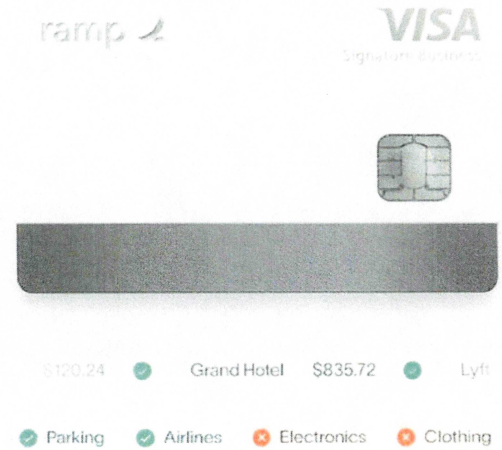
10M+
Hours saved since 2019

shopify imbue TaskRabbit BARRY'S

ANDURIL Discord Glossier.

ramp





FACTS WHAT DOES SUTTON BANK DO WITH YOUR PERSONAL INFORMATION?

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: • Social Security number • Income • Account balances • Payment history • Credit history • Credit scores When you are *no longer* our customer, we continue to share your information as described in this notice.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Sutton Bank chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Sutton Bank share?	Can you limit this sharing?
For our everyday business purposes - such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes - to offer our products and services to you	Yes	No
For joint marketing with other financial companies	Yes	No
For our affiliates' everyday business purposes - information about your transactions and experiences	No	We don't share
For our affiliates' everyday business purposes - information about your creditworthiness	No	We don't share
For nonaffiliates to market to you	No	We don't share

Questions?	Call toll-free 1-800-422-3641 or go to www.suttonbank.com

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What We Do	
How does Sutton Bank protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. We also maintain other physical, electronic and procedural safeguards to protect this information and we limit access to information to those employees for whom access is appropriate.
How does Sutton Bank collect my personal information?	We collect your personal information, for example, when you • Open an account • Pay your bills • Apply for a loan • Use your credit or debit card • Make deposits or withdrawals from your account We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.
Why can't I limit all sharing?	Federal law gives you the right to limit only • sharing for affiliates' everyday business purposes - information about your creditworthiness • affiliates from using your information to market to you • sharing for nonaffiliates to market to you State laws and individual companies may give you additional rights to limit sharing. See below for more on your rights under state law.

Definitions	
Affiliates	Companies related by common ownership or control. They can be financial and non-financial companies. • *Sutton Bank does not share with our affiliates.*
Nonaffiliates	Companies not related by common ownership or control. They can be financial and non-financial companies. • *Sutton Bank does not share with nonaffiliates so they can market to you.*
Joint Marketing	A formal agreement between nonaffiliated financial companies that together market financial products or services to you. • *Our joint marketing partners include insurance companies and investment companies.*

Other Important Information

For Alaska, Illinois, Maryland and North Dakota Customers. We will not share personal information with nonaffiliates either for them to market to you or for joint marketing - without your authorization.

For California Customers. We will not share personal information with nonaffiliates either for them to market to you or for joint marketing - without your authorization. We will also limit our sharing of personal information about you with our affiliates to comply with all California privacy laws that apply to us.

For Massachusetts, Mississippi and New Jersey Customers. We will not share personal information from deposit or share relationships with nonaffiliates either for them to market to you or for joint marketing - without your authorization.

User Agreements

Authorized User Agreement

Last Updated: September 28, 2021

This Authorized User Agreement (these "Terms") are a binding agreement between Ramp Business Corporation ("Ramp") and you that govern your access to and use of the Website (as defined below) and any Services (as defined below).

Ramp provides no Services to you. Rather, Ramp provides Services to the person or persons authorized under the Ramp Platform Agreement and any additional terms related to the Services used by Accountholder (collectively, the "Ramp Agreement") to receive the Services (the "Accountholder"). You will have access to the Services only to the extent authorized, and for the sole benefit of, the Accountholder. You understand that Accountholder is responsible for your compliance with the Ramp Agreement and that both you and Accountholder are responsible for your compliance with these Terms. You acknowledge that Accountholder is a beneficiary of these Terms.

As used in these Terms, "we", "us" or "our" refers to Ramp. Unless otherwise indicated, "you" and "your" refers to the person or persons authorized by the Accountholder to receive and use a Ramp Payment Card (as defined in the Authorized User Payment Card Addendum**)** or otherwise utilize the Services (for the avoidance of doubt, including both ordinary Users and Administrators).

These Terms require you to arbitrate any disputes arising under these Terms in an individual arbitration and not a class action or class arbitration. See the Binding Arbitration provision in Section 7 below for details. If you do not wish to be subject to arbitration, you may opt out of the arbitration provision by following the instructions set forth in Section 7 within the time frame specified in that Section.

1. Definitions.

(a) "Administrator" means the person appointed by the Accountholder to manage the Accountholder's use of the Services, including managing how you may use your Ramp Payment Card (if any).

(b) "Card Network" means the payments card network operated by Visa U.S.A., Inc. and/or Visa International.

(c) "Data" means personal or business information provided to us in connection with the Services, which includes information to determine an Accountholder's eligibility for an Account and other information needed by Ramp to provide the Services and to fulfill our responsibilities to Issuer.

(d) "Issuer" means the bank that is a member of the Card Network indicated on a Ramp Payment Card and is responsible for issuing the Ramp Payment Card to you.

(e) "Personal Data" means information that identifies a specific living person (not a company, legal entity, or machine) and is transmitted to or accessible through the Services.

(f) "Services" means the services that Ramp provides to the Accountholder, including but not limited to the services through which Issuer issues Cards and extends credit to the Accountholder and Ramp's spend management tools and services, in each case for use by Administrators and to a more limited extent by Users.

(g) "User" means an employee of the Accountholder or other person authorized by Accountholder to access and use the Services on the Accountholder's behalf.

(h) "Website" means the website via which Ramp provides the Services, the homepage for which is currently at http://www.ramp.com ↗.

2. Access to Website and Services.

You may access the Services and Data to the extent that (and only for so long as) you are authorized to do so by the Accountholder and us. We or the Accountholder may limit or terminate your access to any of the foregoing at any time, without notice. You acknowledge that your password and other access credentials are intended to permit you to access only such Services and Data for which you have such authorization. You agree not to circumvent or attempt to circumvent the security of the Services for any purpose, including to gain access to any Services or Data for which you are not authorized.

3. Security.

You acknowledge that you are solely responsible for maintaining the security of your password and other access credentials. You will maintain the foregoing in strict confidence.

4. Data Privacy.

We process, analyze, and manage Data in accordance with our Privacy Policy, which explains how and for what purposes we collect, use, retain, disclose, and safeguard Data provided to us in connection with the Services. You agree to review the terms of these policies, which we may update from time to time, and which form part of these Terms.

5. Compliance with Law.

You must use the Services in a lawful manner, and must obey all laws, rules and regulations that apply to your use of the Services.

6. Indemnification.

You agree to indemnify Ramp (including Ramp's affiliates and Ramp's and each such affiliate's employees and contractors) and hold them harmless from and against any losses, liabilities, damages, claims, costs or expenses (including reasonable attorneys' fees) arising out of or relating to claims, proceedings, suits, or actions brought by or initiated against Ramp or any of the other indemnitees specified above by any third party due to your violation of law, fraud, gross negligence or willful misconduct. Ramp may defend any claim subject to indemnification hereunder, using counsel of its choice, and you will pay or promptly reimburse Ramp for the reasonable fees of such counsel and all related costs and reasonable expenses.

7. Dispute Resolution by Binding

Arbitration.

PLEASE READ THIS "DISPUTE RESOLUTION BY BINDING ARBITRATION" PROVISION VERY CAREFULLY. IT LIMITS YOUR RIGHTS IN THE EVENT OF A DISPUTE BETWEEN YOU AND RAMP, SUBJECT TO THESE TERMS AND OPT-OUT OPTION SET FORTH BELOW.

You and Ramp agree that any and all past, present and future disputes, claims, or causes of action arising out of or relating to your use of any of the Services (including but not limited to any Card), these Terms, or any other controversies or disputes between you and Ramp (including, without limitation, disputes regarding the effectiveness, scope, validity or enforceability of this agreement to arbitrate) (collectively, "Dispute(s)"), shall be determined by arbitration, unless (A) you opt out as provided below; or (B) your Dispute is subject to an exception to this agreement to arbitrate set forth below. You and Ramp further agree that any arbitration pursuant to this Section 7 shall not proceed as a class, group or representative action. The award of the arbitrator may be entered in any court having jurisdiction.

Ramp wants to address your concerns without the need for a formal legal dispute. Before filing a claim against Ramp, you agree to try to resolve the Dispute informally by contacting Ramp at legal@ramp.com ↗ to notify Ramp of the actual or potential Dispute. Similarly, Ramp will undertake reasonable efforts to contact you to notify you of any actual or potential dispute at the email address that you provided to us (if any) or via the Accountholder to resolve any claim Ramp may possess informally before taking any formal action. The party that provides the notice of the actual or potential Dispute (the "Notifying Party") will include in that notice (a "Notice of Dispute") your name, the Notifying Party's contact information for any communications relating to such Dispute (including for the Notifying Party's legal counsel if it is represented by counsel in connection with such Dispute), and sufficient details regarding such Dispute to enable the other party (the "Notified Party") to understand the basis of and evaluate the concerns raised. If the Notified Party responds within ten (10) business days after receiving the Notice of Dispute that it is ready and willing to engage in good faith discussions in an effort to resolve the Dispute informally, then each party shall promptly participate in such discussions in good faith.

If, notwithstanding the Notifying Party's compliance with all of its obligations under the preceding paragraph, a Dispute is not resolved within 30 days after the Notice of Dispute is sent (or if the Notified Party fails to respond to the Notice of Dispute within ten (10) business days), the Notifying Party may initiate an arbitration proceeding as described below. If either party purports to initiate arbitration without first providing a Notice of Dispute and otherwise complying with all of its obligations under the preceding paragraph, then, notwithstanding any other provision of these Terms, the arbitrator(s) will promptly dismiss the claim with

prejudice and will award the other party all of its costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in connection with such Dispute.

We both agree to arbitrate (unless you opt out as described below). You and Ramp each agrees to resolve any Disputes that are not resolved informally as described above through final and binding arbitration as discussed herein, except as set forth under "Exceptions to Agreement To Arbitrate" below.

If you do not wish to be subject to this agreement to arbitrate, you may opt out of this arbitration provision by sending a written notice to Ramp at legal@ramp.com ↗ within thirty (30) days of first accepting these Terms. You must date the written notice, and include your first and last name, address, and a clear statement that you do not wish to resolve disputes with Ramp through arbitration. If no written notice is submitted by the 30-day deadline, you will be deemed to have knowingly and intentionally waived your right to litigate any Dispute except with regard to the exceptions set forth below. By opting out of the agreement to arbitrate, you will not be precluded from using the Services, but you and Ramp will not be permitted to invoke the mutual agreement to arbitrate to resolve Disputes under the terms otherwise provided herein.

The American Arbitration Association ("AAA") will administer the arbitration under its Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes in effect at the time arbitration is sought (the "AAA Rules"). Those rules are available at www.adr.org ↗ or by calling the AAA at 1-800-778-7879. A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. (The AAA provides a general Demand for Arbitration.) Arbitration will proceed on an individual basis and will be handled by a sole arbitrator. The single arbitrator will be either a retired judge or an attorney licensed to practice law and will be selected by the parties from the AAA's roster of arbitrators. If the parties are unable to agree upon an arbitrator within fourteen (14) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules. Subject to Section 16 (to the extent valid and enforceable), the arbitrator(s) shall be authorized to award any remedies, including injunctive relief, that would be available to you in an individual lawsuit. Notwithstanding any language to the contrary in this paragraph, if a party seeks injunctive relief that would significantly impact other Ramp users as reasonably determined by either party, the parties agree that such arbitration will proceed on an individual basis but will be handled by a panel of three (3) arbitrators. Each party shall select one arbitrator, and the two party-selected arbitrators shall select the third, who shall serve as chair of the arbitral panel. That chairperson shall be a retired judge or an attorney licensed to practice law and with experience arbitrating or mediating disputes. In the event of disagreement as to whether the threshold for a three-arbitrator panel has been met, the sole arbitrator appointed in accordance with this Section 7

shall make that determination. If the arbitrator determines a three-person panel is appropriate, the arbitrator may -- if selected by either party or as the chair by the two party-selected arbitrators -- participate in the arbitral panel. Except as and to the extent otherwise may be required by law, the arbitration proceeding and any award shall be confidential.

You and Ramp further agree that the arbitration will be held in the English language in New York, New York, or, if you so elect, all proceedings can be conducted via videoconference, telephonically or via other remote electronic means. If Ramp elects arbitration, Ramp shall pay all of the AAA filing costs and administrative fees (other than hearing fees). If you elect arbitration, filing costs and administrative fees (other than hearing fees) shall be paid in accordance with the AAA Rules, or in accordance with countervailing law if contrary to the AAA Rules. However, if the value of the relief sought is $10,000 or less, at your request, Ramp will pay all filing, administration, and arbitrator fees associated with the arbitration, unless the arbitrator(s) finds that either the substance of your claim or the relief sought was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). In such circumstances, fees will be determined in accordance with the AAA Rules. Each party shall bear the expense of its own attorneys' fees, except as otherwise provided herein or required by law. This agreement to arbitrate shall be construed under and be subject to the Federal Arbitration Act, notwithstanding any other choice of law set out in these Terms.

Any Dispute shall proceed on an individual basis, and neither you nor Ramp may bring a claim as a part of a class, group, collective, coordinated, consolidated or mass arbitration (each, a "Collective Arbitration"). Without limiting the generality of the foregoing, a claim to resolve any Dispute against Ramp will be deemed a Collective Arbitration if (i) two (2) or more similar claims for arbitration are filed concurrently by or on behalf of one or more claimants; and (ii) counsel for the claimants are the same, share fees or coordinate across the arbitrations. "Concurrently" for purposes of this provision means that both arbitrations are pending (filed but not yet resolved) at the same time.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU NOR RAMP SHALL BE ENTITLED TO CONSOLIDATE, JOIN OR COORDINATE DISPUTES BY OR AGAINST OTHER INDIVIDUALS OR ENTITIES, OR ARBITRATE OR LITIGATE ANY DISPUTE IN A REPRESENTATIVE CAPACITY, INCLUDING AS A REPRESENTATIVE MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. IN CONNECTION WITH ANY DISPUTE (AS DEFINED ABOVE), ANY AND ALL SUCH RIGHTS ARE HEREBY EXPRESSLY AND UNCONDITIONALLY WAIVED. Without limiting the foregoing, any challenge to the validity of this paragraph shall be determined exclusively by the arbitrator.

Notwithstanding your and Ramp's agreement to arbitrate Disputes, You and Ramp each retains the right (A) to bring an individual action in small claims court; and (B) to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

Except as otherwise required by applicable law or provided in these Terms, in the event that the agreement to arbitrate is found not to apply to you or your Dispute, you and Ramp agree that any judicial proceeding may only be brought in a court of competent jurisdiction in New York, New York. Both you and Ramp consent to venue and personal jurisdiction there; provided that either party may bring any action to enforce its intellectual property rights or confirm an arbitral award in any court having jurisdiction.

This agreement to arbitrate shall survive the termination or expiration of these Terms. With the exception of the provisions of this agreement to arbitrate that prohibit Collective Arbitration, if a court decides that any part of this agreement to arbitrate is invalid or unenforceable, then the remaining portions of this agreement to arbitrate shall nevertheless remain valid and in force. In the event that a court finds the prohibition of Collective Arbitration to be invalid or unenforceable, then the entirety of this agreement to arbitrate shall be deemed void (but no provisions of these Terms unrelated to arbitration shall be void), and any remaining Dispute must be litigated in court pursuant to the preceding paragraph.

8. Governing Law.

Subject to the provision of Section 7 that such Section shall be construed under and subject to the Federal Arbitration Act, these Terms shall be construed and enforced in accordance with the laws of the state of New York applicable to contracts entered into and performed entirely in New York by residents thereof.

9. Severability

Except as provided in Section 7 with respect to the provisions of these Terms that prohibit Collective Arbitration, the invalidity or unenforceability of any of the provisions of these Terms, or the invalidity or unenforceability of the application thereof to any individual, entity or circumstance, shall not affect the application of such provisions to individuals, entities or circumstances other than those as to which they are held invalid or unenforceable, and shall not affect the validity or enforceability of any other provisions of these Terms.

10. Entire Agreement.

These Terms (including any additional terms incorporated herein) constitutes the entire understanding between Company and Ramp regarding the subject matter of these Terms, and no other agreements, representations, or warranties other than those provided in these Terms will be binding unless in writing and signed by you, Accountholder and Ramp.

11. Changes to These Terms.

Ramp may modify these Terms upon thirty (30) days prior notice to the Accountholder in accordance with the terms of the Ramp Agreement; provided that such modification may take effect sooner than thirty (30) days after notice (or upon notice) in exigent circumstances, including where required to comply with applicable law, regulation or Card Network rules or to avoid or mitigate any material risk, loss or damage. If you do not accept any such modification, you must stop using the Services (including any Card). If you continue to use the Services or Cards after any such modification takes effect as provided in the applicable notice, you will be deemed to have consented to the modifications of these Terms. As between you and Ramp, you are solely responsible for ensuring that Accountholder promptly notifies you of any notice provided to Accountholder under these Terms, and you agree that you will be conclusively presumed to have received any notice contemplated under this Section 11 that is sent to Accountholder in accordance with the terms of the Ramp Agreement.

12. Prohibited Persons.

You represent and agree you are not currently and will not become subject to a U.S. Office of Foreign Asset Control list, or any law, regulation, or other list of any government agency that prohibits or limits us from providing Cards to you or from otherwise conducting business with you.

13. Assignment.

Ramp may assign, pledge, delegate or otherwise transfer these Terms or its rights, powers, remedies, obligations and duties of performance under these Terms at any time. Any such

assignee will have all rights as if originally named in these Terms instead of Ramp. You may not assign these Terms or any rights hereunder, or delegate any of your obligations or duties of performance.

14. Disclaimer of Warranties.

THE SERVICES ARE PROVIDED TO YOU *AS IS AND AS AVAILABLE*. RAMP DISCLAIMS ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, AND YOU ACKNOWLEDGE THAT NO RAMP PERSONNEL ARE AUTHORIZED TO PROVIDE ANY SUCH WARRANTY.

15. Third Party Sites or Services.

Ramp may provide links to or information regarding websites, products or services of unaffiliated third parties via the Website or otherwise. You acknowledge that Ramp has no control over any such websites, products or services and does not endorse or provide any warranties relating to them. You link to, use or otherwise interact with any such websites, products or services at your sole risk.

16. Limitation of Liability.

RAMP IS NOT LIABLE TO YOU FOR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING FROM OR RELATED TO THESE TERMS OR TO THE SERVICES OR CARDS, INCLUDING YOUR USE OF OR INABILITY TO USE SERVICES OR CARDS, WHETHER OR NOT RAMP WAS ADVISED OF THEIR POSSIBILITY BY YOU OR THIRD PARTIES. YOU ACKNOWLEDGE THAT RAMP PROVIDES SERVICES (INCLUDING CARDS) SOLELY TO (AND SOLELY FOR THE BENEFIT OF) THE ACCOUNTHOLDER, AND THAT RAMP SHALL HAVE NO LIABILITY TO YOU WHATSOEVER IN CONNECTION WITH ANY BREACH, FAILURE OR OTHER PROBLEM OR ISSUE WITH RESPECT TO THE SERVICES, INCLUDING ANY CARD.

17. Feedback.

You hereby grant Ramp a royalty-free, fully-paid, irrevocable, perpetual, nonexclusive, worldwide, assignable and otherwise transferrable license, with the unrestricted and

unlimited right to grant sublicenses, (1) to create derivative works based upon any feedback, suggestions, ideas, or requests you submit or otherwise communicate to us by any means (collectively, "Feedback") and (2) to use, copy, display, publish, distribute or otherwise commercialize or exploit in any manner any Feedback or derivative works based thereon. You acknowledge and agree that any Feedback you submit is not confidential. Ramp has no obligation to compensate or credit you for Feedback you provide us, regardless of whether or how Ramp may use or otherwise commercialize or exploit it.

18. Customer Service.

If you have questions about the operation of the Services or the use of your Card, contact your Administrator using the contact information provided by your Accountholder.

User Agreements

Authorized User Payment Card Addendum (Celtic Bank)

Last Updated: September 28, 2021

This Authorized User Payment Card Addendum (these "Payment Card Terms") are incorporated into and a part of the Authorized User Agreement. Capitalized terms not otherwise defined herein will have the meaning provided in the Ramp User Terms.

The Ramp Payment Card is a business charge card issued to the Accountholder under the Ramp Agreement. The Ramp Payment Card is issued by Celtic Bank, a Utah-chartered, Federal Deposit Insurance Corporation-insured bank located in Salt Lake City, Utah ("Issuer"), and the issuance of the Ramp Payment Card is managed by Stripe, Inc., a Delaware Corporation ("Stripe"). These Payment Card Terms apply to your use of the Ramp Payment Card. As used in these Payment Card Terms, "we", "us" or "our" refers to Ramp, Stripe and Issuer. Unless otherwise indicated, "you" and "your" refers to the person or persons authorized by the Accountholder to receive and use a Ramp Payment Card or otherwise utilize the Services (for the avoidance of doubt, regardless of whether such person is an ordinary User or an Administrator).

You acknowledge and understand that (i) these Payment Card Terms restate certain provisions of the Ramp Agreement that govern your use of the Services, including the Ramp Payment Card, and are provided to you as a convenience to Accountholder, (ii) Ramp has no obligation to you whatsoever regarding any Card, (iii) the Ramp Agreement is the legal agreement governing your use of any Card, and (iv) the Accountholder is responsible for your compliance with the Ramp Agreement and these Payment Card Terms.

1. Definitions

(a) "Card" and "Ramp Payment Card" mean a business charge card issued by Issuer, linked to a Card Account, and enabled for Transactions over the Card Network associated with the Card. Cards may either be a physical card embossed with a 16-digit number or a virtual card represented by a 16-digit number.

(b) "Card Account" means a sub-account of the Ramp Account that is linked to a Card issued to you.

(c) "Card Limits" means the maximum amounts available for Charges on any Card. Your Administrator will inform you of Card Limits that apply to your Card.

(d) "Charge" means the use of your Card to complete a Transaction.

(e) "Ramp Account" means the account for which the Accountholder may request the issuance of Cards, and includes the records we maintain to (a) account for the value of the funds available for Charges on Cards, (b) establish Card Accounts, (c) provide Transaction histories (Charges, Transactions, payments), and (d) inform the Accountholder of fees and payments it owes.

(f) "Transaction" means a request initiated by you to make a payment with a Card for the purchase of goods or services or to obtain a cash-advance at an ATM.

2. Your Card and Card Account.

Your Card is issued and provided by Issuer and is linked to an individual Card Account. Your individual Card Account is linked to your Accountholder's Ramp Account. Your Charges are billed to that Ramp Account. You are not directly liable to us for your Charges or other activity on your individual Card Account. Your Card must be activated prior to use. The Administrator will provide activation instructions to you. If you did not receive activation instructions for your Card, contact your Administrator. We or your Administrator may apply a Card Limit to your Card Account. Charges will reduce the Card Limit, and any Charges in excess of the Card Limit may be declined.

3. Account Opening.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT: To help the government fight the funding of terrorism and money laundering activities, federal law requires us to obtain, verify, and record information that identifies you when a Card Account is opened for you. What this means for you: In connection with opening your individual Card Account, we will ask you for your name, street address, date of birth, and other information that will allow us to identify you. We also may ask to see your driver's license or other identifying documents from you.

4. Using Your Ramp Payment Card.

You may only use your Card for bona fide business purchases on behalf of the Accountholder and for valid and lawful purposes. You may not use your Card for personal, family or household purposes. Your Card remains the property of the Issuer and must be returned upon request. We may cancel, revoke, repossess or restrict the use of your Card at any time. We may decline to authorize or reverse Charges or suspend your Card for any reason including violation of these Payment Card Terms or suspected fraud. We also may decline to authorize Charges at merchants characterized by the Card Network or us as prohibited merchants. We are not responsible for losses resulting from declined or reversed Charges. Merchants typically accept all Card Network-branded Cards; however, we are not responsible and will have no liability if a merchant refuses to honor a Card or accept a Transaction.

5. Card Account Holds.

When you use your Card to initiate a Transaction at hotels, restaurants, gas stations, rental car companies, and certain other merchants where the amount of the final Transaction is unknown at the time of authorization, a hold may be placed on your Card Account for an amount equal to or in excess of the final Transaction amount. We or your Administrator also may place a hold on available funds in your Card Account for certain other Transactions. When a hold is placed on your Card Account, the amount of the hold will reduce the then-applicable Card Limits until the hold is released.

6. Card Security.

You are responsible for securing your Cards, account numbers and Card security features (including the CVV and PIN).

7. Data Privacy

Ramp will only use Personal Data as required to provide the Services, to fulfill our obligations to regulatory authorities, and in accordance with the Ramp Privacy Policy. Issuer will use and care for Data in the manner described in the Celtic Bank Privacy Policy. Protection of Personal Data is very important to us. The Ramp Privacy Policy and Celtic Bank Privacy Policy explain

how and for what purposes we collect, use, retain, disclose, and safeguard Data provided to us in connection with the Services. You agree to review the terms of these policies, which we may update from time to time, and which form part of these Terms.

Privacy

Ramp Privacy Policy

Last Updated: October 11, 2023

1. Introduction

Ramp's corporate card and spend management services are intended for use by business customers, but we may process information about you when providing our services and operating our business. This Privacy Policy (the **"Policy"**) provides a comprehensive description of how Ramp collects, uses, and discloses information about you (**"Personal Information"**), as well as your rights and choices regarding such Personal Information. For purposes of this Policy, **"Ramp"**, **"we"**, **"our"**, and **"us"** refers to Ramp Business Corporation and its affiliates, including Ramp Payments Corporation and Ramp Financing Corporation, and **"you"** or **"your"** refers to the individual interacting with us.

Some regions provide additional rights by law. For region-specific terms, please see the following sections below:

- "Additional Disclosures for Nevada Residents"
- "Additional Disclosures for California Residents"
- "Additional Disclosures for Virginia Residents"
- "Additional Disclosures for Data Subjects in the European Economic Area, Switzerland, and United Kingdom"
- "Additional Disclosures for Individuals Located in Canada"

For our contact details, please visit the "Contact Us" section below.

2. Applicability of this Policy

This Policy applies to (a) our corporate card and spend management services, including the associated technology we provide for access and use of those services (e.g., app.ramp.com and our mobile applications) (the **"Services"**), (b) www.ramp.com ↗ (the **"Website"**), and (c) our emails, advertisements and any other location, online or offline, where you interact with

our business (e.g., conferences or third party social media and networking sites) (collectively, with the Services and Website, the **"Business"**).

Data protection laws distinguish between entities that control the purposes and means of processing information and entities that process information on behalf of other entities. The Ramp Platform Agreement or another written agreement (the **"Agreement"**), along with the terms and conditions of our financial institution partners, governs our provision of Services to a business customer (a **"Company"**). When Ramp processes Personal Information on behalf of a Company to provide contracted Services, we do so in accordance with the terms of the Agreement and the Customer's instructions, not this Policy. If you wish to exercise your rights regarding Personal Information we are processing on behalf of a Company, you should contact the applicable Company for assistance, and Ramp may forward communications we receive from you to the Company for resolution. We are not responsible for the privacy practices of our business customers, which may differ from those in our Policy.

Moreover, this Policy does not apply to any third-party applications or services that are used in connection with our Services, or any other products, services or accounts provided by other entities under their own terms of service and privacy policy (collectively, **"Third-Party Services"**). For example, a Company may connect, directly or through another application, accounting systems, e-mail services, human resources information systems, bank accounts held at depository institutions, rideshare applications, e-commerce platforms, and other products and services to its Services account (**"Ramp Account"**). These Third-Party Services help us provide your business with an integrated spend management solution but are not part of our Services and are provided by independent third parties under their policies and terms.

If you do not agree with this Policy, then do not access or use the Services, Website or any other aspect of our Business.

3. Information Ramp Processes

Ramp will process information continuously through the operation of our Services and Websites, and through other interactions with our Business, as described in the Agreement. If you provide us with information about another individual, by acknowledging or agreeing to this Policy, you represent and warrant that you have the authority to do so and have delivered any required notices and obtained all necessary rights and consents to provide such information to us for processing in accordance with this Policy. If you believe information has been provided to us improperly, please notify us in accordance with the "Contact Us" section below.

A. Information Provided to Ramp

We receive information when you submit it to our Business:

- **Contact Information,** including your first name, last name, email address, phone number, employer, job title and address.
- **Communications,** including when contacting sales or support, asking a question, providing product feedback or corresponding with our business teams.
- **Content,** including any documentation, files or information you provide, which may include information about you or your business.
- **Third-Party Information,** including information you provide about any co-workers, contractors, vendors or potential referrals, such as their Contact Information.
- **Job Applicant Data,** including your employment and education history, transcripts, writing samples, and references as necessary to consider your job application for open positions.

The Services are intended for use by business customers and their employees and other authorized users (**"Authorized Users"**). If you or someone at your Company begins the process of applying for a Ramp Account, we may receive information about you, your Company, and individuals associated with your Company. We may collect: (1) your Contact Information; (2) **Identifying Data** of Company owners, control persons and other relevant Company personnel, such as their date of birth, residential address, social security number and driver's license, passport or other government-issued identification, and any information captured on such identification or through our identification verification process; and (3) other Company information requested by or provided to us. This information is needed to verify the identity of the customer wishing to use the Services, comply with legal and regulatory obligations applicable to us and our financial institution partners, determine the availability of Services offerings, and maintain your Ramp Account.

In connection with providing Services, we receive additional information submitted by, on behalf of and relating to a Company and its Authorized Users, such as:

- **Authorized User Data,** including your Contact Information, login credentials, and other information used by your Company to invite and manage Authorized Users.
- **Transaction Data,** including information associated with your bill payments, reimbursements and card transactions made through your Company's Ramp Account, whether online or in store, such as the purchase details, payment mechanism, amount, location, and any annotations or coding you provide. Transactions can be made through a variety of domestic and international payment mechanisms, such as sending or receiving funds via ACH, wire, or check, or making charges through a payment card.

- **Connected Data,** including information and documentation relating to you and your Company made available by Third-Party Services connected to the Services. Connected Data may be made available to Ramp during the application process and after a Ramp Account is opened for your Company. For example, if you link business bank accounts during or after the application process, or link your bank account to receive or provide expense reimbursements, we will receive **Bank Account Information** about the linked account, like the bank routing and account numbers and account balance. In addition, some Third-Party Services (e.g., accounting systems and business bank accounts) will provide us with information about activities outside of the Services, like your business expenses and your Company's external transactions, finances and revenue. Other third party services, like your Company's HRIS, may disclose your Authorized User Data, and if your Company connects its email service, we may receive your email communications and attachments for processing. We may continue to access and receive Connected Data from a Third-Party Service until it is disconnected by you or your Company.
- **Spend and Workflow Data,** including your Company's spend limits and policies, approval hierarchies, and finance workflows.
- **Travel Data,** including your business travel booking and itinerary. This may include imprecise location information, such as when your travel itinerary indicates you have booked a flight to or hotel in a location.
- **Receipt and Invoice Data,** including information you submit to us to pay Company invoices and process your receipts, such as photos, PDFs, e-mails and SMS messages if you opt-in to text messages, along with associated metadata.
- **Vendor Data,** including the identity of your Company's vendors and their Contact Information, payment details, contracts and purchase orders, and information to complete tax documentation (e.g., the vendor's tax identification number).

B. Information Generated and Collected by Ramp

We generate, collect and derive information when you use or interact with our Services, Website and other products and services provided or used by our Business:

- **Use Data,** including information and metadata about the pages or content you visit, the features you interact with, the workflows you construct, how much time you spend on a particular Website or using the Services, login and crash data, Third-Party Services you elect to connect to or use with the Services, your preferences or selections, the time of day you browse, and your referring and exiting pages.
- **Device Data,** including information about the type of device or browser you use, your device's operating software and settings, your internet service provider, and device identifiers, such as IP address and advertising identifier.

- **Location Data,** including an approximate geolocation derived from your IP address or business information.

We use cookies and other technologies to help us process information:

- **Log Files,** which are files that record events that occur in connection with your use of technology services, including the Services and Website.
- **Cookies,** which are small data files stored on your device that act as a unique tag to identify your browser. We use two types of cookies: session cookies and persistent cookies. Session cookies make it easier for you to navigate websites and expire when you close your browser. Persistent cookies help with personalizing your experience, remembering your preferences, and supporting security features. Additionally, persistent cookies allow us to bring you advertising. Persistent cookies may remain on your device for extended periods of time, and generally may be controlled through your browser settings.
- **Pixels** (also known as web beacons), which are code embedded in a website, email, application or advertisement that sends information about your use to a server. There are various types of pixels, including image pixels (which are small graphic images) and JavaScript pixels (which contains JavaScript code). When you access technology that contains a pixel, the pixel may permit us or a separate entity to track your interactions. We may incorporate pixels from separate entities that allow us to track our conversions, bring you advertising, and provide you with additional functionality.
- **Device Fingerprinting,** which is the process of analyzing and combining sets of data elements from your device, such as JavaScript objects and installed fonts, to create a "fingerprint" of your device and uniquely identify your device or applications on your device.
- **Software Development Kits** (also referred to as SDKs), which are software tools used by developers to interact with a third-party platform.

For additional information, please visit our Cookie Policy ↗. You may be able to limit our collection of certain information by changing your device and software settings. However, doing so may affect or limit the features available to you. For further information on how we use tracking technologies for analytics and advertising, and your rights and choices regarding them, see the "Analytics and Advertising" and "Your Rights and Choices" sections below.

C. Information Collected by Ramp from Other Sources

We also collect and receive information from other sources:

- **Financial Institution Partners** such as banks (e.g. the bank issuing your Company's card or originating loans to finance Company expenses), card networks, payment processors, money transmitters, or other entities that provide or support delivery of financial services.
- **Identity Verification, Fraud and Compliance Monitoring, and Financial and Business Information Providers,** which may help us supplement our understanding of your business and its personnel, maintain security, prevent fraud and comply with regulation and contractual obligations.
- **Vendors and Console Users** transacting with or supporting our business customers (e.g., merchants and accounting firms). For example, a merchant might supply us with their payment details and tax identification number so our business customers can make bill payments and report on their tax obligations.
- **Service Providers,** which help us operate our Business.
- **Social Networks and Advertising Providers,** including to help us identify or enrich our understanding of prospective customers, and to serve and measure advertising.
- **Joint Marketing, Business Partnership, Referrals, and Rewards Partners** that we engage for joint marketing activities and our referrals and rewards programs.
- **Other Data Suppliers** that provide information about industries, business trends, organizations and other matters related to our business.
- **Publicly-Available Sources,** including information in the public domain that helps us identify potential customers and partners or conduct due diligence and risk management for potential and existing customers.

The categories of information we collect and receive from these sources may include all of the categories identified above in "Information Provided to Ramp" and "Information Generated and Collected by Ramp." We treat the information obtained from other sources in accordance with any laws or contractual obligations applicable to us.

4. How Ramp Uses Information

We use information for business and commercial purposes in accordance with the practices described in this Policy. In addition, Ramp uses information to operate our Services, Website, and Business as follows:

- **Providing and Maintaining Our Services, Website and Business.** To provide, operate and manage our Services, Website and other parts of our Business, including to perform customer validation and enable you to use cards and our other payment tools, verify financial information to establish spend limits, prevent or address technical issues and disruptions, and analyze and monitor usage and activities.

- **Communicating with You.** To send you notices, updates, security alerts, information regarding changes to our policies and terms, and support administrative messages.
- **Security and Fraud Prevention.** To maintain the safety and security of our Business and manage risk, including identifying and troubleshooting any issues with the Services, investigating suspicious activity, detecting and preventing potentially fraudulent or unauthorized transactions and breaches of policies and terms, and threats of harm, including in an automated fashion.
- **Legal Obligations and Enforcing Our Rights** To fulfill legal, regulatory and contractual obligations, including when cooperating with government authorities, courts and regulators in accordance with applicable law, maintaining records to demonstrate compliance with applicable law and regulation, protecting our legal rights and pursuing remedies available to us.
- **Ramp Rewards.** If your Company chooses to participate in our rewards program, to determine eligibility and to facilitate the rewards program effectively.
- **Developing and Improving Our Business.** To make the Services and other aspects of our Business as useful as possible for customers, including by improving and expanding our products and operations. For example, we may develop or improve Services by analyzing how you use features, the documentation you submit or information associated with your transactions.
- **Auditing and Research.** To conduct internal reporting, auditing, and research, including focus groups and surveys.
- **Marketing and Advertising.** To develop, send and measure advertising, direct marketing, and communications about our products, offers, promotions, rewards, events, and Services. We may also use information to engage in personalized advertising, including Interest-based Advertising (discussed further below in the "Analytics and Advertising" section). If you connect your bank account to your Company's Ramp Account, we will not use your Bank Account Information to market our Business on advertising platforms.
- **Generating Aggregate or De-identified Information.** To develop de-identified information by removing or masking information that could be used to identify you and by aggregating or combining information with other information.
- **At Your Direction.** To fulfill any other purpose at your direction, including as expressed through your or your Company's use of Services functionality. For example, if you direct us to connect your Ramp Account to a Third-Party Service, such as Slack or Lyft, we will process that request accordingly.
- **With Notice to You and Your Consent.** We may otherwise use the information we collect after providing notice to you and obtaining your consent.

Notwithstanding the above, we may use information that does not identify you for any purpose permitted by law or contractual obligation applicable to us. For information on your

rights and choices regarding how we use your Personal Information, please see the "Your Rights and Choices" section below.

5. Disclosure of Information by Ramp

We disclose information we collect in accordance with the practices described in this Privacy Policy. The categories of parties to whom we disclose information are:

- **Service Providers.** We disclose information to service providers that process information on our behalf. Service providers assist us with services, such as cloud infrastructure, website hosting, analytics, collaboration and technical support. Depending on the service, we provide information on a continuous basis (e.g., fraud services) or on an as-needed basis. We contractually prohibit our service providers from retaining, using, or disclosing information about you for any purpose other than performing services for us, although we may permit them to use information that does not identify you (including information that has been aggregated or de-identified) for any purpose except as prohibited by applicable law or contractual obligation. Additional information about the subprocessors we use to support delivery of our Services is made available in our Security Portal ↗.
- **Affiliates.** We disclose information to our affiliates and related entities.
- **Business Customers.** We disclose information to our business customers to provide Services on their behalf. For example, we may disclose information to your Company to process your payment transactions, provide Services, report on your use of your Company's Ramp Account, respond to your and their questions, comply with your and their requests, and otherwise comply with the law. In addition, your Company can assign different roles to Authorized Users, which will have different associated capabilities and permissions. We will disclose information about your use of the Services to other Authorized Users who may include members of your Company's finance department, your manager, a Company service provider or other Company personnel. Our business customers are independent entities and their processing of information is subject to their own policies and terms.
- **Connected Services.** We disclose information to Third-Party Services and their providers if you or your Company use Third-Party Services in connection with the Services.
- **Identity Verification and Customer Validation Services.** We disclose information as necessary to verify your identity and perform other compliance functions.
- **Financial Institution Partners.** We disclose information to Financial Institution Partners to support their customer identification, risk and compliance programs, and so they can determine eligibility for, and provide, products and services to our business customers, either directly or through us. For example, we may disclose your Contact Information, Identifying Data and other Company information and documentation so a Financial

Institution Partner can validate your Company's eligibility to receive, and deliver, card, payments, and international transfer capabilities through our Services.

- **Vendors and Console Users.** We disclose information to entities that transact with or support your Company. For example, we may disclose the status of your Company's payments to the recipient vendor.
- **Credit Reporting Agencies and Other Financial Information Providers.** We disclose information about your Company and its Ramp Account to credit reporting agencies to verify information about your business, to report on your business's performance, and to report late payments, missed payments, or other defaults.
- **Ramp Rewards.** We disclose information about you and your Company's Ramp Account as necessary to determine your Company's eligibility for rewards and to facilitate the rewards program effectively.
- **Marketing and Advertising.** We disclose information to vendors, platforms, analytics providers and other parties for marketing and advertising related purposes. For more information on our online advertising practices, see the "Analytics and Advertising" section below. If you connect your bank account to your Company's Ramp Account, we will not disclose your Bank Account Information to market our Business on advertising platforms.
- **Mergers and Acquisition.** We disclose information in connection with, or during negotiations of, any proposed or actual merger, purchase, sale or any other type of acquisition or business combination of all or any portion of our assets, or transfer of all or a portion of our business to another business.
- **Security, Fraud Detection and Compelled Disclosure.** We disclose information to comply with the law, regulations, payment network rules, or legal process, investigate suspicious or potentially fraudulent activity, and where required in response to lawful requests by regulators, law enforcement, Financial Institution Partners and public authorities, including to meet national security, anti-money laundering or law enforcement requirements. We will also disclose information to protect the rights, property, life, health, security and safety of us, the Services, our Business, or anyone else.
- **Referrals and Joint Marketing.** We disclose information about you and your Company's Ramp Account to our partners in connection with facilitating referral partnerships or engaging in joint marketing activities. For example, if you or your Company were referred to us through a referral partner, we may disclose information with our referral partner to confirm the status of your application and to calculate the referral fee.
- **At Your Request.** We disclose information at your request or direction.
- **With Notice to You and Your Consent.** We may otherwise disclose information after providing notice to you and obtaining your consent.

Notwithstanding the above, we may disclose information that does not identify you (including information that has been aggregated or de-identified) for any purpose except as prohibited

by law or contractual obligation applicable to us. For information on your rights and choices regarding how we share information about you, please see the "Your Rights and Choices" section below.

6. Analytics and Interest-Based Advertising

Where permitted under laws applicable to our Business, we use analytics services, such as Google Analytics, to help us understand how users access and use the Website and other aspects of our Business. In addition, we work with agencies, advertisers, ad networks, and other technology services to place advertisements on our behalf on other websites and services. For example, we may place ads through Google, LinkedIn and Facebook that you may view on their platforms as well as on other websites and services.

As part of this process, we may use tracking technologies (including incorporating them into our Website and emails), as well as incorporating into our ads displayed on other websites and services. Some of these tracking technologies may track your activities across time and services for purposes of associating the different devices you use, and delivering relevant ads and/or other content to you (**"Interest-based Advertising"**).

For further information on the types of tracking technologies we use and your rights and choices regarding analytics and Interest-based Advertising, please see the "Your Rights and Choices" section below. You will continue to see advertising, including potentially from us, even if you opt out of personalized advertising.

7. Data Transfer

Our Business is operated from the United States, Canada and other jurisdictions. Any of your Personal Information we collect may be transferred to, processed, used, handled, and stored in the United States and other jurisdictions. Data protection laws in the United States and other jurisdictions may differ from those of your country of residence. We take measures to comply with applicable data protection laws when we transfer Personal Information internationally.

For personal data transferred from the European Economic Area, Switzerland or the United Kingdom, we will provide appropriate safeguards, such as through the use of the relevant

standard contractual clauses. For further information on these transfers and the relevant appropriate safeguards, please see the "Additional Disclosures for Data Subjects in the European Economic Area, Switzerland and the United Kingdom" section below.

8. Additional Important Information

Security. We use organizational, technical, and administrative measures designed to protect your Personal Information from loss, theft, misuse, and unauthorized access, disclosure, alteration and destruction. However, no information security program or transfer via the internet is entirely secure so we cannot guarantee the security of your Personal Information.

Use by Minors. We do not direct any of our Services or other aspects of our Business to children. We do not knowingly collect personal information (as defined by the U.S. Children's Privacy Protection Act, or **"COPPA"**) from children under 13. We also do not knowingly "share" or "sell," as those terms are defined under the California Privacy Rights Act, the personal information of minors under 16 who are California residents. If you are a parent or guardian and believe we have violated this provision, contact us at privacy@ramp.com ↗.

Retention. Ramp collects and stores Personal Information for the purposes outlined in this Policy. We retain Personal Information for as long as we continue to have a business or operational purpose to retain it, and may continue to retain and use Personal Information as necessary to comply with (or demonstrate compliance with) our legal or regulatory obligations, resolve disputes, prevent fraud, and enforce our rights. Please note that our retention obligations may require us to retain your Personal Information after you are no longer an Authorized User or your Company's Ramp Account has closed. These retention obligations may also prohibit us in some cases from deleting Personal Information after you have asked us to delete your Personal Information. When the applicable retention period elapses, we will delete or de-identify your Personal Information in accordance with our policies and procedures.

Changes to this Privacy Policy. We reserve the right to change and reissue this Policy at any time by posting an updated version. If we have an existing relationship with you, you represent a Company, or if you are an Authorized User, we may provide you notice through our Website or your Company's Ramp Account or directly using the Contact Information provided to us. If we do not have an existing relationship with you---for instance, if you only visit our Website---any notice we provide will be posted to our Website. Any privacy notice is effective upon posting or when it is provided to you. We encourage you regularly to review this Policy to ensure that you are always aware of what Personal Information we collect, how

we use and otherwise process it and under what circumstances we will disclose it to third parties.

9. Your Rights and Choices

Region-Specific Rights. In addition to these rights and choices, you may have additional rights based on your region. For region-specific terms, please see the bottom of this Policy.

Ramp Account. Ramp Services are intended for use by business customers, and you may only use a Ramp Account if you are an employee or other Authorized User of a Company that has opened a Ramp Account. The information in a Company's Ramp Account is governed by our Agreement with the business customer. You should direct questions about Personal Information we are processing on behalf of a Company to that Company's administrators. If you are an Authorized User, you may also be able to access, update, or delete certain information within your Company's Ramp Account through the Services, provided that the Company and its administrators are responsible for determining how that data is processed.

Tracking Technology Choices.

- **Cookies and Pixels.** Most browsers and devices accept cookies by default. You can instruct your browser or device, by changing its settings, to decline or delete cookies. In addition, to modify your cookie preferences for our Website, click here ↗. If you use multiple browsers or devices, you may need to instruct each separately. Your ability to limit cookies is subject to your settings and limitations. For additional information, please visit our Cookie Policy ↗.
- **Do Not Track.** Your browser settings may allow you to automatically transmit a "Do Not Track" signal to online services you visit. Note, however, there is no industry consensus as to what site and app operators should do with regard to these signals. Accordingly, unless and until the law is interpreted to require us to do so, we do not monitor or take action with respect to "Do Not Track" signals. For more information on "Do Not Track," visit http://www.allaboutdnt.com ↗. Note that if you are a California resident, you may exercise your right to opt-out of sales or sharing through preference signals. Please visit the "Additional Disclosures for California Residents" section below for details.

Please be aware that if you disable or remove tracking technologies some parts of our Services, Website and Business may not function correctly.

Analytics and Interest-Based Advertising. Google provides tools to allow you to opt out of the use of certain information collected by Google Analytics at

https://tools.google.com/dlpage/gaoptout ↗ and by Google Analytics for Display Advertising or the Google Display Network at https://www.google.com/settings/ads/onweb ↗.

The companies we work with to provide you with targeted ads in connection with our Business are required to give you the choice to opt out of receiving targeted ads. Most of these companies are participants of the Digital Advertising Alliance (**"DAA"**) and/or the Network Advertising Initiative (**"NAI"**). To learn more about the targeted ads provided by these companies, and how to opt out of receiving certain targeted ads from them, please visit: (i) for website targeted ads from DAA participants, https://www.aboutads.info/choices ↗; and (ii) for targeted ads from NAI participants, https://www.networkadvertising.org/choices ↗. Opting out only means that the selected participants should no longer deliver certain targeted ads to you, but does not mean you will no longer receive any targeted content and/or ads (e.g., in connection with the participants' other customers or from other technology services). Any such targeted advertising will only be carried out to the extent that it is permitted by applicable law.

Please note that if you opt out using any of these methods, the opt out will only apply to the specific browser or device from which you opt out. Except as required by applicable law, we are not responsible for the effectiveness of, or compliance with, any opt-out options or programs, or the accuracy of any other entities' statements regarding their opt-out options or programs.

Communications.

- **E-mails.** You can opt out of receiving promotional emails from us at any time by following the instructions as provided in emails to click on the unsubscribe link. You can also change email preferences here (for non-customers) and here (for Authorized Users). Please note that you cannot opt-out of non-promotional emails, such as those about your Company's Ramp Account, transactions, servicing, or our ongoing business relations.
- **Text or SMS Messages.** If you have opted in to receiving text or SMS messages related to your use of the Services, you can opt-out at any time by texting "STOP" to the short code. After you send the SMS message "STOP" to us, we will send you an SMS message to confirm that you have been unsubscribed. After this, you will no longer receive SMS messages from us. Text messaging originator opt-in data and consent will not be shared, sold, rented or otherwise disclosed by us for marketing purposes. For more information, please see the Agreement.

Please note that your opt out is limited to the email address or phone number used and will not affect subsequent subscriptions.

10. Contact Us

Where applicable, to exercise your rights regarding your Personal Information, please use our privacy request form ↗. If you have any more general questions about this Policy, our data practices, or our compliance with applicable law, please contact us:

By email: privacy@ramp.com ↗

By mail: Ramp Business Corporation Attn: Privacy 28 West 23rd, Floor 2 New York, NY 10010

If you experience any difficulties accessing the information in this Privacy Policy, please contact us at privacy@ramp.com ↗.

11. Additional Disclosures for Nevada Residents

Nevada law (NRS 603A.340) requires each business to establish a designated request address where Nevada consumers may submit requests directing the business not to sell certain kinds of personal information that the business has collected or will collect about the consumer. A sale under Nevada law is the exchange of personal information for monetary consideration by the business to a third party for the third party to license or sell the personal information to other third parties. If you are a Nevada consumer and wish to submit a request relating to our compliance with Nevada law, please refer to the "Contact Us" section above.

12. Additional Disclosures for California Residents

These additional disclosures apply only to California residents and only to the extent applicable.

Notice of Collection.

The California Consumer Privacy Act as amended by the California Privacy Rights Act (**"CPRA"**) provides additional rights and requires businesses collecting or disclosing personal

information to provide notices and means to exercise rights. In the past 12 months, we have collected the following categories of personal information enumerated in the CPRA:

- **Identifiers,** including name, postal address, email address, and online identifiers (such as IP address).
- **Customer records,** including phone number, billing address, bank account and credit or debit card information.
- **Characteristics of protected classifications under California or federal law,** including gender.
- **Commercial or transaction information,** including records of products or services purchased, obtained, or considered.
- **Internet activity,** including browsing history, search history, and interactions with a website, email, application, or advertisement.
- **Non-Precise Geolocation data.**
- **Employment and education information.**
- **Inferences** drawn from the above information about your predicted characteristics and preferences.

For further details on personal information we collect, including the sources from which we receive information, review the "Information that Ramp Collects" section above. We collect and use these categories of personal information for the business purposes described in the "How We Use Information" section above. We disclose the personal information to the categories of persons set out in the "Disclosure of Information" section above. Please visit those sections for further details.

Right to Know, Correct and Delete.

You have the right to know certain details about our data practices. In particular, you may request the following from us:

- The categories of personal information we have collected about you;
- The categories of sources from which the personal information was collected;
- The categories of personal information about you we disclosed for a business purpose or sold or shared;
- The categories of persons to whom the personal information was disclosed for a business purpose or sold or shared;
- The business or commercial purpose for collecting or selling or sharing the personal information; and
- The specific pieces of personal information we have collected about you.

In addition, subject to exceptions, you have the right to correct or delete the personal information we have collected from you.

To exercise any of your rights, please submit a request through this privacy request form ↗. We will confirm receipt of your request and respond to your request within the time limits prescribed by law. We may require specific information from you to help us verify your identity and process your request. If we are unable to verify your identity, we may deny your requests.

If personal information about you has been processed by us as a service provider on behalf of a business customer, please inquire with the business customer directly to exercise your rights. If you wish to make your request directly to us, please provide the name of our business customer on whose behalf we processed your personal information. We will refer your request to that business customer, and will support them to the extent required by applicable law in responding to your request.

Additional Notice and Opt-Out

Our business model is providing corporate card and spend management services to business customers, not selling personal information. However, under the CPRA, some marketing practices, like the disclosure of Website visitor data to obtain targeted ads and analytics to advertise our products on third party sites, may be considered a "share" or "sale" even if no money is exchanged. A "share" is broadly defined under the CPRA to include a disclosure for cross-context behavioral advertising, and a "sale" is broadly defined under the CPRA to include a disclosure for something of value. Under these definitions, we may collect, share, or sell the following categories of personal information for commercial purposes: identifiers, characteristics, commercial or transaction information, internet activity, non-precise geolocation data, and inferences drawn. The categories of third parties to whom we "share" or "sell" personal information include, where applicable, vendors and other parties involved in cross-context targeted advertising. To the extent our marketing practices constitute a "share" or "sale" of your personal information, you have the right to opt out. You can exercise this right by modifying your cookie preferences for our Website here ↗ or enabling Global Privacy Control ↗ on your browser or extension. These settings enable you to communicate an opt out that is specific to your browser or device, as applicable, so you will need to instruct each separately.

Retention

We retain each category of personal information for the length of time that is reasonably necessary for the purpose for which it was collected, and as necessary to comply with our legal obligations, resolve disputes, prevent fraud, and enforce our agreements.

Authorized Agent.

You can designate an authorized agent to submit requests on your behalf. However, we may require signed proof of the agent's permission to do so and verify your identity directly. Requests must be submitted through the designated methods listed above.

Right to Non-Discrimination.

You have the right not to receive discriminatory treatment by us for the exercise of any of your rights.

Shine the Light.

Customers who are residents of California may request (i) a list of the categories of personal information disclosed by us to third parties during the immediately preceding calendar year for those third parties' own direct marketing purposes; and (ii) a list of the categories of third parties to whom we disclosed such information. To exercise a request, please write us at privacy@ramp.com ↗ or the postal address set out in "Contact Us" above and specify that you are making a "California Shine the Light Request." We may require additional information from you to allow us to verify your identity and are only required to respond to requests once during any calendar year.

13. Additional Disclosures for Virginia Residents

Virginia provides additional rights to Virginia residents through the Virginia Consumer Data Protection Act (**"VCDPA"**). This section addresses those rights and applies only to Virginia residents acting in an individual or household context.

You have the following rights under the VCDPA:

- To confirm whether or not we are processing your personal data
- To access your personal data
- To correct inaccuracies in your personal data
- To delete your personal data
- To obtain a copy of your personal data that you previously provided to us in a portable and readily usable format

- To opt out of the processing of personal data for purposes of targeted advertising, the sale of personal data, or profiling in furtherance of decisions that produce legal or similarly significant effects concerning you

To exercise any of these rights, please submit through our privacy request form ↗. We will respond to your request within the time limits prescribed by law. We may require specific information from you to help us confirm your identity and process your request. If personal data about you has been processed by us as a processor on behalf of a business customer and you wish to exercise any rights you have with such personal data, please inquire with the business customer directly. If you wish to make your request directly to us, please provide the name of the business customer on whose behalf we processed your personal data. We will refer your request to that business customer, and will support them to the extent required by applicable law in responding to your request.

14. Additional Disclosures for Data Subjects in the European Economic Area, Switzerland and the United Kingdom

Roles.

Ramp may process personal data in accordance with the instructions of or on behalf of a business customer, including when providing Services to a Company under an Agreement. In this context, Ramp acts as a processor and the business customer acts as a controller. Ramp may also act as a controller when directly determining the processing of personal data in other Business contexts set out in this Policy, like complying with regulatory obligations applicable to our Business.

Lawful Basis for Processing.

Data protection laws in Europe require a "lawful basis" for processing personal data. Our lawful bases include where: (a) you have given consent to the processing for one or more specific purposes, either to us or to our service providers, partners, or business customers; (b) processing is necessary for the performance of a contract; (c) processing is necessary for compliance with a legal obligation; or (d) processing is necessary for the purposes of the legitimate interests pursued by us or a third party, and your interests and fundamental rights and freedoms do not override those interests.

International Transfers.

We may transfer your personal data to our operations in the United States or to our service providers or other third parties in the United States or in other countries - this may involve the transfer of your personal data to countries which have different data protection standards to those which apply in the European Economic Area, Switzerland or the United Kingdom.

Some of these countries are subject to a European Commission and/or UK government adequacy decision. For other countries, Ramp has put in place the relevant European Commission or UK government-approved standard contractual clauses with the relevant third parties to ensure that your personal data is protected with appropriate safeguards. We may also rely on other permitted data transfer mechanisms.

Your Data Subject Rights.

You may have certain statutory rights relating to your personal data. Subject to applicable law, you may have the right to access and rectify your personal data, to require us to erase your personal data or to transfer it to other organizations, and to object to the processing of your personal data. Where we process your personal data because we have a legitimate interest in doing so (as explained above), you may have a right to object to this. You may also have the right to restrict processing of your personal data in certain circumstances. These rights may be limited in some situations, for example, where we can demonstrate that we have legitimate grounds to process your personal data. In addition, you have the right to ask us not to process your personal data (or provide it to third parties to process) for marketing purposes or purposes materially different from those for which it was originally collected or subsequently authorized by you. You may withdraw your consent at any time for any processing of your personal data which we do based on consent you have provided to us.

To exercise any of these rights, please use this privacy request form ↗. We will respond to your request within the time limits prescribed by law. We may require specific information from you to help us confirm your identity and process your request. If your personal data has been processed by us as a processor on behalf of a business customer and you wish to exercise any rights you have with such personal data, please inquire with our business customer directly. If you wish to make your request directly to us, please provide the name of our business customer on whose behalf we processed your personal data. We will refer your request to that business customer, and will support them to the extent required by applicable law in responding to your request.

Retention of your Personal Data.

Please note that we retain personal data for as long as necessary to fulfill the purposes for which it was collected from you and/or our business customers, and may continue to retain and use your personal data for purposes of our legitimate interests and/or as necessary to comply (or demonstrate compliance with) with our legal/regulatory obligations, resolve disputes, prevent fraud, and enforce our rights.

We hope that we can satisfy any queries that you may have about the way we process your personal data. However, if you have any issues with our compliance, you may contact us at privacy@ramp.com. ↗ You also have the right to lodge a complaint with the data protection regulator in your jurisdiction if you have any unresolved concerns. You can lodge the complaint in the country where you reside, where you work or where any alleged infringement of data protection law occurred.

15. Additional Disclosures for Individuals Located in Canada

Your Rights and Choices.

Subject to limited exceptions under applicable Canadian law, you may have the right to access, update, correct inaccuracies in, and withdraw consent (subject to reasonable prior notice and applicable legal and contractual restrictions) to the collection, use and disclosure of your personal information. If you withdraw your consent, we may not be able to provide our Website, Services or other aspects of our Business. To exercise any of these or other rights applicable to you under Canadian privacy laws, please contact us as set out in the "Contact Information" section below. We may require specific information from you to help us confirm your identity and process your request. If personal information about you has been processed by us on behalf of a business customer and you wish to exercise any rights you have with respect to such personal information, we encourage you to inquire with our business customer directly. If you are a resident of the province of Quebec, please note that we transfer and store personal information outside of the province. If you wish to make your request directly to us, please provide the name of our business customer on whose behalf we process your personal information, and we may refer your request to that business customer. We will assist our business customer in responding to your request.

Governance Policies and Practices

We are committed to protecting personal information and have implemented policies and practices that govern our treatment of personal information, including:

- policies and procedures regarding the protection, retention and disposition of personal information, including with respect to the implementation of security safeguards designed to protect personal information against loss or theft and unauthorized access, disclosure, copying, use, and modification;
- a framework that sets out roles and responsibilities of our personnel in connection with the handling of information in our possession and control;
- a Trust Center ↗ with information about the security and privacy of our Business, including our compliance with relevant audit standards and security frameworks;
- processes for responding to data subject requests and complaints in a timely and effective manner; and
- employee data protection training and awareness.

Contact Information

If you have any questions or comments about this Privacy Policy or the manner in which we or our service providers (including our service providers outside Canada) treat your personal information, to withdraw your consent, or to request access to or correction of your personal information, please use our privacy request form or contact us at privacy@ramp.com ↗.

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, CFO

Date: February 2, 2024

Contract Vendor: CADE Construction, LLC **Time Frame:** Duration of Construction

---

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Construction Management Agreement for the construction of Elementary #9.

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 6th day of December in the year 2023
(In words, indicate day, month, and year.)

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

Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

and the Construction Manager:
(Name, legal status, address, and other information)

CADE Construction
701 W. Sheridan Ave., Suite 108
Oklahoma City, OK 73102

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

MPS Elementary #9
4800 S. Sara Rd.
Oklahoma City, OK 73064

The Architect:
(Name, legal status, address, and other information)

MA+ Architecture
4000 N. Classen Blvd., Suite 100N
Oklahoma City, OK 73118

The Owner and Construction Manager agree as follows.

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Construction documents complete by MA+ Architecture.

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

Ground-up construction of a 90,000 SF elementary school on a 20 acre site of raw land.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

$30,546,429.60

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

100% Construction Documents Complete on 12/13/2023

.2 Construction commencement date:

1/1/2024

.3 Substantial Completion date or dates:

7/31/2025

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

N/A

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Colin Meeks, Director of Construction

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

MA+ Architecture

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

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Standard Testing and Engineering Company

.2 Civil Engineer:

SRB Engineering, Surveying, and Planning

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Allen Consultants for MEP Engineering

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Heath Tate, Principal

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Austin Reid, Managing Partner

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

N/A

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

Bid per Title 61 Requirements

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

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§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

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§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

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§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- **.1** A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- **.2** A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- **.3** A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- **.4** The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- **.5** A date by which the Owner must accept the Guaranteed Maximum Price.

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§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

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§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

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§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

All Pre-Construction costs are included in the GMP amount. No additional items will be charged.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

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

N/A

Individual or Position	Rate
N/A	N/A

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within N/A (N/A) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

(Insert rate of monthly or annual interest agreed upon.)

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N/A

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

5% Construction Management Fee

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

5% CM Fee charged to any additional costs that result in a prime contract change order.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Subcontractors are limited to 15% OH/P on increases to its scope of work.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed N/A percent (N/A %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

N/A

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

N/A

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

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§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:
(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of

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the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

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

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

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

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

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§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;

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.2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

.3 Expenses of the Construction Manager's principal office and offices other than the site office;

.4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

.5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

.9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and

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copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

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

Pay applications will be submitted for approval by the 28th of each month and will include billing for the work completed during the current month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 25th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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§ 11.1.7.1 The amount of each progress payment shall first include:

.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

5% Retainage

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

N/A

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

N/A

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§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- **.1** the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- **.2** the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- **.3** a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

N/A

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§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

N/A

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[X] Arbitration pursuant to Article 15 of AIA Document A201–2017

[ ] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

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§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:
(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

Negotiated between Owner, CM, and Architect.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than One Million ($ 1,000,000.00) for each occurrence and Two Million ($ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than One Million ($ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required

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under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than Five Hundred Thousand ($500,000.00) each accident, Five Hundred Thousand ($ 500,000.00) each employee, and Five Hundred Thousand ($ 500,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than One Million ($1,000,000.00) per claim and One Million ($ 1,000,000.00) in the aggregate.

§ 14.3.1.6 Other Insurance
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
N/A	N/A

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase
After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

N/A

§ 14.5 Other provisions:

N/A

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

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.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

(Paragraphs deleted)

.3 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Budget Summary Sheet with breakout of all costs included in the GMP.

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
	Austin Reid, Managing Partner
(Printed name and title)	*(Printed name and title)*

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AIA® Document A133® – 2019

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PAGE 1

AGREEMENT made as of the 6th day of December in the year 2023

...

Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

...

CADE Construction
701 W. Sheridan Ave., Suite 108
Oklahoma City, OK 73102

...

MPS Elementary #9
4800 S. Sara Rd.
Oklahoma City, OK 73064

...

MA+ Architecture
4000 N. Classen Blvd., Suite 100N
Oklahoma City, OK 73118

PAGE 2

Construction documents complete by MA+ Architecture.

...

Ground-up construction of a 90,000 SF elementary school on a 20 acre site of raw land.

...

$30,546,429.60

PAGE 3

100% Construction Documents Complete on 12/13/2023

...

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1/1/2024

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7/31/2025

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N/A

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N/A

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None

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N/A

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Colin Meeks, Director of Construction

...

MA+ Architecture
PAGE 4

Standard Testing and Engineering Company

...

SRB Engineering, Surveying, and Planning

...

Allen Consultants for MEP Engineering

...

Heath Tate, Principal

...

Austin Reid, Managing Partner

...

N/A

...

Bid per Title 61 Requirements

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...

N/A
PAGE 7

N/A
PAGE 10

All Pre-Construction costs are included in the GMP amount. No additional items will be charged.

...

N/A

...

N/A N/A

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within N/A (N/A) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
PAGE 11

~~%~~ N/A

...

5% Construction Management Fee

...

5% CM Fee charged to any additional costs that result in a prime contract change order.

...

Subcontractors are limited to 15% OH/P on increases to its scope of work.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed N/A percent (N/A %) of the standard rental rate paid at the place of the Project.

...

N/A

...

N/A
PAGE 16

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Pay applications will be submitted for approval by the 28th of each month and will include billing for the work completed during the current month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 25th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.
PAGE 17

5% Retainage

...

N/A

...

N/A

...

N/A
PAGE 18

N/A
PAGE 19

~~%~~ N/A

...

N/A

...

[X] Arbitration pursuant to Article 15 of AIA Document A201–2017
PAGE 21

Negotiated between Owner, CM, and Architect.

...

§ 14.3.1.1 Commercial General Liability with policy limits of not less than One Million ($ 1,000,000.00) for each occurrence and Two Million ($ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than One Million ($ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.
PAGE 22

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ~~($)~~ ~~each accident, ($) each employee, and ($)~~ Five Hundred Thousand ($500,000.00) each accident, Five Hundred Thousand ($ 500,000.00) each employee, and Five Hundred Thousand ($ 500,000.00) policy limit.

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§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ~~($~~ One Million ($1,000,000.00) per claim and One Million ($ 1,000,000.00) in the aggregate.

...

N/A	N/A

...

N/A

...

N/A

~~.3 AIA Document A133™ 2019, Exhibit B, Insurance and Bonds~~

~~.4 AIA Document A201™ 2017, General Conditions of the Contract for Construction~~

~~.5 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

~~*(Insert the date of the E203-2013 incorporated into this Agreement.)*~~

~~.6 Other Exhibits:~~

~~*(Check all boxes that apply.)*~~

~~[ ] AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:~~

~~*(Insert the date of the E234-2019 incorporated into this Agreement.)*~~

~~_____~~

~~[ ] Supplementary and other Conditions of the Contract:~~

~~Document~~	~~Title~~	~~Date~~	~~Pages~~

~~.7~~ _____

.3 Other documents, if any, listed below:

...

Budget Summary Sheet with breakout of all costs included in the GMP.

...

_____	Austin Reid, Managing Partner

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:38:33 ET on 01/10/2024 under Order No. 2114492471 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Managing Partner

(Title)

FEBRUARY 12, 2024

(Dated)

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ADDENDUM TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER
AIA DOCUMENT A133 - 2019

This Addendum is executed simultaneously with and constitutes a part of the Standard Form of Agreement between Owner and Construction Manager, AIA Document A133 (2019 Edition), hereinafter collectively to as the "Agreement", dated as of the 12th day of February 2024, by and between **INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA, a/k/a MUSTANG PUBLIC SCHOOLS** ("Owner") and **CADE CONSTRUCTION, LLC**, an Oklahoma limited partnership ("Construction Manager"). This Addendum modifies the above-referenced Agreement. Some modifications are not a complete substitution for the corresponding paragraph in the Agreement. In such instances, the Addendum and the Agreement must be read together to obtain the full intent of the parties. To the extent that there is a conflict, or that the Addendum alters requirements or obligations contained in the Agreement, the Addendum will control.

The following section numbers correspond to the numbered sections in the Agreement. If new material is added, the paragraph numbers for those provisions are numbered to be consistent with the format of the Agreement. If a paragraph number appearing in the Agreement does not appear in the Addendum, then no change to that paragraph has been made and the standard provision applies.

1.2 Substituted. The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change during the development of the Guaranteed Maximum Price.

3.1.11.2 Substituted. The Construction Manager shall develop bidders' interest in the Project. Trade Contractors and Suppliers shall be selected and contracts let in strict accordance with the provisions of the Public Competitive Bidding Act of 1974, Okla. Stat. tit. 61, §§ 101, *et seq.* (the "PCBA") and the Public Construction Management for Political Subdivisions Act, Okla. Stat. tit. 61, §§ 215-217 (the "CM Act"). The Construction Manager represents and warrants to the Owner that: (1) the Construction Manager has sufficient experience with the requirements of the PCBA and the CM Act to effectively and efficiently supervise the Project; (2) the Construction Manager will review all proposed contract documents, bidding materials, including bid notices, and bids received from potential Trade Contractors for compliance with the Act; and (3) the Construction Manager will verify that all Work performed under the Contract Documents is performed in accordance with the provisions of the PCBA and the CM Act. Construction Manager may elect to self-perform portions of the Work provided that the Construction Manager competitively bids the Work under the same terms and conditions as other bidders and the Construction Manager is the lowest responsible bidder for that construction contract. All bids shall be made and received and contracts awarded and executed in accordance with the provisions of the PCBA and the CM Act.

3.1.11.3 Deleted. This provision is deleted.

3.1.12 Deleted. This provision is deleted.

3.2.1 Substituted. After the award of the Trade Contracts by the Owner, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for Owner's review and

acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of all Trade Contracts, including contingencies and allowances described in Section 3.2.4, the General Conditions and the Construction Manager's fee.

3.2.2 Deleted. This provision is deleted.

3.2.4 Substituted. In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager may include a contingency to account for unexpected costs which are considered a reimbursable as a part of the Cost of the Work but not included in the General Conditions. Any new Work or change in the scope of Work within any Construction Contract will be the subject of a written Change Order approved by Owner's Board of Education.

3.2.6 Modified. Add the following provision: Upon acceptance of the Guaranteed Maximum Price proposal, the parties will execute an Amendment to this Agreement establishing the Guaranteed Maximum Price and the date for Substantial Completion of the Work. The Construction Manager shall then execute the Trade Contracts and issue a Notice to Proceed in accordance with the provisions of the CM Act.

3.2.9 Deleted. This provision is deleted.

3.3.1.2 Substituted. The Construction Phase shall commence upon the execution of a Guaranteed Maximum Price amendment by Owner and Construction Manager, and the Construction Manager's issuance of a Notice to Proceed.

4.1.2 Deleted. This provision is deleted.

4.2 Modified. Add the following: "The Owner's representative does not have the authority to approve Changes Orders or amend this Agreement. Such authority is reserved to the Owner's Board of Education."

5.1.3 Deleted. This provision is deleted.

6.1.1.1 New. The Construction Manager's certification for payment shall constitute a representation to the Owner, based upon the Construction Manager's review of the Work and onsite visits that, to the best of the Construction Manager's knowledge, information and reasonable belief, the Work has progressed to the point indicated and that the Work has been performed in a good and workmanlike manner in accordance with the Construction Documents and applicable laws and regulations. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to substantial completion and to specific qualifications expressed by the Construction Manager upon submission of the Certificate for Payment. The issuance of the Certificate for Payment shall further constitute a representation by the Construction Manager that the Contractor is entitled to payment in the amount certified.

6.1.3 Modified. The Construction Manager's fee shall be adjusted by adding or deducting the 5% CM fee to the net effect of all Change Orders. This adjustment shall be made to the final Application for Payment.

6.1.6 Deleted. This provision is deleted.

6.1.7 Deleted. This provision is deleted.

7.1.1 Substituted. The term "Cost of the Work" shall mean the total of the final Contract Sums of all of the Trade Contracts, plus the General Conditions and all reimbursement expenses relating to the construction phase of the Project. The term "Cost of the Work" does not include the compensation of the Architect, the Architect's or Owner's consultants, the Construction Manager or the Construction Manager's consultants. The Cost of the Work shall include only those reimbursable expenses set forth in this Article 7 that are not included in the General Conditions. At the time the Guaranteed Maximum Price is established, an amount for Project requirements and General Conditions, as agreed to by the Owner and Construction Manager, will be determined and will be set forth in the Guaranteed Maximum Price Amendment. This sum for General Conditions will be billed and paid in equal monthly installments commencing with the calendar month next following the date of commencement of construction of the Project and concluding on the date established in the Guaranteed Maximum Price Amendment for Substantial Completion of the Work. Payments will be prorated for part of a calendar month at the commencement of construction and the calendar month in which Substantial Completion is to occur.

7.2 Substituted. LABOR COSTS. Wages of construction workers directly employed by the Construction Manager to perform any portion of the Work at the site, unless such work is included within bid packages competitively bid by the Construction Manager to be self-performed, and salaries of the Construction Manager's supervisory personnel whether or not stationed at the site and included as a part of the amount agreed to for General Conditions.

7.3 Substituted. TRADE CONTRACT AND SUBCONTRACT COSTS. Payments made by the Construction Manager to Trade Contractors or Subcontractors in accordance with the requirements of the Trade Contracts and Subcontracts and payments due to the Construction Manager for any self-performed portions of the Work.

7.6.1.1 Deleted. This provision is deleted.

7.6.1.2 Deleted. This provision is deleted.

7.6.2 Deleted. This provision is deleted.

7.6.10 Deleted. This provision is deleted.

7.6.11 Deleted. This provision is deleted.

7.7.3 Modified. Delete the phrase "or nonconforming".

7.7.4 Deleted. This provision is deleted.

7.9.1.10 New. Travel to and from Mustang, Oklahoma and within Canadian and Oklahoma Counties.

Article 9 Deleted. Article 9 is deleted in its entirety.

11.1.2 Substituted. Pay applications will cover the time from the 21st day of the prior month through the 20th day of the current month. Pay applications will be submitted to the Architect by the 25th day of the current month. Owner will submit payment to the Construction Manager by the 15th day of the following month provided the Architect certifies the Pay application. If Pay applications are submitted to the Architect after the 25th day of the current month, Owner will submit payment to the Construction Manager for the certified pay application twenty (20) days following the submission to the Architect.

11.1.3 Deleted.

11.2.4 Deleted. This provision is deleted.

11.3 Modified. Interest shall accrue on amounts unpaid thirty (30) days after the due date at three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

12.2 Deleted. This provision is deleted.

13.2.3 Deleted. This provision is deleted.

14.3.2.1 Modified. The Construction Manager shall not be required to furnish performance or defects bonds covering performance of the Contract except as required by the PCBA or as permitted by the CM Act and agreed by the Owner and Construction Manager. The Construction Manager shall ensure that all bonds required by the Act from trade contractors be issued as dual obligee bonds in favor of the Owner and the Construction Manager.

15.2.3 Restore. Restore reference to and incorporation of AIA Document A133-2019 Exhibit B, Insurance and Bonds.

15.2.4 Restore. Restore reference to and incorporation of AIA Document A201-2017.

15.2.5 Add. Addendum to AIA Document A133 of even date.

15.2.6 Other Documents. Budget Survey Sheet with backout of all costs included in the GMP.

"Owner"	**"Construction Manager"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**CADE CONSTRUCTION, LLC**
By_____	**By**_____
Mustang Board of Education	**Austin Reid, Managing Partner**
_____	
Printed Name, Title	

CADE CONSTRUCTION, LLC

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

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

MPS Elementary #9
4800 S. Sara Rd.
Oklahoma City, OK 73064

THE OWNER:
(Name, legal status and address)

Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

THE ARCHITECT:
(Name, legal status and address)

MA+ Architecture

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

Init.
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

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, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

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

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, 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. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, 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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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

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

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.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, a Subcontractor, or a Sub-subcontractor; 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 in the course of construction.

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 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 Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, 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.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

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§ 15.1.7 Waiver of Claims for Consequential Damages

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

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

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

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

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

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§ 15.4.4 Consolidation or Joinder

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

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
AIA® Document A201® – 2017

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PAGE 1

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4800 S. Sara Rd.
Oklahoma City, OK 73064

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Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

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MA+ Architecture

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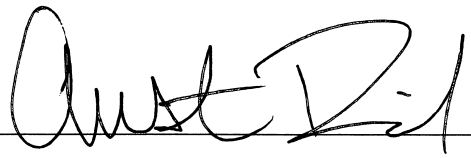

(Signed)

Managing Partner

(Title)

1/29/24

(Dated)

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The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201, Articles 1 through 16, inclusive, published in 2017 by the American Institute of Architects as amended by the Supplementary Conditions contained in the Project Manual for the Project (the "General Conditions"). Where a portion of the General Conditions are modified, added to or deleted by this supplement, the unaltered portions of the General Conditions shall remain in full force and effect. The General Conditions, as amended herein, are specifically incorporated into all Contract Documents and shall be bound and made a permanent part of the Project Manual. The provisions contained herein shall bind the Owner, Architect, the Construction Manager or Contractor, and all Subcontractors and Trade Contractors. The term "Contractor" shall include, where applicable, the Construction Manager and all Subcontractors and Trade Contractors.

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1. The final sentence of Subparagraph 1.1.1, The Contract Documents, is deleted. It is the intent of the parties that the Contract Documents shall include, in addition to those documents set forth therein, all bidding documents, including bidding requirements, advertisements, instructions to bidders, together with sample forms and the Contractor's bid.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

Add Clause 1.2.1.2 to Subparagraph 1.2.1:

1.2.1.2 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Addenda, with those of later date having precedence over those of earlier date.
2. The Standard Form of Agreement between Owner and Contractor or Construction Manager.
3. The Supplemental Conditions.
4. The General Conditions of the Contract for Construction.
5. Drawings and Specifications.

ARTICLE 2 OWNER

2.1 GENERAL

1. Delete the second and third sentences of Subparagraph 2.1.1 providing for the designation of an Owner's representative and delegating to that representative the authority to bind the Owner.

2. Subparagraph 2.1.2 shall be deleted.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Subparagraph 2.2.1 shall be deleted.

Subparagraph 2.2.2 shall be deleted.

Subparagraph 2.2.4 shall be deleted.

Add new Subparagraph 2.4.1 to read as follows:

2.4.1 The Owner's right to stop the Work shall not imply that the Owner or the Architect has any duty, obligation or responsibility to determine either the safety of the Contractors' means, methods, techniques or sequences, including but not limited to, temporary shoring, bracing, scaffolding, form work, safety barriers, trench bracing and

other similar items, referred to herein as "Temporary Facilities", or their compliance with the requirements of the laws, codes, regulations and safety requirements, which shall be the full and sole responsibility of the Contractor who shall solely bear any damages or injury, including death, arising therefrom.

ARTICLE 3 CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following Subparagraph 3.2.5 to Paragraph 3.2:

3.2.5 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was reasonably available to the Contractor within the Contract Documents, other owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

3.4 LABOR AND MATERIALS

Subparagraph 3.4.2 shall be modified to read as follows:

3.4.2 After the Contract has been executed, the Owner and Architect will consider formal requests for the substitution of products in place of those specified only upon written request of the Contractor and in accordance with a Change Order. By making requests for substitutions based upon this Subparagraph, the Contractor represents and certifies that:

.1 Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

.2 Manufacturer will provide the same warranty for the substitution that the Manufacturer would for that specified;

.3 the cost data presented is complete and includes all related costs under this Contract, except the Architect's redesign costs, and waives all claims for additional costs related to the substitution, which subsequently become apparent; and

.4 Contractor will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

Add the following Subparagraph 3.4.4 to Paragraph 3.4:

3.4.4 The Owner shall be entitled to deduct from the Contract Sum any amounts paid to the Architect to evaluate the Contractor's proposed substitutions and to make agreed upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions.

3.6 TAXES

Paragraph 3.6 shall be modified to read as follows:

3.6 The Owner is a political subdivision of the State of Oklahoma. The Contractor is exempt from sales and use taxes for the purchase of tangible personal property and services necessary for the performance of the Work provided by the Contractor and by Subcontractors pursuant to the provisions of OKLA. STAT. tit. 68, § 1356(10). Sales taxes shall not be considered a reimbursable expense.

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

Add the following to the end of Subparagraph 3.7.3:

Should applicable laws, ordinances, statutes, standards, building codes, rules and regulations change between the bid date and commencement of the Work or during the progress of the Work, and should such change require the Contractor to perform either more or less work, the Contract Sum and Contract Time shall be appropriately adjusted in compliance with the requirements of Article 7, Changes in the Work

3.9 SUPERINTENDENT

Subparagraph 3.9.1 shall be modified to read as follows:

3.9.1 The Contractor shall employ and shall designate in writing to the Architect and Owner, a competent project superintendent and any necessary assistants who shall be in attendance at the Project Site full-time during the performance of the Work. The project superintendent shall represent to Contractor as his agent, and communications given to the project superintendent shall be as binding as if given to the Contractor. Communications between the parties shall be confirmed in writing where such communications have a material effect upon the Work or where such confirmation is requested by other parties.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following sentence to the end of Subparagraph 3.12.8:

Any portion of the Work which fails to conform to the requirements of the Contract Documents shall be corrected in compliance with Article 12, UNCOVERING AND CORRECTION OF WORK, and the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals shall not relieve the Contractor of his duty, obligation and responsibility to make any such required corrections. Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following deviations from the requirements of the Contract Documents" followed by a detailed written listing of all such deviations.

Add the following sentence to the end of Subparagraph 3.12.9:

Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following revisions which are in addition to those revisions that you requested", followed by a detailed written listing of all such revisions.

Add Subparagraph 3.12.11 to Paragraph 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and two (2) re-submittals. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. Provided the Architect has acted reasonably and in good faith in reviewing the initial submittal and two (2) re-submittals, the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional re-submittals beyond the initial submittal and two (2) re-submittals.

ARTICLE 4 ARCHITECT

4.1 GENERAL

Subparagraph 4.1.2 shall be deleted in its entirety.

4.2 ADMINISTRATION OF THE CONTRACT

Add Clause 4.2.2.1 to Subparagraph 4.2.2:

4.2.2.1 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for additional site visits made necessary solely by the fault or neglect of the Contractor.

ARTICLE 5 SUBCONTRACTORS

Add new Subparagraph 5.3.1 immediately following Paragraph 5.3, to read as follows:

5.3.1 The Contractor shall indemnify and hold the Owner harmless from any and all claims, damages, losses and expenses, including but not limited to, attorney's fees, arising out of the Contractor's failure to bind a subcontractor to all the terms of the Contract Documents, or the Contractor's failure to ensure that the subcontractors bind each of their subcontractors to all the terms of the Contract Documents.

ARTICLE 7 CHANGES IN THE WORK

Subparagraph 7.2.2 shall be deleted.

In Subparagraph 7.3.4, delete the phrase "in case of an increase in the Contract Sum" from the first sentence.

Add new Subparagraph 7.3.11 immediately following Subparagraph 7.3.10, to read as follows:

7.3.11 Prior to final payment, all Construction Change Directives issued during the progress of the Work shall be converted into Change Orders and signed by the Contractor, Architect and Owner. Should the parties fail to agree with the determination made by the Architect concerning deductive adjustments in the Contract Sum and the Contract Time, or otherwise fail to reach agreements upon the deductive adjustments, that portion of the final payment which is affected by the dispute, if any, shall be withheld pending final judgment issued by a court of competent jurisdiction or, where arbitration has been selected as the dispute resolution method, a final award/decision by the arbitrator.

Add new Paragraph 7.5, EXPEDITING CHANGES IN THE WORK, immediately following Paragraph 7.4 to read as follows:

7.5 EXPEDITING CHANGES IN THE WORK.

7.5.1 Except as permitted in Subparagraph 7.5.2, the Contractor shall not proceed with changes in the Work authorized under Paragraphs 7.2 or 7.3 until receipt of the appropriate signed documents.

7.5.2 It is recognized by the parties that, under certain circumstances, changes in the Work may delay or endanger the Work if not processed in an expeditious manner. Upon certification by the Architect that an unacceptable delay may be caused, or that the Work may be endangered, the Owner may authorize the Contractor to immediately proceed with a change in the Work. Such authorization shall be in writing, signed by the Owner and shall contain an estimated change in the Contract Sum or an estimated change in the Contract Time, as appropriate. The Contractor, upon receipt of Owner's preliminary authorization, shall proceed promptly with the change in the Work specified therein. Final determination of the changes in the Contract Sum and Contract Time shall be made in a reasonable time and Owner's preliminary authorization shall be converted into a Change Order or a Construction Change Directive, as the case may be, but with the changes in the Contract Sum and Contract Time based on the final determination of such changes.

ARTICLE 9 PAYMENTS AND COMPLETION

Add new Clauses 9.8.1.1 and 9.8.1.2 immediately following Subparagraph 9.8.1 to read as follows:

9.8.1.1 All inspections required by federal, state or local regulatory authorities shall be complete and a certificate of occupancy shall be issued prior to the issuance of the Certificate of Substantial Completion.

9.8.1.2 Should any regulatory inspection disclose any work performed by the Contractor which is not in compliance with the Contract Documents, the Contractor shall, prior to the issuance of the Certificate of Substantial Completion, complete or correct such Work. Should any regulatory inspection disclose any work

performed by the Contractor that complies with the Contract Documents but not acceptable to the regulatory inspector, the Owner shall promptly issue a Change Order extending the Contract Time and increasing the Contract Sum to compensate Contractor for the delays and any rework necessary to satisfy the inspector. The Contractor shall then schedule another inspection by the appropriate regulatory authority and notify the Architect of the time and date of such reinspection.

The first sentence of Subparagraph 9.8.2 shall be modified by adding the phrase "and after all regulatory inspections are complete and a Certificate of Occupancy is obtained" immediately following the words "is substantially complete."

Add new Subparagraph 9.8.6 immediately following Subparagraph 9.8.5 to read as follows:

9.8.6 Unless otherwise agreed upon in writing, the issuance of a Certificate of Substantial Completion shall not constitute acceptance of Work not in compliance with the requirements of the Contract Documents.

ARTICLE 11 INSURANCE AND BONDS

Add new Clause 11.1.1.1 immediately following Subparagraph 11.1.1 to read as follows:

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

11.2 OWNER'S INSURANCE – Shall be deleted in its entirety.

11.3 WAIVERS OF SUBROGATION - Shall be deleted in its entirety.

ARTICLE 13 MISCELLANEOUS PROVISIONS

Paragraph 13.1 is modified to provide that the laws of the State of Oklahoma shall apply and govern the enforcement and interpretation of the Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

The first sentence of Subparagraph 14.1.1 shall be modified by substituting "60 days" for "30 days."

Add new Clause 14.2.1.5 to Subparagraph 14.2.1 immediately following Clause 14.2.1.4 to read as follows:

14.2.1.5 is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency.

Subparagraph 14.4.3 shall be modified to delete reference to a termination fee.

ARTICLE 15 CLAIMS AND DISPUTES

Subparagraph 15.1.2 shall be deleted in its entirety.

Add the following Clauses 15.1.6.3 and 15.1.6.4 to Subparagraph 15.1.6:

15.1.6.3 Claims for increase in the Contract Time shall set forth in detail; the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim. The Owner assumes an average number of weather related delays. The Owner assumes delays for permitting, inspections

and material availability. Only delays beyond ordinary circumstances will be considered when evaluating claims for additional time.

15.1.6.4 The Owner may consider concurrent and interrelated effects on the progress of the Work and concurrent delays due to the fault of the Contractor in evaluating the Contractor's request for an increase in Contract Time.

Subparagraph 15.1.7 shall be deleted in its entirety.

Paragraph 15.2 shall be deleted in its entirety.

Paragraph 15.3 shall be deleted in its entirety.

ARTICLE 16 EMPLOYEE CRIMINAL CONVICTIONS

Add the following Paragraphs 16.1, 16.2, 16.3 and 16.4 to new Article 16:

16.1 The Contractor will not allow any employee of the Contractor or of any subcontractor to work on school premises during normal school hours if the employee is convicted in this state, the United States or another state of: (1) any sex offense subject to the Sex Offenders Registration Act of this state, similar law of another state, or the federal sex offender registration provisions; or (2) any felony offense, unless (a) the person is a volunteer or (b) the person is performing community service hours under court order or (c) the person is performing services under a supervised work release program or (d) ten (10) years have elapsed since the date of the criminal conviction or (e) the employee has received a Presidential or Gubernatorial pardon for the criminal offense.

16.2 As a condition to receiving progress payments on the contract sum, the Contractor will furnish with each application for payment a signed statement declaring that no employee working on school premises during normal school hours under the authority of the Contractor is in violation of the provisions of this Article. If this Contract does not provide for periodic payment against the Contract Sum, the signed statement referred to in this Section will be furnished as required from time to time by the Owner. The Owner's form of the signed statement will be used by the Contractor.

16.3 The Contractor agrees to obtain similar compliance statements from all subcontractors used by the Contractor on the Project with reference to employees of the subcontractors. No request for payment will be approved by the Contractor unless accompanied by the required compliance statements.

16.4 The Contractor's conviction of a violation of 57 O.S. § 589 (1998 Supp.) shall constitute grounds for termination of the Contract. The foregoing provisions are intended to comply with Senate Bill 1394 of the Second Regular Session (1998) of the 46th Oklahoma Legislature. The Contractor is obligated to comply with the provisions of that Act, as may be interpreted or amended from time to time as if fully incorporated herein.

Acknowledged and agreed to this 12th **day of** February, **2024.**

"Owner"	**"Contractor"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**CADE CONSTRUCTION, LLC**
By_____ **Mustang Board of Education**	**By**_____ **Austin Reid, Managing Partner**
_____ **Printed Name, Title**	

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, CFO

Date: February 2, 2024

Contract Vendor: Timberlake Construction Co., Inc. **Time Frame:** Duration of Construction

---

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Construction Management Agreement for the construction of the Mustang High School Softball Hitting Facility.

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as ***Constructor*** *where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price*

AGREEMENT made as of the 12th day of February in the year 2024
(In words, indicate day, month, and year.)

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

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

and the Construction Manager:
(Name, legal status, address, and other information)

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

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

Softball Batting Facility
909 S. Mustang Rd
Mustang Ok, 73064

The Architect:
(Name, legal status, address, and other information)

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

The Owner and Construction Manager agree as follows.

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

TBD

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

TBD

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

TBD

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

TBD

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

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MA+ Architects

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

TBD

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Heath Tate

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

TBD

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

TBD

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§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The

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Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design,

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price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the

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Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted bv Change Order for the additional out-of-pocket costs incurred bv the Contractor.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns. including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

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§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017. as amended bv the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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N/A – Included in CM Fee.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Individual or Position	Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments
§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

%

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
§ 6.1 Contract Sum
§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

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Zero Dollars ($0)

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

TBD

§ 6.2 Guaranteed Maximum Price
Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

§ 6.4 Potentially Time And Price Impacted Material
§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material").
This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability
If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

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§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, offsite.

§ 7.2.2 Workshops will be billed as a Cost of the Work in
accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

(Paragraphs deleted)
§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

(Paragraph deleted)

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

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

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§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

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

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Permits by Owner.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

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§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7 , or as may be provided in Article 14;

.2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

.3 Expenses of the Construction Manager's principal office and offices other than the site office;

.4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

.5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

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.9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, , purchase orders, vouchers, memoranda, and other data relating to this Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted bv a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and anv other expenses related to this section.

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ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.,

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.
§ 11.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

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.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

TBD

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

Unknown at time of execution.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

.1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, which Certificate may not be unreasonably withheld.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same

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basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

%

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement.

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§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee equal to the original stated fee at commencement of construction.

TBD

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

(Paragraphs deleted)

§ 14.3.1.6 Other Insurance

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

Coverage	Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance.

(Paragraphs deleted)

§ 14.5 Other provisions:

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour
Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

.3

.4 AIA Document A201™–2017, General Conditions of the Contract for Construction

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.5
(Paragraphs deleted)

.6 Other Exhibits:
(Check all boxes that apply.)

[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
TBD			

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Todd Lovelace Mustang School Board President	Casey Logue VP of Operations
(Printed name and title)	*(Printed name and title)*

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PAGE 1

AGREEMENT made as of the 23th day of August in the year 2023

...

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

...

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

...

Softball Batting Facility
909 S. Mustang Rd
Mustang Ok, 73064

...

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

PAGE 2

TBD

...

TBD

...

TBD

PAGE 3

TBD

...

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TBD

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TBD

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TBD

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TBD

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TBD

...

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org

PAGE 4

MA+ Architects

...

TBD

...

TBD

...

Heath Tate

...

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

...

TBD

...

TBD

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§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as ~~follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.~~follows.
PAGE 6

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.
PAGE 7

N/A
PAGE 8

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted by Change Order for the additional out-of-pocket costs incurred by the Contractor.

...

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns. including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.
PAGE 10

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this ~~Agreement.~~ agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017. as amended by the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.
PAGE 11

N/A – Included in CM Fee.

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...

N/A

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

...

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

...

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.
PAGE 12

Zero Dollars ($0)

...

TBD

...

~~The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum~~ Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the ~~Construction Manager without reimbursement by the Owner.~~by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

...

§ 6.4 Potentially Time And Price Impacted Material

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§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material"). This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability

If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

PAGE 13

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, ~~with the Owner's prior approval, at off-site workshops.~~offsite.

§ 7.2.2 ~~Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.~~Workshops will be billed as a Cost of the Work in accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

~~§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:~~
~~*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*~~

~~§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.~~

§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

...

~~§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.~~

PAGE 14

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§ 7.6.1.1 ~~Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.~~Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2 ~~Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.~~

...

§ 7.6.3 ~~Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.~~Permits by Owner.

...

§ 7.6.6 Costs for communications services, electronic equipment, ~~and software, directly related to the Work and located at the site, with the Owner's prior approval.~~software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.
PAGE 15

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section ~~7.2,~~ 7 , or as may be provided in Article 14;

PAGE 16

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The ~~Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The~~ Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

...

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, ~~job cost reports,~~ , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, ~~Subcontractor's invoices,~~ , purchase orders, vouchers, memoranda, and other data relating to this ~~Contract.~~ Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted by a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and any other expenses related to this section.
PAGE 17

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

...

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.

...

§ 11.1.4 ~~With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.~~ Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5 ~~Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.~~Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

PAGE 18

Five Percent (5%)

...

TBD

...

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

...

Unknown at time of execution.

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§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, ~~or as follows:~~which Certificate may not be unreasonably withheld.
PAGE 20

[X] Litigation in a court of competent jurisdiction

...

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. ~~In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.~~
PAGE 21

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's ~~compensation under this Section exceed the compensation set forth in Section 5.1.~~compensation.
PAGE 22

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee ~~as follows:~~
~~(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)~~equal to the original stated fee at commencement of construction.

TBD

...

§ 14.3.1 ~~Preconstruction Phase~~
~~The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.~~For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

~~§ 14.3.1.1 Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

~~§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

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~~§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~

~~§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

PAGE 23

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. ~~The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence ~~compliance with the requirements in this Section 14.3.1.~~compliance.

~~**§ 14.3.2 Construction Phase**~~
~~After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.~~

~~§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.~~

~~§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~
~~*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*~~

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour

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Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

...

.3 ~~AIA Document A133™ 2019, Exhibit B, Insurance and Bonds~~

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.5 ~~AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
~~*(Insert the date of the E203 2013 incorporated into this Agreement.)*~~

...

TBD

...

Jason Pittenger Assistant Superintendent, Operations Casey Logue VP of Operations

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:33:38 ET on 08/23/2023 under Order No. 2114356439 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

Cay Lopez
(Signed)

V.P. of Operations
(Title)

08-23-2023
(Dated)

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ADDENDUM TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER
AIA DOCUMENT A133 - 2019

This Addendum is executed simultaneously with and constitutes a part of the Standard Form of Agreement between Owner and Construction Manager, AIA Document A133 (2019 Edition), hereinafter collectively to as the "Agreement", dated as of the 12th day of February, 2024, by and between **INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA, a/k/a MUSTANG PUBLIC SCHOOLS** ("Owner") and **TIMBERLAKE CONSTRUCTION CO., INC.** ("Construction Manager"). This Addendum modifies the above-referenced Agreement. Some modifications are not a complete substitution for the corresponding paragraph in the Agreement. In such instances, the Addendum and the Agreement must be read together to obtain the full intent of the parties. To the extent that there is a conflict, or that the Addendum alters requirements or obligations contained in the Agreement, the Addendum will control.

The following section numbers correspond to the numbered sections in the Agreement. If new material is added, the paragraph numbers for those provisions are numbered to be consistent with the format of the Agreement. If a paragraph number appearing in the Agreement does not appear in the Addendum, then no change to that paragraph has been made and the standard provision applies.

1.2 Substituted. The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change during the development of the Guaranteed Maximum Price.

3.1.11.2 Substituted. The Construction Manager shall develop bidders' interest in the Project. Trade Contractors and Suppliers shall be selected and contracts let in strict accordance with the provisions of the Public Competitive Bidding Act of 1974, Okla. Stat. tit. 61, §§ 101, *et seq.* (the "PCBA") and the Public Construction Management for Political Subdivisions Act, Okla. Stat. tit. 61, §§ 215-217 (the "CM Act"). The Construction Manager represents and warrants to the Owner that: (1) the Construction Manager has sufficient experience with the requirements of the PCBA and the CM Act to effectively and efficiently supervise the Project; (2) the Construction Manager will review all proposed contract documents, bidding materials, including bid notices, and bids received from potential Trade Contractors for compliance with the Act; and (3) the Construction Manager will verify that all Work performed under the Contract Documents is performed in accordance with the provisions of the PCBA and the CM Act. Construction Manager may elect to self-perform portions of the Work provided that the Construction Manager competitively bids the Work under the same terms and conditions as other bidders and the Construction Manager is the lowest responsible bidder for that construction contract. All bids shall be made and received and contracts awarded and executed in accordance with the provisions of the PCBA and the CM Act.

3.1.11.3 Deleted. This provision is deleted.

3.1.12 Deleted. This provision is deleted.

3.2.1 Substituted. After the award of the Trade Contracts by the Owner, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for Owner's review and

acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of all Trade Contracts, including contingencies and allowances described in Section 3.2.4, the General Conditions and the Construction Manager's fee.

3.2.2 Deleted. This provision is deleted.

3.2.4 Substituted. In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager may include a contingency to account for unexpected costs which are considered a reimbursable as a part of the Cost of the Work but not included in the General Conditions. Any new Work or change in the scope of Work within any Construction Contract will be the subject of a written Change Order approved by Owner's Board of Education.

3.2.6 Modified. Add the following provision: Upon acceptance of the Guaranteed Maximum Price proposal, the parties will execute an Amendment to this Agreement establishing the Guaranteed Maximum Price and the date for Substantial Completion of the Work. The Construction Manager shall then execute the Trade Contracts and issue a Notice to Proceed in accordance with the provisions of the CM Act.

3.2.9 Deleted. This provision is deleted.

3.3.1.2 Substituted. The Construction Phase shall commence upon the execution of a Guaranteed Maximum Price amendment by Owner and Construction Manager, and the Construction Manager's issuance of a Notice to Proceed.

4.1.2 Deleted. This provision is deleted.

4.2 Modified. Add the following: "The Owner's representative does not have the authority to approve Changes Orders or amend this Agreement. Such authority is reserved to the Owner's Board of Education."

5.1.3 Deleted. This provision is deleted.

5.2.2 Modified. Amounts unpaid thirty (30) days after the due date shall bear interest at the rate of three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

6.1.1.1 New. The Construction Manager's certification for payment shall constitute a representation to the Owner, based upon the Construction Manager's review of the Work and onsite visits that, to the best of the Construction Manager's knowledge, information and reasonable belief, the Work has progressed to the point indicated and that the Work has been performed in a good and workmanlike manner in accordance with the Construction Documents and applicable laws and regulations. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to substantial completion and to specific qualifications expressed by the Construction Manager upon submission of the Certificate for Payment. The issuance of the Certificate for Payment shall further constitute a representation by the Construction Manager that the Contractor is entitled to payment in the amount certified.

6.1.3 Substituted. The Construction Manager's fee shall be adjusted by adding or deducting the 5% CM fee to the net effect of all Change Orders. This adjustment shall be made to the final Application for Payment.

6.1.4 Deleted. This provision is deleted.

6.1.6 Deleted. This provision is deleted.

6.1.7 Deleted. This provision is deleted.

6.4 Deleted. This provision is deleted.

7.1.1 Substituted. The term "Cost of the Work" shall mean the total of the final Contract Sums of all of the Trade Contracts, plus the General Conditions and all reimbursement expenses relating to the construction phase of the Project. The term "Cost of the Work" does not include the compensation of the Architect, the Architect's or Owner's consultants, the Construction Manager or the Construction Manager's consultants. The Cost of the Work shall include only those reimbursable expenses set forth in this Article 7 that are not included in the General Conditions. At the time the Guaranteed Maximum Price is established, an amount for Project requirements and General Conditions, as agreed to by the Owner and Construction Manager, will be determined and will be set forth in the Guaranteed Maximum Price Amendment. This sum for General Conditions will be billed and paid in equal monthly installments commencing with the calendar month next following the date of commencement of construction of the Project and concluding on the date established in the Guaranteed Maximum Price Amendment for Substantial Completion of the Work. Payments will be prorated for part of a calendar month at the commencement of construction and the calendar month in which Substantial Completion is to occur.

7.2 Substituted. LABOR COSTS. Wages of construction workers directly employed by the Construction Manager to perform any portion of the Work at the site, unless such work is included within bid packages competitively bid by the Construction Manager to be self-performed, and salaries of the Construction Manager's supervisory personnel whether or not stationed at the site and included as a part of the amount agreed to for General Conditions.

7.3 Substituted. TRADE CONTRACT AND SUBCONTRACT COSTS. Payments made by the Construction Manager to Trade Contractors or Subcontractors in accordance with the requirements of the Trade Contracts and Subcontracts and payments due to the Construction Manager for any self-performed portions of the Work.

7.6.1.1 Deleted. This provision is deleted.

7.6.1.2 Deleted. This provision is deleted.

7.6.2 Deleted. This provision is deleted.

7.6.6 Deleted. This provision is deleted.

7.6.10 Deleted. This provision is deleted.

7.6.11 Deleted. This provision is deleted.

7.7.3 Modified. Delete the phrase "or nonconforming".

7.7.4 Deleted. This provision is deleted.

7.9.1.10 New. Travel to and from Mustang, Oklahoma and within Canadian and Oklahoma Counties.

Article 9 Deleted. Article 9 is deleted in its entirety.

11.1.2 Substituted. Pay applications will cover the time from the 21st day of the prior month through the 20th day of the current month. Pay applications will be submitted to the Architect by the 25th day of the current month. Owner will submit payment to the Construction Manager by the 15th day of the following month provided the Architect certifies the Pay application. If Pay applications are submitted to the Architect after the 25th day of the current month, Owner will submit payment to the Construction Manager for the certified pay application twenty (20) days following the submission to the Architect.

11.1.3 Deleted.

11.1.5 Modified. Delete the last sentence in its entirety.

11.1.8.2 Deleted. This provision is deleted.

11.2.2.3 Deleted. This provision is deleted.

11.2.4 Deleted. This provision is deleted.

11.3 Modified. Interest shall accrue on amounts unpaid thirty (30) days after the due date at three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

12.2 Deleted. This provision is deleted.

13.1.4 Modified. Delete the last sentence in its entirety.

13.2.3 Deleted. This provision is deleted.

14.3.1 Modified. Restore standard provision from AIA A133 (2019) with insurance limits inserted as offered by Construction Manager. Add workers' compensation insurance in statutory limits.

14.3.2.1 Modified. The Construction Manager shall not be required to furnish performance or defects bonds covering performance of the Contract except as required by the PCBA or as permitted by the CM Act and agreed by the Owner and Construction Manager. The Construction Manager shall ensure that all bonds required by the Act from trade contractors be issued as dual obligee bonds in favor of the Owner and the Construction Manager.

14.5 Deleted. This provision is deleted.

15.2.3 Restore. Restore reference to and incorporation of AIA Document A133-2019 Exhibit B, Insurance and Bonds.

15.2.4 Restore. Restore reference to and incorporation of AIA Document A201-2017.

15.2.5 Add. Addendum to AIA Document A133 of even date.

15.2.6 Other Documents. Budget Survey Sheet with backout of all costs included in the GMP.

"Owner"	**"Construction Manager"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____	**By**_____
Mustang Board of Education	**Casey Logue, VP of Operations**
_____	
Printed Name, Title	

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

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

Mustang Public Schools
Master Agreement

THE OWNER:
(Name, legal status and address)

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

THE ARCHITECT:
(Name, legal status and address)

MA+
4000 North Classen Boulevard · Suite 100N
Oklahoma City, OK 73118

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13 MISCELLANEOUS PROVISIONS

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

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

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, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

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

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, 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. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, 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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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

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

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.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, a Subcontractor, or a Sub-subcontractor; 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 in the course of construction.

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 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 Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, 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.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

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§ 15.1.7 Waiver of Claims for Consequential Damages

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

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

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

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

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

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§ 15.4.4 Consolidation or Joinder

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

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for
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PAGE 1

Mustang Public Schools
Master Agreement

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Mustang, OK 73064

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MA+
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Cary Lyon
(Signed)

V.P. of Operations
(Title)

01-15-2024
(Dated)

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The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201, Articles 1 through 16, inclusive, published in 2017 by the American Institute of Architects as amended by the Supplementary Conditions contained in the Project Manual for the Project (the "General Conditions"). Where a portion of the General Conditions are modified, added to or deleted by this supplement, the unaltered portions of the General Conditions shall remain in full force and effect. The General Conditions, as amended herein, are specifically incorporated into all Contract Documents and shall be bound and made a permanent part of the Project Manual. The provisions contained herein shall bind the Owner, Architect, the Construction Manager or Contractor, and all Subcontractors and Trade Contractors. The term "Contractor" shall include, where applicable, the Construction Manager and all Subcontractors and Trade Contractors.

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1. The final sentence of Subparagraph 1.1.1, The Contract Documents, is deleted. It is the intent of the parties that the Contract Documents shall include, in addition to those documents set forth therein, all bidding documents, including bidding requirements, advertisements, instructions to bidders, together with sample forms and the Contractor's bid.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

Add Clause 1.2.1.2 to Subparagraph 1.2.1:

1.2.1.2 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Addenda, with those of later date having precedence over those of earlier date.
2. The Standard Form of Agreement between Owner and Contractor or Construction Manager.
3. The Supplemental Conditions.
4. The General Conditions of the Contract for Construction.
5. Drawings and Specifications.

ARTICLE 2 OWNER

2.1 GENERAL

1. Delete the second and third sentences of Subparagraph 2.1.1 providing for the designation of an Owner's representative and delegating to that representative the authority to bind the Owner.

2. Subparagraph 2.1.2 shall be deleted.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Subparagraph 2.2.1 shall be deleted.

Subparagraph 2.2.2 shall be deleted.

Subparagraph 2.2.4 shall be deleted.

Add new Subparagraph 2.4.1 to read as follows:

2.4.1 The Owner's right to stop the Work shall not imply that the Owner or the Architect has any duty, obligation or responsibility to determine either the safety of the Contractors' means, methods, techniques or sequences, including but not limited to, temporary shoring, bracing, scaffolding, form work, safety barriers, trench bracing and

other similar items, referred to herein as "Temporary Facilities", or their compliance with the requirements of the laws, codes, regulations and safety requirements, which shall be the full and sole responsibility of the Contractor who shall solely bear any damages or injury, including death, arising therefrom.

ARTICLE 3 CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following Subparagraph 3.2.5 to Paragraph 3.2:

3.2.5 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was reasonably available to the Contractor within the Contract Documents, other owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

3.4 LABOR AND MATERIALS

Subparagraph 3.4.2 shall be modified to read as follows:

3.4.2 After the Contract has been executed, the Owner and Architect will consider formal requests for the substitution of products in place of those specified only upon written request of the Contractor and in accordance with a Change Order. By making requests for substitutions based upon this Subparagraph, the Contractor represents and certifies that:

.1 Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

.2 Manufacturer will provide the same warranty for the substitution that the Manufacturer would for that specified;

.3 the cost data presented is complete and includes all related costs under this Contract, except the Architect's redesign costs, and waives all claims for additional costs related to the substitution, which subsequently become apparent; and

.4 Contractor will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

Add the following Subparagraph 3.4.4 to Paragraph 3.4:

3.4.4 The Owner shall be entitled to deduct from the Contract Sum any amounts paid to the Architect to evaluate the Contractor's proposed substitutions and to make agreed upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions.

3.6 TAXES

Paragraph 3.6 shall be modified to read as follows:

3.6 The Owner is a political subdivision of the State of Oklahoma. The Contractor is exempt from sales and use taxes for the purchase of tangible personal property and services necessary for the performance of the Work provided by the Contractor and by Subcontractors pursuant to the provisions of OKLA. STAT. tit. 68, § 1356(10). Sales taxes shall not be considered a reimbursable expense.

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

Add the following to the end of Subparagraph 3.7.3:

Should applicable laws, ordinances, statutes, standards, building codes, rules and regulations change between the bid date and commencement of the Work or during the progress of the Work, and should such change require the Contractor to perform either more or less work, the Contract Sum and Contract Time shall be appropriately adjusted in compliance with the requirements of Article 7, Changes in the Work

3.9 SUPERINTENDENT

Subparagraph 3.9.1 shall be modified to read as follows:

3.9.1 The Contractor shall employ and shall designate in writing to the Architect and Owner, a competent project superintendent and any necessary assistants who shall be in attendance at the Project Site full-time during the performance of the Work. The project superintendent shall represent to Contractor as his agent, and communications given to the project superintendent shall be as binding as if given to the Contractor. Communications between the parties shall be confirmed in writing where such communications have a material effect upon the Work or where such confirmation is requested by other parties.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following sentence to the end of Subparagraph 3.12.8:

Any portion of the Work which fails to conform to the requirements of the Contract Documents shall be corrected in compliance with Article 12, UNCOVERING AND CORRECTION OF WORK, and the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals shall not relieve the Contractor of his duty, obligation and responsibility to make any such required corrections. Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following deviations from the requirements of the Contract Documents" followed by a detailed written listing of all such deviations.

Add the following sentence to the end of Subparagraph 3.12.9:

Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following revisions which are in addition to those revisions that you requested", followed by a detailed written listing of all such revisions.

Add Subparagraph 3.12.11 to Paragraph 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and two (2) re-submittals. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. Provided the Architect has acted reasonably and in good faith in reviewing the initial submittal and two (2) re-submittals, the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional re-submittals beyond the initial submittal and two (2) re-submittals.

ARTICLE 4 ARCHITECT

4.1 GENERAL

Subparagraph 4.1.2 shall be deleted in its entirety.

4.2 ADMINISTRATION OF THE CONTRACT

Add Clause 4.2.2.1 to Subparagraph 4.2.2:

4.2.2.1 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for additional site visits made necessary solely by the fault or neglect of the Contractor.

ARTICLE 5 SUBCONTRACTORS

Add new Subparagraph 5.3.1 immediately following Paragraph 5.3, to read as follows:

5.3.1 The Contractor shall indemnify and hold the Owner harmless from any and all claims, damages, losses and expenses, including but not limited to, attorney's fees, arising out of the Contractor's failure to bind a subcontractor to all the terms of the Contract Documents, or the Contractor's failure to ensure that the subcontractors bind each of their subcontractors to all the terms of the Contract Documents.

ARTICLE 7 CHANGES IN THE WORK

Subparagraph 7.2.2 shall be deleted.

In Subparagraph 7.3.4, delete the phrase "in case of an increase in the Contract Sum" from the first sentence.

Add new Subparagraph 7.3.11 immediately following Subparagraph 7.3.10, to read as follows:

7.3.11 Prior to final payment, all Construction Change Directives issued during the progress of the Work shall be converted into Change Orders and signed by the Contractor, Architect and Owner. Should the parties fail to agree with the determination made by the Architect concerning deductive adjustments in the Contract Sum and the Contract Time, or otherwise fail to reach agreements upon the deductive adjustments, that portion of the final payment which is affected by the dispute, if any, shall be withheld pending final judgment issued by a court of competent jurisdiction or, where arbitration has been selected as the dispute resolution method, a final award/decision by the arbitrator.

Add new Paragraph 7.5, EXPEDITING CHANGES IN THE WORK, immediately following Paragraph 7.4 to read as follows:

7.5 EXPEDITING CHANGES IN THE WORK.

7.5.1 Except as permitted in Subparagraph 7.5.2, the Contractor shall not proceed with changes in the Work authorized under Paragraphs 7.2 or 7.3 until receipt of the appropriate signed documents.

7.5.2 It is recognized by the parties that, under certain circumstances, changes in the Work may delay or endanger the Work if not processed in an expeditious manner. Upon certification by the Architect that an unacceptable delay may be caused, or that the Work may be endangered, the Owner may authorize the Contractor to immediately proceed with a change in the Work. Such authorization shall be in writing, signed by the Owner and shall contain an estimated change in the Contract Sum or an estimated change in the Contract Time, as appropriate. The Contractor, upon receipt of Owner's preliminary authorization, shall proceed promptly with the change in the Work specified therein. Final determination of the changes in the Contract Sum and Contract Time shall be made in a reasonable time and Owner's preliminary authorization shall be converted into a Change Order or a Construction Change Directive, as the case may be, but with the changes in the Contract Sum and Contract Time based on the final determination of such changes.

ARTICLE 9 PAYMENTS AND COMPLETION

Add new Clauses 9.8.1.1 and 9.8.1.2 immediately following Subparagraph 9.8.1 to read as follows:

9.8.1.1 All inspections required by federal, state or local regulatory authorities shall be complete and a certificate of occupancy shall be issued prior to the issuance of the Certificate of Substantial Completion.

9.8.1.2 Should any regulatory inspection disclose any work performed by the Contractor which is not in compliance with the Contract Documents, the Contractor shall, prior to the issuance of the Certificate of Substantial Completion, complete or correct such Work. Should any regulatory inspection disclose any work

performed by the Contractor that complies with the Contract Documents but not acceptable to the regulatory inspector, the Owner shall promptly issue a Change Order extending the Contract Time and increasing the Contract Sum to compensate Contractor for the delays and any rework necessary to satisfy the inspector. The Contractor shall then schedule another inspection by the appropriate regulatory authority and notify the Architect of the time and date of such reinspection.

The first sentence of Subparagraph 9.8.2 shall be modified by adding the phrase "and after all regulatory inspections are complete and a Certificate of Occupancy is obtained" immediately following the words "is substantially complete."

Add new Subparagraph 9.8.6 immediately following Subparagraph 9.8.5 to read as follows:

9.8.6 Unless otherwise agreed upon in writing, the issuance of a Certificate of Substantial Completion shall not constitute acceptance of Work not in compliance with the requirements of the Contract Documents.

ARTICLE 11 INSURANCE AND BONDS

Add new Clause 11.1.1.1 immediately following Subparagraph 11.1.1 to read as follows:

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

11.2 OWNER'S INSURANCE – Shall be deleted in its entirety.

11.3 WAIVERS OF SUBROGATION - Shall be deleted in its entirety.

ARTICLE 13 MISCELLANEOUS PROVISIONS

Paragraph 13.1 is modified to provide that the laws of the State of Oklahoma shall apply and govern the enforcement and interpretation of the Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

The first sentence of Subparagraph 14.1.1 shall be modified by substituting "60 days" for "30 days."

Add new Clause 14.2.1.5 to Subparagraph 14.2.1 immediately following Clause 14.2.1.4 to read as follows:

14.2.1.5 is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency.

Subparagraph 14.4.3 shall be modified to delete reference to a termination fee.

ARTICLE 15 CLAIMS AND DISPUTES

Subparagraph 15.1.2 shall be deleted in its entirety.

Add the following Clauses 15.1.6.3 and 15.1.6.4 to Subparagraph 15.1.6:

15.1.6.3 Claims for increase in the Contract Time shall set forth in detail; the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim. The Owner assumes an average number of weather related delays. The Owner assumes delays for permitting, inspections

and material availability. Only delays beyond ordinary circumstances will be considered when evaluating claims for additional time.

15.1.6.4 The Owner may consider concurrent and interrelated effects on the progress of the Work and concurrent delays due to the fault of the Contractor in evaluating the Contractor's request for an increase in Contract Time.

Subparagraph 15.1.7 shall be deleted in its entirety.

Paragraph 15.2 shall be deleted in its entirety.

Paragraph 15.3 shall be deleted in its entirety.

ARTICLE 16 EMPLOYEE CRIMINAL CONVICTIONS

Add the following Paragraphs 16.1, 16.2, 16.3 and 16.4 to new Article 16:

16.1 The Contractor will not allow any employee of the Contractor or of any subcontractor to work on school premises during normal school hours if the employee is convicted in this state, the United States or another state of: (1) any sex offense subject to the Sex Offenders Registration Act of this state, similar law of another state, or the federal sex offender registration provisions; or (2) any felony offense, unless (a) the person is a volunteer or (b) the person is performing community service hours under court order or (c) the person is performing services under a supervised work release program or (d) ten (10) years have elapsed since the date of the criminal conviction or (e) the employee has received a Presidential or Gubernatorial pardon for the criminal offense.

16.2 As a condition to receiving progress payments on the contract sum, the Contractor will furnish with each application for payment a signed statement declaring that no employee working on school premises during normal school hours under the authority of the Contractor is in violation of the provisions of this Article. If this Contract does not provide for periodic payment against the Contract Sum, the signed statement referred to in this Section will be furnished as required from time to time by the Owner. The Owner's form of the signed statement will be used by the Contractor.

16.3 The Contractor agrees to obtain similar compliance statements from all subcontractors used by the Contractor on the Project with reference to employees of the subcontractors. No request for payment will be approved by the Contractor unless accompanied by the required compliance statements.

16.4 The Contractor's conviction of a violation of 57 O.S. § 589 (1998 Supp.) shall constitute grounds for termination of the Contract. The foregoing provisions are intended to comply with Senate Bill 1394 of the Second Regular Session (1998) of the 46th Oklahoma Legislature. The Contractor is obligated to comply with the provisions of that Act, as may be interpreted or amended from time to time as if fully incorporated herein.

Acknowledged and agreed to this 12th **day of** February**, 2024.**

"Owner"	**"Contractor"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____ **Mustang Board of Education**	**By**_____ **Casey Logue, VP of Operations**
_____ **Printed Name, Title**	

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, CFO

Date: February 2, 2024

Contract Vendor: Timberlake Construction Co., Inc. **Time Frame:** Duration of Construction

---

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Construction Management Agreement for the construction of the Mustang Elementary School Safety Corridor.

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 12th day of February in the year 2024
(In words, indicate day, month, and year.)

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

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

and the Construction Manager:
(Name, legal status, address, and other information)

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

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

Safety Corridor
909 S. Mustang Rd
Mustang Ok, 73064

The Architect:
(Name, legal status, address, and other information)

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

The Owner and Construction Manager agree as follows.

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

TBD

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

TBD

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

TBD

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

TBD

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

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MA+ Architects

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

TBD

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Heath Tate

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

TBD

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

TBD

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§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The

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Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design,

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price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the

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Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted bv Change Order for the additional out-of-pocket costs incurred bv the Contractor.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns. including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

Init.

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§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017. as amended bv the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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N/A – Included in CM Fee.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Individual or Position	Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments
§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

%

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
§ 6.1 Contract Sum
§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

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Zero Dollars ($0)

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

TBD

§ 6.2 Guaranteed Maximum Price
Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

§ 6.4 Potentially Time And Price Impacted Material
§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material").
This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability
If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

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§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, offsite.

§ 7.2.2 Workshops will be billed as a Cost of the Work in
accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

(Paragraphs deleted)
§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

(Paragraph deleted)

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

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

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§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

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

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Permits by Owner.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

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§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7 , or as may be provided in Article 14;

.2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

.3 Expenses of the Construction Manager's principal office and offices other than the site office;

.4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

.5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

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.9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, , purchase orders, vouchers, memoranda, and other data relating to this Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted bv a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and anv other expenses related to this section.

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ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.,

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.
§ 11.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

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.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

TBD

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

Unknown at time of execution.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

.1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, which Certificate may not be unreasonably withheld.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same

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basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

%

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement.

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§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee equal to the original stated fee at commencement of construction.

TBD

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

(Paragraphs deleted)

§ 14.3.1.6 Other Insurance

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

Coverage	Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance.

(Paragraphs deleted)

§ 14.5 Other provisions:

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour
Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

.3

.4 AIA Document A201™–2017, General Conditions of the Contract for Construction

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.5
(Paragraphs deleted)

.6 Other Exhibits:
(Check all boxes that apply.)

[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
TBD			

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Todd Lovelace Mustang School Board President	Casey Logue VP of Operations
(Printed name and title)	*(Printed name and title)*

Init.
/

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AIA® Document A133® – 2019

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PAGE 1

AGREEMENT made as of the 23rd day of August in the year 2023

...

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

...

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

...

Safety Corridor
909 S. Mustang Rd
Mustang Ok, 73064

...

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

PAGE 2

TBD

...

TBD

...

TBD

PAGE 3

TBD

...

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TBD

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TBD

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TBD

...

TBD

...

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org
PAGE 4

MA+ Architects

...

TBD

...

TBD

...

Heath Tate

...

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

...

TBD

...

TBD
PAGE 5

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§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as ~~follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.~~follows.
PAGE 6

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.
PAGE 7

N/A
PAGE 8

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted by Change Order for the additional out-of-pocket costs incurred by the Contractor.

...

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns. including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.
PAGE 10

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this ~~Agreement.~~ agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017, as amended by the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.
PAGE 11

N/A – Included in CM Fee.

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...

N/A

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

...

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

...

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.
PAGE 12

Zero Dollars ($0)

...

TBD

...

~~The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum~~ Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the ~~Construction Manager without reimbursement by the Owner.~~by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

...

§ 6.4 Potentially Time And Price Impacted Material

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§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material"). This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability
If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

PAGE 13

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, ~~with the Owner's prior approval, at off-site workshops.~~offsite.

§ 7.2.2 ~~Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.~~Workshops will be billed as a Cost of the Work in accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

~~§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:~~
~~*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*~~

~~§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.~~

§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

...

~~§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.~~

PAGE 14

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§ 7.6.1.1 ~~Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.~~Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2 ~~Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.~~

...

§ 7.6.3 ~~Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.~~Permits by Owner.

...

§ 7.6.6 Costs for communications services, electronic equipment, ~~and software, directly related to the Work and located at the site, with the Owner's prior approval.~~software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.
PAGE 15

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section ~~7.2,~~ 7 , or as may be provided in Article 14;

PAGE 16

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The ~~Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The~~ Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

...

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, ~~job cost reports,~~ , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, ~~Subcontractor's invoices,~~ , purchase orders, vouchers, memoranda, and other data relating to this ~~Contract.~~ Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted by a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and any other expenses related to this section.
PAGE 17

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

...

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.

...

§ 11.1.4 ~~With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.~~ Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5 ~~Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.~~Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

PAGE 18

Five Percent (5%)

...

TBD

...

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

...

Unknown at time of execution.

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PAGE 19

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, ~~or as follows:~~which Certificate may not be unreasonably withheld.
PAGE 20

[X] Litigation in a court of competent jurisdiction

...

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. ~~In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.~~
PAGE 21

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's ~~compensation under this Section exceed the compensation set forth in Section 5.1.~~compensation.
PAGE 22

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee ~~as follows:~~
~~(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)~~equal to the original stated fee at commencement of construction.

TBD

...

§ 14.3.1 ~~Preconstruction Phase~~
~~The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.~~For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

~~§ 14.3.1.1 Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

~~§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

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~~§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~

~~§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

PAGE 23

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. ~~The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence ~~compliance with the requirements in this Section 14.3.1.~~compliance.

~~**§ 14.3.2 Construction Phase**~~
~~After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.~~

~~**§ 14.3.2.1** The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.~~

~~**§ 14.4** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~
~~*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*~~

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour

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Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

...

.3 ~~AIA Document A133™ 2019, Exhibit B, Insurance and Bonds~~

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.5 ~~AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
~~*(Insert the date of the E203 2013 incorporated into this Agreement.)*~~

...

TBD

...

Jason Pittenger Assistant Superintendent, Operations

Casey Logue VP of Operations

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Cary Lane

(Signed)

V.P. of Operations

(Title)

08-23-2023

(Dated)

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ADDENDUM TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER
AIA DOCUMENT A133 - 2019

This Addendum is executed simultaneously with and constitutes a part of the Standard Form of Agreement between Owner and Construction Manager, AIA Document A133 (2019 Edition), hereinafter collectively to as the "Agreement", dated as of the 12th day of February, 2024, by and between **INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA, a/k/a MUSTANG PUBLIC SCHOOLS** ("Owner") and **TIMBERLAKE CONSTRUCTION CO., INC.** ("Construction Manager"). This Addendum modifies the above-referenced Agreement. Some modifications are not a complete substitution for the corresponding paragraph in the Agreement. In such instances, the Addendum and the Agreement must be read together to obtain the full intent of the parties. To the extent that there is a conflict, or that the Addendum alters requirements or obligations contained in the Agreement, the Addendum will control.

The following section numbers correspond to the numbered sections in the Agreement. If new material is added, the paragraph numbers for those provisions are numbered to be consistent with the format of the Agreement. If a paragraph number appearing in the Agreement does not appear in the Addendum, then no change to that paragraph has been made and the standard provision applies.

1.2 Substituted. The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change during the development of the Guaranteed Maximum Price.

3.1.11.2 Substituted. The Construction Manager shall develop bidders' interest in the Project. Trade Contractors and Suppliers shall be selected and contracts let in strict accordance with the provisions of the Public Competitive Bidding Act of 1974, Okla. Stat. tit. 61, §§ 101, *et seq.* (the "PCBA") and the Public Construction Management for Political Subdivisions Act, Okla. Stat. tit. 61, §§ 215-217 (the "CM Act"). The Construction Manager represents and warrants to the Owner that: (1) the Construction Manager has sufficient experience with the requirements of the PCBA and the CM Act to effectively and efficiently supervise the Project; (2) the Construction Manager will review all proposed contract documents, bidding materials, including bid notices, and bids received from potential Trade Contractors for compliance with the Act; and (3) the Construction Manager will verify that all Work performed under the Contract Documents is performed in accordance with the provisions of the PCBA and the CM Act. Construction Manager may elect to self-perform portions of the Work provided that the Construction Manager competitively bids the Work under the same terms and conditions as other bidders and the Construction Manager is the lowest responsible bidder for that construction contract. All bids shall be made and received and contracts awarded and executed in accordance with the provisions of the PCBA and the CM Act.

3.1.11.3 Deleted. This provision is deleted.

3.1.12 Deleted. This provision is deleted.

3.2.1 Substituted. After the award of the Trade Contracts by the Owner, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for Owner's review and

acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of all Trade Contracts, including contingencies and allowances described in Section 3.2.4, the General Conditions and the Construction Manager's fee.

3.2.2 Deleted. This provision is deleted.

3.2.4 Substituted. In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager may include a contingency to account for unexpected costs which are considered a reimbursable as a part of the Cost of the Work but not included in the General Conditions. Any new Work or change in the scope of Work within any Construction Contract will be the subject of a written Change Order approved by Owner's Board of Education.

3.2.6 Modified. Add the following provision: Upon acceptance of the Guaranteed Maximum Price proposal, the parties will execute an Amendment to this Agreement establishing the Guaranteed Maximum Price and the date for Substantial Completion of the Work. The Construction Manager shall then execute the Trade Contracts and issue a Notice to Proceed in accordance with the provisions of the CM Act.

3.2.9 Deleted. This provision is deleted.

3.3.1.2 Substituted. The Construction Phase shall commence upon the execution of a Guaranteed Maximum Price amendment by Owner and Construction Manager, and the Construction Manager's issuance of a Notice to Proceed.

4.1.2 Deleted. This provision is deleted.

4.2 Modified. Add the following: "The Owner's representative does not have the authority to approve Changes Orders or amend this Agreement. Such authority is reserved to the Owner's Board of Education."

5.1.3 Deleted. This provision is deleted.

5.2.2 Modified. Amounts unpaid thirty (30) days after the due date shall bear interest at the rate of three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

6.1.1.1 New. The Construction Manager's certification for payment shall constitute a representation to the Owner, based upon the Construction Manager's review of the Work and onsite visits that, to the best of the Construction Manager's knowledge, information and reasonable belief, the Work has progressed to the point indicated and that the Work has been performed in a good and workmanlike manner in accordance with the Construction Documents and applicable laws and regulations. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to substantial completion and to specific qualifications expressed by the Construction Manager upon submission of the Certificate for Payment. The issuance of the Certificate for Payment shall further constitute a representation by the Construction Manager that the Contractor is entitled to payment in the amount certified.

6.1.3 Substituted. The Construction Manager's fee shall be adjusted by adding or deducting the 5% CM fee to the net effect of all Change Orders. This adjustment shall be made to the final Application for Payment.

6.1.4 Deleted. This provision is deleted.

6.1.6 Deleted. This provision is deleted.

6.1.7 Deleted. This provision is deleted.

6.4 Deleted. This provision is deleted.

7.1.1 Substituted. The term "Cost of the Work" shall mean the total of the final Contract Sums of all of the Trade Contracts, plus the General Conditions and all reimbursement expenses relating to the construction phase of the Project. The term "Cost of the Work" does not include the compensation of the Architect, the Architect's or Owner's consultants, the Construction Manager or the Construction Manager's consultants. The Cost of the Work shall include only those reimbursable expenses set forth in this Article 7 that are not included in the General Conditions. At the time the Guaranteed Maximum Price is established, an amount for Project requirements and General Conditions, as agreed to by the Owner and Construction Manager, will be determined and will be set forth in the Guaranteed Maximum Price Amendment. This sum for General Conditions will be billed and paid in equal monthly installments commencing with the calendar month next following the date of commencement of construction of the Project and concluding on the date established in the Guaranteed Maximum Price Amendment for Substantial Completion of the Work. Payments will be prorated for part of a calendar month at the commencement of construction and the calendar month in which Substantial Completion is to occur.

7.2 Substituted. LABOR COSTS. Wages of construction workers directly employed by the Construction Manager to perform any portion of the Work at the site, unless such work is included within bid packages competitively bid by the Construction Manager to be self-performed, and salaries of the Construction Manager's supervisory personnel whether or not stationed at the site and included as a part of the amount agreed to for General Conditions.

7.3 Substituted. TRADE CONTRACT AND SUBCONTRACT COSTS. Payments made by the Construction Manager to Trade Contractors or Subcontractors in accordance with the requirements of the Trade Contracts and Subcontracts and payments due to the Construction Manager for any self-performed portions of the Work.

7.6.1.1 Deleted. This provision is deleted.

7.6.1.2 Deleted. This provision is deleted.

7.6.2 Deleted. This provision is deleted.

7.6.6 Deleted. This provision is deleted.

7.6.10 Deleted. This provision is deleted.

7.6.11 Deleted. This provision is deleted.

7.7.3 Modified. Delete the phrase "or nonconforming".

7.7.4 Deleted. This provision is deleted.

7.9.1.10 New. Travel to and from Mustang, Oklahoma and within Canadian and Oklahoma Counties.

Article 9 Deleted. Article 9 is deleted in its entirety.

11.1.2 Substituted. Pay applications will cover the time from the 21st day of the prior month through the 20th day of the current month. Pay applications will be submitted to the Architect by the 25th day of the current month. Owner will submit payment to the Construction Manager by the 15th day of the following month provided the Architect certifies the Pay application. If Pay applications are submitted to the Architect after the 25th day of the current month, Owner will submit payment to the Construction Manager for the certified pay application twenty (20) days following the submission to the Architect.

11.1.3 Deleted.

11.1.5 Modified. Delete the last sentence in its entirety.

11.1.8.2 Deleted. This provision is deleted.

11.2.2.3 Deleted. This provision is deleted.

11.2.4 Deleted. This provision is deleted.

11.3 Modified. Interest shall accrue on amounts unpaid thirty (30) days after the due date at three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

12.2 Deleted. This provision is deleted.

13.1.4 Modified. Delete the last sentence in its entirety.

13.2.3 Deleted. This provision is deleted.

14.3.1 Modified. Restore standard provision from AIA A133 (2019) with insurance limits inserted as offered by Construction Manager. Add workers' compensation insurance in statutory limits.

14.3.2.1 Modified. The Construction Manager shall not be required to furnish performance or defects bonds covering performance of the Contract except as required by the PCBA or as permitted by the CM Act and agreed by the Owner and Construction Manager. The Construction Manager shall ensure that all bonds required by the Act from trade contractors be issued as dual obligee bonds in favor of the Owner and the Construction Manager.

14.5 Deleted. This provision is deleted.

15.2.3 Restore. Restore reference to and incorporation of AIA Document A133-2019 Exhibit B, Insurance and Bonds.

15.2.4 Restore. Restore reference to and incorporation of AIA Document A201-2017.

15.2.5 Add. Addendum to AIA Document A133 of even date.

15.2.6 Other Documents. Budget Survey Sheet with backout of all costs included in the GMP.

"Owner"	**"Construction Manager"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____	**By**_____
Mustang Board of Education	**Casey Logue, VP of Operations**
_____	
Printed Name, Title	

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

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

Mustang Public Schools
Master Agreement

THE OWNER:
(Name, legal status and address)

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

THE ARCHITECT:
(Name, legal status and address)

MA+
4000 North Classen Boulevard · Suite 100N
Oklahoma City, OK 73118

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13 MISCELLANEOUS PROVISIONS

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

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, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

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

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, 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. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, 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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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

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

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.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, a Subcontractor, or a Sub-subcontractor; 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 in the course of construction.

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 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 Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, 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.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

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§ 15.1.7 Waiver of Claims for Consequential Damages

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

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

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

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

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

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§ 15.4.4 Consolidation or Joinder

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

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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PAGE 1

Mustang Public Schools
Master Agreement

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Mustang, OK 73064

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MA+
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Cary Lyon
(Signed)

V.P. of Operations
(Title)

01-15-2024
(Dated)

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The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201, Articles 1 through 16, inclusive, published in 2017 by the American Institute of Architects as amended by the Supplementary Conditions contained in the Project Manual for the Project (the "General Conditions"). Where a portion of the General Conditions are modified, added to or deleted by this supplement, the unaltered portions of the General Conditions shall remain in full force and effect. The General Conditions, as amended herein, are specifically incorporated into all Contract Documents and shall be bound and made a permanent part of the Project Manual. The provisions contained herein shall bind the Owner, Architect, the Construction Manager or Contractor, and all Subcontractors and Trade Contractors. The term "Contractor" shall include, where applicable, the Construction Manager and all Subcontractors and Trade Contractors.

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1. The final sentence of Subparagraph 1.1.1, The Contract Documents, is deleted. It is the intent of the parties that the Contract Documents shall include, in addition to those documents set forth therein, all bidding documents, including bidding requirements, advertisements, instructions to bidders, together with sample forms and the Contractor's bid.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

Add Clause 1.2.1.2 to Subparagraph 1.2.1:

1.2.1.2 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Addenda, with those of later date having precedence over those of earlier date.
2. The Standard Form of Agreement between Owner and Contractor or Construction Manager.
3. The Supplemental Conditions.
4. The General Conditions of the Contract for Construction.
5. Drawings and Specifications.

ARTICLE 2 OWNER

2.1 GENERAL

1. Delete the second and third sentences of Subparagraph 2.1.1 providing for the designation of an Owner's representative and delegating to that representative the authority to bind the Owner.

2. Subparagraph 2.1.2 shall be deleted.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Subparagraph 2.2.1 shall be deleted.

Subparagraph 2.2.2 shall be deleted.

Subparagraph 2.2.4 shall be deleted.

Add new Subparagraph 2.4.1 to read as follows:

2.4.1 The Owner's right to stop the Work shall not imply that the Owner or the Architect has any duty, obligation or responsibility to determine either the safety of the Contractors' means, methods, techniques or sequences, including but not limited to, temporary shoring, bracing, scaffolding, form work, safety barriers, trench bracing and

other similar items, referred to herein as "Temporary Facilities", or their compliance with the requirements of the laws, codes, regulations and safety requirements, which shall be the full and sole responsibility of the Contractor who shall solely bear any damages or injury, including death, arising therefrom.

ARTICLE 3 CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following Subparagraph 3.2.5 to Paragraph 3.2:

3.2.5 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was reasonably available to the Contractor within the Contract Documents, other owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

3.4 LABOR AND MATERIALS

Subparagraph 3.4.2 shall be modified to read as follows:

3.4.2 After the Contract has been executed, the Owner and Architect will consider formal requests for the substitution of products in place of those specified only upon written request of the Contractor and in accordance with a Change Order. By making requests for substitutions based upon this Subparagraph, the Contractor represents and certifies that:

.1 Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

.2 Manufacturer will provide the same warranty for the substitution that the Manufacturer would for that specified;

.3 the cost data presented is complete and includes all related costs under this Contract, except the Architect's redesign costs, and waives all claims for additional costs related to the substitution, which subsequently become apparent; and

.4 Contractor will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

Add the following Subparagraph 3.4.4 to Paragraph 3.4:

3.4.4 The Owner shall be entitled to deduct from the Contract Sum any amounts paid to the Architect to evaluate the Contractor's proposed substitutions and to make agreed upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions.

3.6 TAXES

Paragraph 3.6 shall be modified to read as follows:

3.6 The Owner is a political subdivision of the State of Oklahoma. The Contractor is exempt from sales and use taxes for the purchase of tangible personal property and services necessary for the performance of the Work provided by the Contractor and by Subcontractors pursuant to the provisions of OKLA. STAT. tit. 68, § 1356(10). Sales taxes shall not be considered a reimbursable expense.

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

Add the following to the end of Subparagraph 3.7.3:

Should applicable laws, ordinances, statutes, standards, building codes, rules and regulations change between the bid date and commencement of the Work or during the progress of the Work, and should such change require the Contractor to perform either more or less work, the Contract Sum and Contract Time shall be appropriately adjusted in compliance with the requirements of Article 7, Changes in the Work

3.9 SUPERINTENDENT

Subparagraph 3.9.1 shall be modified to read as follows:

3.9.1 The Contractor shall employ and shall designate in writing to the Architect and Owner, a competent project superintendent and any necessary assistants who shall be in attendance at the Project Site full-time during the performance of the Work. The project superintendent shall represent to Contractor as his agent, and communications given to the project superintendent shall be as binding as if given to the Contractor. Communications between the parties shall be confirmed in writing where such communications have a material effect upon the Work or where such confirmation is requested by other parties.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following sentence to the end of Subparagraph 3.12.8:

Any portion of the Work which fails to conform to the requirements of the Contract Documents shall be corrected in compliance with Article 12, UNCOVERING AND CORRECTION OF WORK, and the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals shall not relieve the Contractor of his duty, obligation and responsibility to make any such required corrections. Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following deviations from the requirements of the Contract Documents" followed by a detailed written listing of all such deviations.

Add the following sentence to the end of Subparagraph 3.12.9:

Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following revisions which are in addition to those revisions that you requested", followed by a detailed written listing of all such revisions.

Add Subparagraph 3.12.11 to Paragraph 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and two (2) re-submittals. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. Provided the Architect has acted reasonably and in good faith in reviewing the initial submittal and two (2) re-submittals, the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional re-submittals beyond the initial submittal and two (2) re-submittals.

ARTICLE 4 ARCHITECT

4.1 GENERAL

Subparagraph 4.1.2 shall be deleted in its entirety.

4.2 ADMINISTRATION OF THE CONTRACT

Add Clause 4.2.2.1 to Subparagraph 4.2.2:

4.2.2.1 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for additional site visits made necessary solely by the fault or neglect of the Contractor.

ARTICLE 5 SUBCONTRACTORS

Add new Subparagraph 5.3.1 immediately following Paragraph 5.3, to read as follows:

5.3.1 The Contractor shall indemnify and hold the Owner harmless from any and all claims, damages, losses and expenses, including but not limited to, attorney's fees, arising out of the Contractor's failure to bind a subcontractor to all the terms of the Contract Documents, or the Contractor's failure to ensure that the subcontractors bind each of their subcontractors to all the terms of the Contract Documents.

ARTICLE 7 CHANGES IN THE WORK

Subparagraph 7.2.2 shall be deleted.

In Subparagraph 7.3.4, delete the phrase "in case of an increase in the Contract Sum" from the first sentence.

Add new Subparagraph 7.3.11 immediately following Subparagraph 7.3.10, to read as follows:

7.3.11 Prior to final payment, all Construction Change Directives issued during the progress of the Work shall be converted into Change Orders and signed by the Contractor, Architect and Owner. Should the parties fail to agree with the determination made by the Architect concerning deductive adjustments in the Contract Sum and the Contract Time, or otherwise fail to reach agreements upon the deductive adjustments, that portion of the final payment which is affected by the dispute, if any, shall be withheld pending final judgment issued by a court of competent jurisdiction or, where arbitration has been selected as the dispute resolution method, a final award/decision by the arbitrator.

Add new Paragraph 7.5, EXPEDITING CHANGES IN THE WORK, immediately following Paragraph 7.4 to read as follows:

7.5 EXPEDITING CHANGES IN THE WORK.

7.5.1 Except as permitted in Subparagraph 7.5.2, the Contractor shall not proceed with changes in the Work authorized under Paragraphs 7.2 or 7.3 until receipt of the appropriate signed documents.

7.5.2 It is recognized by the parties that, under certain circumstances, changes in the Work may delay or endanger the Work if not processed in an expeditious manner. Upon certification by the Architect that an unacceptable delay may be caused, or that the Work may be endangered, the Owner may authorize the Contractor to immediately proceed with a change in the Work. Such authorization shall be in writing, signed by the Owner and shall contain an estimated change in the Contract Sum or an estimated change in the Contract Time, as appropriate. The Contractor, upon receipt of Owner's preliminary authorization, shall proceed promptly with the change in the Work specified therein. Final determination of the changes in the Contract Sum and Contract Time shall be made in a reasonable time and Owner's preliminary authorization shall be converted into a Change Order or a Construction Change Directive, as the case may be, but with the changes in the Contract Sum and Contract Time based on the final determination of such changes.

ARTICLE 9 PAYMENTS AND COMPLETION

Add new Clauses 9.8.1.1 and 9.8.1.2 immediately following Subparagraph 9.8.1 to read as follows:

9.8.1.1 All inspections required by federal, state or local regulatory authorities shall be complete and a certificate of occupancy shall be issued prior to the issuance of the Certificate of Substantial Completion.

9.8.1.2 Should any regulatory inspection disclose any work performed by the Contractor which is not in compliance with the Contract Documents, the Contractor shall, prior to the issuance of the Certificate of Substantial Completion, complete or correct such Work. Should any regulatory inspection disclose any work

performed by the Contractor that complies with the Contract Documents but not acceptable to the regulatory inspector, the Owner shall promptly issue a Change Order extending the Contract Time and increasing the Contract Sum to compensate Contractor for the delays and any rework necessary to satisfy the inspector. The Contractor shall then schedule another inspection by the appropriate regulatory authority and notify the Architect of the time and date of such reinspection.

The first sentence of Subparagraph 9.8.2 shall be modified by adding the phrase "and after all regulatory inspections are complete and a Certificate of Occupancy is obtained" immediately following the words "is substantially complete."

Add new Subparagraph 9.8.6 immediately following Subparagraph 9.8.5 to read as follows:

9.8.6 Unless otherwise agreed upon in writing, the issuance of a Certificate of Substantial Completion shall not constitute acceptance of Work not in compliance with the requirements of the Contract Documents.

ARTICLE 11 INSURANCE AND BONDS

Add new Clause 11.1.1.1 immediately following Subparagraph 11.1.1 to read as follows:

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

11.2 OWNER'S INSURANCE – Shall be deleted in its entirety.

11.3 WAIVERS OF SUBROGATION - Shall be deleted in its entirety.

ARTICLE 13 MISCELLANEOUS PROVISIONS

Paragraph 13.1 is modified to provide that the laws of the State of Oklahoma shall apply and govern the enforcement and interpretation of the Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

The first sentence of Subparagraph 14.1.1 shall be modified by substituting "60 days" for "30 days."

Add new Clause 14.2.1.5 to Subparagraph 14.2.1 immediately following Clause 14.2.1.4 to read as follows:

14.2.1.5 is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency.

Subparagraph 14.4.3 shall be modified to delete reference to a termination fee.

ARTICLE 15 CLAIMS AND DISPUTES

Subparagraph 15.1.2 shall be deleted in its entirety.

Add the following Clauses 15.1.6.3 and 15.1.6.4 to Subparagraph 15.1.6:

15.1.6.3 Claims for increase in the Contract Time shall set forth in detail; the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim. The Owner assumes an average number of weather related delays. The Owner assumes delays for permitting, inspections

and material availability. Only delays beyond ordinary circumstances will be considered when evaluating claims for additional time.

15.1.6.4 The Owner may consider concurrent and interrelated effects on the progress of the Work and concurrent delays due to the fault of the Contractor in evaluating the Contractor's request for an increase in Contract Time.

Subparagraph 15.1.7 shall be deleted in its entirety.

Paragraph 15.2 shall be deleted in its entirety.

Paragraph 15.3 shall be deleted in its entirety.

ARTICLE 16 EMPLOYEE CRIMINAL CONVICTIONS

Add the following Paragraphs 16.1, 16.2, 16.3 and 16.4 to new Article 16:

16.1 The Contractor will not allow any employee of the Contractor or of any subcontractor to work on school premises during normal school hours if the employee is convicted in this state, the United States or another state of: (1) any sex offense subject to the Sex Offenders Registration Act of this state, similar law of another state, or the federal sex offender registration provisions; or (2) any felony offense, unless (a) the person is a volunteer or (b) the person is performing community service hours under court order or (c) the person is performing services under a supervised work release program or (d) ten (10) years have elapsed since the date of the criminal conviction or (e) the employee has received a Presidential or Gubernatorial pardon for the criminal offense.

16.2 As a condition to receiving progress payments on the contract sum, the Contractor will furnish with each application for payment a signed statement declaring that no employee working on school premises during normal school hours under the authority of the Contractor is in violation of the provisions of this Article. If this Contract does not provide for periodic payment against the Contract Sum, the signed statement referred to in this Section will be furnished as required from time to time by the Owner. The Owner's form of the signed statement will be used by the Contractor.

16.3 The Contractor agrees to obtain similar compliance statements from all subcontractors used by the Contractor on the Project with reference to employees of the subcontractors. No request for payment will be approved by the Contractor unless accompanied by the required compliance statements.

16.4 The Contractor's conviction of a violation of 57 O.S. § 589 (1998 Supp.) shall constitute grounds for termination of the Contract. The foregoing provisions are intended to comply with Senate Bill 1394 of the Second Regular Session (1998) of the 46th Oklahoma Legislature. The Contractor is obligated to comply with the provisions of that Act, as may be interpreted or amended from time to time as if fully incorporated herein.

Acknowledged and agreed to this 12th **day of** February**, 2024.**

"Owner"	**"Contractor"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____ **Mustang Board of Education**	**By**_____ **Casey Logue, VP of Operations**
_____ **Printed Name, Title**	

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent

From: Jeff Landes, CFO

Date: February 2, 2024

Contract Vendor: Timberlake Construction Co., Inc. **Time Frame:** Duration of Construction

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following services:

Construction Management Agreement for the construction of the Mustang High School Addition.

AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 12th day of February in the year 2024
(In words, indicate day, month, and year.)

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

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

and the Construction Manager:
(Name, legal status, address, and other information)

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

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

High School Addition
909 S. Mustang Rd
Mustang Ok, 73064

The Architect:
(Name, legal status, address, and other information)

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

The Owner and Construction Manager agree as follows.

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

TBD

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

TBD

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

TBD

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

TBD

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

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MA+ Architects

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

TBD

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Heath Tate

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

TBD

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

TBD

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§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The

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Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design,

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price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

N/A

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the

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Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted bv Change Order for the additional out-of-pocket costs incurred bv the Contractor.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns. including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

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§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agrec to a corresponding change in the Project's scope and quality.

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§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017. as amended bv the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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N/A – Included in CM Fee.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Individual or Position	Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments
§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

%

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
§ 6.1 Contract Sum
§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

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Zero Dollars ($0)

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

TBD

§ 6.2 Guaranteed Maximum Price
Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

§ 6.3 Changes in the Work
§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

§ 6.4 Potentially Time And Price Impacted Material
§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material").
This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability
If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

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§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, offsite.

§ 7.2.2 Workshops will be billed as a Cost of the Work in
accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

(Paragraphs deleted)
§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

(Paragraph deleted)

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

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

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§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

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

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Permits by Owner.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

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§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7 , or as may be provided in Article 14;

.2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;

.3 Expenses of the Construction Manager's principal office and offices other than the site office;

.4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

.5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

.7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;

.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

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.9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, , purchase orders, vouchers, memoranda, and other data relating to this Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted bv a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and anv other expenses related to this section.

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ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.,

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

.1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

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.2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and

.4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

.1 The aggregate of any amounts previously paid by the Owner;

.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

.3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

.5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

TBD

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

Unknown at time of execution.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

.1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, which Certificate may not be unreasonably withheld.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same

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basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

%

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement.

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§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

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§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee equal to the original stated fee at commencement of construction.

TBD

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

(Paragraphs deleted)

§ 14.3.1.6 Other Insurance

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

Coverage	Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance.

(Paragraphs deleted)

§ 14.5 Other provisions:

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour
Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

.3

.4 AIA Document A201™–2017, General Conditions of the Contract for Construction

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.5
(Paragraphs deleted)

.6 Other Exhibits:
(Check all boxes that apply.)

[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
TBD			

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Todd Lovelace Mustang School Board President *(Printed name and title)*	Casey Logue VP of Operations *(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A133® – 2019

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PAGE 1

AGREEMENT made as of the 23th day of August in the year 2023

...

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

...

Timberlake Construction Co., Inc. Casey Logue
7613 N. Classen
Oklahoma City, OK 73116

...

High School Addition
909 S. Mustang Rd
Mustang Ok, 73064

...

MA+ Architects Heath Tate
4000 North Classen Blvd Suite 100N
Oklahoma City, OK 73118

PAGE 2

TBD

...

TBD

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TBD

PAGE 3

TBD

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TBD

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TBD

...

Jason Pittenger, Assistant Superintendent, Operations
Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064
pittengerj@mustangps.org
PAGE 4

MA+ Architects

...

TBD

...

TBD

...

Heath Tate

...

Casey Logue - VP of Operations
7613 N. Classen
Oklahoma City, OK 73116

...

TBD

...

TBD
PAGE 5

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§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as ~~follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.~~follows.
PAGE 6

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase. No review by the Construction Manager shall relieve the Architect of responsibility for Instruments of Service furnished by the Architect nor shall a constructability review make the Construction Manager the guarantor of Architect's services. The Owner shall have the option of retaining at its sole cost and expense a peer review by a licensed design professional of the Instructions of Service furnished by the Architect. Any budgets prepared by the Construction Manager shall be adjusted based upon unanticipated increases in labor or materials outside the control of the Construction Manager.
PAGE 7

N/A
PAGE 8

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. . The parties acknowledge and agree that in the event of increased material costs due to reasons beyond the Contractor's reasonable control, the Contract Sum shall be adjusted by Change Order for the additional out-of-pocket costs incurred by the Contractor.

...

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The contingency is to allow the Construction Manager to operate in a continuous and uninterrupted manner with the objective of maintaining milestone and completion dates. The Construction Manager's contingency may be drawn upon at the times and in the discretion of the Construction Manager to fund any Work or line item cost overruns, including General Conditions, or to maintain progress. Any and all contingency expenditures will be accounted for through the Construction Manager's cost event system.
PAGE 10

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this ~~Agreement.~~ agreement and consistent with the requirements of the Architect as set forth in the AIA General Conditions A201-2017, as amended by the parties. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.
PAGE 11

N/A – Included in CM Fee.

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...

N/A

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within TBD (TBD) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

Construction Manager's Fee is Five Percent (5%). This fee will be converted to a Lump Sum upon approval of the GMP.

...

Ten percent (10%) overhead and five percent (5%) profit for Add / Zero Dollar for Deduct

...

None

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.
PAGE 12

Zero Dollars ($0)

...

TBD

...

~~The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum~~ Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the ~~Construction Manager without reimbursement by the Owner.~~by the Owner. The GMP shall be converted to a Stipulated Lump Sum Agreement at the conclusion of bidding.

...

§ 6.4 Potentially Time And Price Impacted Material

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§ 6.4.1 As of the date of this Agreement, certain markets providing essential material to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material"). This Section provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule (TBD) to this Agreement.

§ 6.4.2 Time Impact And Availability
If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price- Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

§ 6.4.2.1 Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and General Conditions.

PAGE 13

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, ~~with the Owner's prior approval, at off-site workshops.~~offsite.

§ 7.2.2 ~~Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.~~Workshops will be billed as a Cost of the Work in accordance with the labor rates specified in Section 14.5. The labor burden shall be 40% of the actual labor costs for Construction Manager's employees.

~~§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:~~
~~*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*~~

~~§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.~~

§ 7.2.2. 2 Wages or salaries of the Construction Manager's supervisory and administrative personnel regardless of their location, shall be billed as a Cost of
the Work for hours actually worked on the Project and and will be billed in accordance with the labor rates specified in Section 14.5.
TBD

...

~~§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.~~

PAGE 14

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§ 7.6.1.1 ~~Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.~~Cost of Commercial Insurance, not including Builders Risk will be billed at a rate of three quarters of one percent (0.75) of the overall contract value and will be included in the Construction Managers contract value. Payment and Performance Bonds will be provided at a cost of one point one five percent (1.15) of the Subcontract values. This rate is in accordance with Construction Managers risk management practice and is not subject to audit.

§ 7.6.1.2 ~~Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.~~

...

§ 7.6.3 ~~Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.~~Permits by Owner.

...

§ 7.6.6 Costs for communications services, electronic equipment, ~~and software, directly related to the Work and located at the site, with the Owner's prior approval.~~software, and cellular phone usage, directly related to the Work will be billed at a rate of Zero point three five percent (0.35%) of the Contract Sum and is not subject to audit.
PAGE 15

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section ~~7.2,~~ 7 , or as may be provided in Article 14;

PAGE 16

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The ~~Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The~~ Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

...

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, ~~job cost reports,~~ , correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, ~~Subcontractor's invoices,~~ , purchase orders, vouchers, memoranda, and other data relating to this ~~Contract.~~ Contract as provided herein. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. Billing rates or fees specified in this Agreement shall not be subject to audit, except to confirm that the Construction Manager has properly billed the Owner at the correct rate. In no event shall the Construction Manager be required to participate in or provide records to audits conducted by a contingent fee or similarly compensated consulting firm retained by the Owner or on its behalf. The Owner is responsible for the cost of the audit, photocopying and any other expenses related to this section.
PAGE 17

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

...

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the twentieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty (20) days after the Architect receives the Application for Payment.

...

§ 11.1.4 ~~With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.~~ Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5 ~~Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.~~ Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may reasonably require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment. The allocation of the Guaranteed Maximum Price under this Section shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

PAGE 18

Five Percent (5%)

...

TBD

...

Owner will not unreasonably withhold release of full retainage of an individual trade if requested by Contractor prior to completion of 100% of the contract value. Retainage will be held on any change order work.

...

Unknown at time of execution.

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PAGE 19

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, ~~or as follows:~~which Certificate may not be unreasonably withheld.
PAGE 20

[X] Litigation in a court of competent jurisdiction

...

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services work performed to not exceed TBD and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. ~~In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.~~
PAGE 21

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's ~~compensation under this Section exceed the compensation set forth in Section 5.1.~~compensation.
PAGE 22

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee ~~as follows:~~
~~(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)~~equal to the original stated fee at commencement of construction.

TBD

...

§ 14.3.1 ~~Preconstruction Phase~~
~~The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.~~For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Commercial General Liability – each occurrence	$1,000,000
Commercial General Liability – general aggregate	$2,000,000
Commercial General Liability – personal and advertising injury	$1,000,000
Commercial General Liability – products-completed operations aggregate	$1,000,000
Automotive Liability – each accident	$1,000,000
Builders Risk	Construction Cost
Performance and Payment Bonds	Construction Cost

~~§ 14.3.1.1 Commercial General Liability with policy limits of not less than ($) for each occurrence and ($) in the aggregate for bodily injury and property damage.~~

~~§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than ($) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

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~~§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ($) each accident, ($) each employee, and ($) policy limit.~~

~~§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.~~

PAGE 23

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. ~~The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.~~

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence ~~compliance with the requirements in this Section 14.3.1.~~compliance.

~~**§ 14.3.2 Construction Phase**~~
~~After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.~~

~~**§ 14.3.2.1** The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.~~

~~**§ 14.4** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~
~~*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*~~

Upon execution of the Guaranteed Maximum Price Amendment, the contract will be converted to a Stipulated Lump Sum Contract.

The Cost of the Work shall include work and services performed by Contractor's supervisory and administrative personnel, charged at the following hourly rates, for all time spent on the project, regardless of where the performance is at the site or elsewhere.

Project Executive/Vice President of Operations - $150.00 per hour
Vice President of Preconstruction - $150.00 per hour
Director of Field Services - $125.00 per hour

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Senior Project Manager - $120.00 per hour
Senior Preconstruction Manager - $105.00 per hour
Senior Superintendent - $125.00 per hour
Project Manager - $110.00 per hour
Preconstruction Manager - $80.00 per hour
Assistant Preconstruction Manager - $75.00 per hour
Superintendent - $110.00 per hour
Assistant Project Manager - $75.00 per hour
Assistant Superintendent - $75.00 per hour
Safety Manager - $80.00 per hour
Equipment Manager - $45.00 per hour
Carpenter - $55.00 per hour
Foreman - $60.00 per hour
Shop/Truck Drive - $70.00 per hour

If the Contract Time is extended because of weather, changes in the Work, or otherwise as provided in the Contract Documents, then the Contract Sum shall be increased for General Conditions costs of the Contract equal to (TBD) per day

...

.3 ~~AIA Document A133™ 2019, Exhibit B, Insurance and Bonds~~

PAGE 24

.5 ~~AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
~~*(Insert the date of the E203 2013 incorporated into this Agreement.)*~~

...

TBD

...

Jason Pittenger Assistant Superintendent, Operations Casey Logue VP of Operations

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:34:47 ET on 08/23/2023 under Order No. 2114356439 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

Casey Lyon
(Signed)

V.P. of Operations
(Title)

08-23-2023
(Dated)

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ADDENDUM TO STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER
AIA DOCUMENT A133 - 2019

This Addendum is executed simultaneously with and constitutes a part of the Standard Form of Agreement between Owner and Construction Manager, AIA Document A133 (2019 Edition), hereinafter collectively to as the "Agreement", dated as of the 12th day of February, 2024, by and between **INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA, a/k/a MUSTANG PUBLIC SCHOOLS** ("Owner") and **TIMBERLAKE CONSTRUCTION CO., INC.** ("Construction Manager"). This Addendum modifies the above-referenced Agreement. Some modifications are not a complete substitution for the corresponding paragraph in the Agreement. In such instances, the Addendum and the Agreement must be read together to obtain the full intent of the parties. To the extent that there is a conflict, or that the Addendum alters requirements or obligations contained in the Agreement, the Addendum will control.

The following section numbers correspond to the numbered sections in the Agreement. If new material is added, the paragraph numbers for those provisions are numbered to be consistent with the format of the Agreement. If a paragraph number appearing in the Agreement does not appear in the Addendum, then no change to that paragraph has been made and the standard provision applies.

1.2 Substituted. The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change during the development of the Guaranteed Maximum Price.

3.1.11.2 Substituted. The Construction Manager shall develop bidders' interest in the Project. Trade Contractors and Suppliers shall be selected and contracts let in strict accordance with the provisions of the Public Competitive Bidding Act of 1974, Okla. Stat. tit. 61, §§ 101, *et seq.* (the "PCBA") and the Public Construction Management for Political Subdivisions Act, Okla. Stat. tit. 61, §§ 215-217 (the "CM Act"). The Construction Manager represents and warrants to the Owner that: (1) the Construction Manager has sufficient experience with the requirements of the PCBA and the CM Act to effectively and efficiently supervise the Project; (2) the Construction Manager will review all proposed contract documents, bidding materials, including bid notices, and bids received from potential Trade Contractors for compliance with the Act; and (3) the Construction Manager will verify that all Work performed under the Contract Documents is performed in accordance with the provisions of the PCBA and the CM Act. Construction Manager may elect to self-perform portions of the Work provided that the Construction Manager competitively bids the Work under the same terms and conditions as other bidders and the Construction Manager is the lowest responsible bidder for that construction contract. All bids shall be made and received and contracts awarded and executed in accordance with the provisions of the PCBA and the CM Act.

3.1.11.3 Deleted. This provision is deleted.

3.1.12 Deleted. This provision is deleted.

3.2.1 Substituted. After the award of the Trade Contracts by the Owner, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for Owner's review and

acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of all Trade Contracts, including contingencies and allowances described in Section 3.2.4, the General Conditions and the Construction Manager's fee.

3.2.2 Deleted. This provision is deleted.

3.2.4 Substituted. In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager may include a contingency to account for unexpected costs which are considered a reimbursable as a part of the Cost of the Work but not included in the General Conditions. Any new Work or change in the scope of Work within any Construction Contract will be the subject of a written Change Order approved by Owner's Board of Education.

3.2.6 Modified. Add the following provision: Upon acceptance of the Guaranteed Maximum Price proposal, the parties will execute an Amendment to this Agreement establishing the Guaranteed Maximum Price and the date for Substantial Completion of the Work. The Construction Manager shall then execute the Trade Contracts and issue a Notice to Proceed in accordance with the provisions of the CM Act.

3.2.9 Deleted. This provision is deleted.

3.3.1.2 Substituted. The Construction Phase shall commence upon the execution of a Guaranteed Maximum Price amendment by Owner and Construction Manager, and the Construction Manager's issuance of a Notice to Proceed.

4.1.2 Deleted. This provision is deleted.

4.2 Modified. Add the following: "The Owner's representative does not have the authority to approve Changes Orders or amend this Agreement. Such authority is reserved to the Owner's Board of Education."

5.1.3 Deleted. This provision is deleted.

5.2.2 Modified. Amounts unpaid thirty (30) days after the due date shall bear interest at the rate of three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

6.1.1.1 New. The Construction Manager's certification for payment shall constitute a representation to the Owner, based upon the Construction Manager's review of the Work and onsite visits that, to the best of the Construction Manager's knowledge, information and reasonable belief, the Work has progressed to the point indicated and that the Work has been performed in a good and workmanlike manner in accordance with the Construction Documents and applicable laws and regulations. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to substantial completion and to specific qualifications expressed by the Construction Manager upon submission of the Certificate for Payment. The issuance of the Certificate for Payment shall further constitute a representation by the Construction Manager that the Contractor is entitled to payment in the amount certified.

6.1.3 Substituted. The Construction Manager's fee shall be adjusted by adding or deducting the 5% CM fee to the net effect of all Change Orders. This adjustment shall be made to the final Application for Payment.

6.1.4 Deleted. This provision is deleted.

6.1.6 Deleted. This provision is deleted.

6.1.7 Deleted. This provision is deleted.

6.4 Deleted. This provision is deleted.

7.1.1 Substituted. The term "Cost of the Work" shall mean the total of the final Contract Sums of all of the Trade Contracts, plus the General Conditions and all reimbursement expenses relating to the construction phase of the Project. The term "Cost of the Work" does not include the compensation of the Architect, the Architect's or Owner's consultants, the Construction Manager or the Construction Manager's consultants. The Cost of the Work shall include only those reimbursable expenses set forth in this Article 7 that are not included in the General Conditions. At the time the Guaranteed Maximum Price is established, an amount for Project requirements and General Conditions, as agreed to by the Owner and Construction Manager, will be determined and will be set forth in the Guaranteed Maximum Price Amendment. This sum for General Conditions will be billed and paid in equal monthly installments commencing with the calendar month next following the date of commencement of construction of the Project and concluding on the date established in the Guaranteed Maximum Price Amendment for Substantial Completion of the Work. Payments will be prorated for part of a calendar month at the commencement of construction and the calendar month in which Substantial Completion is to occur.

7.2 Substituted. LABOR COSTS. Wages of construction workers directly employed by the Construction Manager to perform any portion of the Work at the site, unless such work is included within bid packages competitively bid by the Construction Manager to be self-performed, and salaries of the Construction Manager's supervisory personnel whether or not stationed at the site and included as a part of the amount agreed to for General Conditions.

7.3 Substituted. TRADE CONTRACT AND SUBCONTRACT COSTS. Payments made by the Construction Manager to Trade Contractors or Subcontractors in accordance with the requirements of the Trade Contracts and Subcontracts and payments due to the Construction Manager for any self-performed portions of the Work.

7.6.1.1 Deleted. This provision is deleted.

7.6.1.2 Deleted. This provision is deleted.

7.6.2 Deleted. This provision is deleted.

7.6.6 Deleted. This provision is deleted.

7.6.10 Deleted. This provision is deleted.

7.6.11 Deleted. This provision is deleted.

7.7.3 Modified. Delete the phrase "or nonconforming".

7.7.4 Deleted. This provision is deleted.

7.9.1.10 New. Travel to and from Mustang, Oklahoma and within Canadian and Oklahoma Counties.

Article 9 Deleted. Article 9 is deleted in its entirety.

11.1.2 Substituted. Pay applications will cover the time from the 21st day of the prior month through the 20th day of the current month. Pay applications will be submitted to the Architect by the 25th day of the current month. Owner will submit payment to the Construction Manager by the 15th day of the following month provided the Architect certifies the Pay application. If Pay applications are submitted to the Architect after the 25th day of the current month, Owner will submit payment to the Construction Manager for the certified pay application twenty (20) days following the submission to the Architect.

11.1.3 Deleted.

11.1.5 Modified. Delete the last sentence in its entirety.

11.1.8.2 Deleted. This provision is deleted.

11.2.2.3 Deleted. This provision is deleted.

11.2.4 Deleted. This provision is deleted.

11.3 Modified. Interest shall accrue on amounts unpaid thirty (30) days after the due date at three-fourths (3/4) percent per month pursuant to the provisions of Section 113.3 of the PCBA.

12.2 Deleted. This provision is deleted.

13.1.4 Modified. Delete the last sentence in its entirety.

13.2.3 Deleted. This provision is deleted.

14.3.1 Modified. Restore standard provision from AIA A133 (2019) with insurance limits inserted as offered by Construction Manager. Add workers' compensation insurance in statutory limits.

14.3.2.1 Modified. The Construction Manager shall not be required to furnish performance or defects bonds covering performance of the Contract except as required by the PCBA or as permitted by the CM Act and agreed by the Owner and Construction Manager. The Construction Manager shall ensure that all bonds required by the Act from trade contractors be issued as dual obligee bonds in favor of the Owner and the Construction Manager.

14.5 Deleted. This provision is deleted.

15.2.3 Restore. Restore reference to and incorporation of AIA Document A133-2019 Exhibit B, Insurance and Bonds.

15.2.4 Restore. Restore reference to and incorporation of AIA Document A201-2017.

15.2.5 Add. Addendum to AIA Document A133 of even date.

15.2.6 Other Documents. Budget Survey Sheet with backout of all costs included in the GMP.

"Owner"	**"Construction Manager"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____	**By**_____
Mustang Board of Education	**Casey Logue, VP of Operations**
_____	
Printed Name, Title	

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

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

Mustang Public Schools
Master Agreement

THE OWNER:
(Name, legal status and address)

Mustang Public Schools
909 S. Mustang Rd
Mustang, OK 73064

THE ARCHITECT:
(Name, legal status and address)

MA+
4000 North Classen Boulevard · Suite 100N
Oklahoma City, OK 73118

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

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, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

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

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, 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. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, 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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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

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

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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.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, a Subcontractor, or a Sub-subcontractor; 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 in the course of construction.

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 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 Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

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promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

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

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, 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.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

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§ 15.1.7 Waiver of Claims for Consequential Damages

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

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

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

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

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

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§ 15.4.4 Consolidation or Joinder

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

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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PAGE 1

Mustang Public Schools
Master Agreement

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Cary Lyon
(Signed)

V.P. of Operations
(Title)

01-15-2024
(Dated)

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The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201, Articles 1 through 16, inclusive, published in 2017 by the American Institute of Architects as amended by the Supplementary Conditions contained in the Project Manual for the Project (the "General Conditions"). Where a portion of the General Conditions are modified, added to or deleted by this supplement, the unaltered portions of the General Conditions shall remain in full force and effect. The General Conditions, as amended herein, are specifically incorporated into all Contract Documents and shall be bound and made a permanent part of the Project Manual. The provisions contained herein shall bind the Owner, Architect, the Construction Manager or Contractor, and all Subcontractors and Trade Contractors. The term "Contractor" shall include, where applicable, the Construction Manager and all Subcontractors and Trade Contractors.

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1. The final sentence of Subparagraph 1.1.1, The Contract Documents, is deleted. It is the intent of the parties that the Contract Documents shall include, in addition to those documents set forth therein, all bidding documents, including bidding requirements, advertisements, instructions to bidders, together with sample forms and the Contractor's bid.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

Add Clause 1.2.1.2 to Subparagraph 1.2.1:

1.2.1.2 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Addenda, with those of later date having precedence over those of earlier date.
2. The Standard Form of Agreement between Owner and Contractor or Construction Manager.
3. The Supplemental Conditions.
4. The General Conditions of the Contract for Construction.
5. Drawings and Specifications.

ARTICLE 2 OWNER

2.1 GENERAL

1. Delete the second and third sentences of Subparagraph 2.1.1 providing for the designation of an Owner's representative and delegating to that representative the authority to bind the Owner.

2. Subparagraph 2.1.2 shall be deleted.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Subparagraph 2.2.1 shall be deleted.

Subparagraph 2.2.2 shall be deleted.

Subparagraph 2.2.4 shall be deleted.

Add new Subparagraph 2.4.1 to read as follows:

2.4.1 The Owner's right to stop the Work shall not imply that the Owner or the Architect has any duty, obligation or responsibility to determine either the safety of the Contractors' means, methods, techniques or sequences, including but not limited to, temporary shoring, bracing, scaffolding, form work, safety barriers, trench bracing and

other similar items, referred to herein as "Temporary Facilities", or their compliance with the requirements of the laws, codes, regulations and safety requirements, which shall be the full and sole responsibility of the Contractor who shall solely bear any damages or injury, including death, arising therefrom.

ARTICLE 3 CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following Subparagraph 3.2.5 to Paragraph 3.2:

3.2.5 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was reasonably available to the Contractor within the Contract Documents, other owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.

3.4 LABOR AND MATERIALS

Subparagraph 3.4.2 shall be modified to read as follows:

3.4.2 After the Contract has been executed, the Owner and Architect will consider formal requests for the substitution of products in place of those specified only upon written request of the Contractor and in accordance with a Change Order. By making requests for substitutions based upon this Subparagraph, the Contractor represents and certifies that:

.1 Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

.2 Manufacturer will provide the same warranty for the substitution that the Manufacturer would for that specified;

.3 the cost data presented is complete and includes all related costs under this Contract, except the Architect's redesign costs, and waives all claims for additional costs related to the substitution, which subsequently become apparent; and

.4 Contractor will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

Add the following Subparagraph 3.4.4 to Paragraph 3.4:

3.4.4 The Owner shall be entitled to deduct from the Contract Sum any amounts paid to the Architect to evaluate the Contractor's proposed substitutions and to make agreed upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions.

3.6 TAXES

Paragraph 3.6 shall be modified to read as follows:

3.6 The Owner is a political subdivision of the State of Oklahoma. The Contractor is exempt from sales and use taxes for the purchase of tangible personal property and services necessary for the performance of the Work provided by the Contractor and by Subcontractors pursuant to the provisions of OKLA. STAT. tit. 68, § 1356(10). Sales taxes shall not be considered a reimbursable expense.

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

Add the following to the end of Subparagraph 3.7.3:

Should applicable laws, ordinances, statutes, standards, building codes, rules and regulations change between the bid date and commencement of the Work or during the progress of the Work, and should such change require the Contractor to perform either more or less work, the Contract Sum and Contract Time shall be appropriately adjusted in compliance with the requirements of Article 7, Changes in the Work

3.9 SUPERINTENDENT

Subparagraph 3.9.1 shall be modified to read as follows:

3.9.1 The Contractor shall employ and shall designate in writing to the Architect and Owner, a competent project superintendent and any necessary assistants who shall be in attendance at the Project Site full-time during the performance of the Work. The project superintendent shall represent to Contractor as his agent, and communications given to the project superintendent shall be as binding as if given to the Contractor. Communications between the parties shall be confirmed in writing where such communications have a material effect upon the Work or where such confirmation is requested by other parties.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following sentence to the end of Subparagraph 3.12.8:

Any portion of the Work which fails to conform to the requirements of the Contract Documents shall be corrected in compliance with Article 12, UNCOVERING AND CORRECTION OF WORK, and the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals shall not relieve the Contractor of his duty, obligation and responsibility to make any such required corrections. Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following deviations from the requirements of the Contract Documents" followed by a detailed written listing of all such deviations.

Add the following sentence to the end of Subparagraph 3.12.9:

Specific attention in writing shall be defined as a letter submitted with the Shop Drawings, Product Data, Sample or similar submittal which shall contain the following phrase: "Your attention is directed to the following revisions which are in addition to those revisions that you requested", followed by a detailed written listing of all such revisions.

Add Subparagraph 3.12.11 to Paragraph 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and two (2) re-submittals. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. Provided the Architect has acted reasonably and in good faith in reviewing the initial submittal and two (2) re-submittals, the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional re-submittals beyond the initial submittal and two (2) re-submittals.

ARTICLE 4 ARCHITECT

4.1 GENERAL

Subparagraph 4.1.2 shall be deleted in its entirety.

4.2 ADMINISTRATION OF THE CONTRACT

Add Clause 4.2.2.1 to Subparagraph 4.2.2:

4.2.2.1 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for additional site visits made necessary solely by the fault or neglect of the Contractor.

ARTICLE 5 SUBCONTRACTORS

Add new Subparagraph 5.3.1 immediately following Paragraph 5.3, to read as follows:

5.3.1 The Contractor shall indemnify and hold the Owner harmless from any and all claims, damages, losses and expenses, including but not limited to, attorney's fees, arising out of the Contractor's failure to bind a subcontractor to all the terms of the Contract Documents, or the Contractor's failure to ensure that the subcontractors bind each of their subcontractors to all the terms of the Contract Documents.

ARTICLE 7 CHANGES IN THE WORK

Subparagraph 7.2.2 shall be deleted.

In Subparagraph 7.3.4, delete the phrase "in case of an increase in the Contract Sum" from the first sentence.

Add new Subparagraph 7.3.11 immediately following Subparagraph 7.3.10, to read as follows:

7.3.11 Prior to final payment, all Construction Change Directives issued during the progress of the Work shall be converted into Change Orders and signed by the Contractor, Architect and Owner. Should the parties fail to agree with the determination made by the Architect concerning deductive adjustments in the Contract Sum and the Contract Time, or otherwise fail to reach agreements upon the deductive adjustments, that portion of the final payment which is affected by the dispute, if any, shall be withheld pending final judgment issued by a court of competent jurisdiction or, where arbitration has been selected as the dispute resolution method, a final award/decision by the arbitrator.

Add new Paragraph 7.5, EXPEDITING CHANGES IN THE WORK, immediately following Paragraph 7.4 to read as follows:

7.5 EXPEDITING CHANGES IN THE WORK.

7.5.1 Except as permitted in Subparagraph 7.5.2, the Contractor shall not proceed with changes in the Work authorized under Paragraphs 7.2 or 7.3 until receipt of the appropriate signed documents.

7.5.2 It is recognized by the parties that, under certain circumstances, changes in the Work may delay or endanger the Work if not processed in an expeditious manner. Upon certification by the Architect that an unacceptable delay may be caused, or that the Work may be endangered, the Owner may authorize the Contractor to immediately proceed with a change in the Work. Such authorization shall be in writing, signed by the Owner and shall contain an estimated change in the Contract Sum or an estimated change in the Contract Time, as appropriate. The Contractor, upon receipt of Owner's preliminary authorization, shall proceed promptly with the change in the Work specified therein. Final determination of the changes in the Contract Sum and Contract Time shall be made in a reasonable time and Owner's preliminary authorization shall be converted into a Change Order or a Construction Change Directive, as the case may be, but with the changes in the Contract Sum and Contract Time based on the final determination of such changes.

ARTICLE 9 PAYMENTS AND COMPLETION

Add new Clauses 9.8.1.1 and 9.8.1.2 immediately following Subparagraph 9.8.1 to read as follows:

9.8.1.1 All inspections required by federal, state or local regulatory authorities shall be complete and a certificate of occupancy shall be issued prior to the issuance of the Certificate of Substantial Completion.

9.8.1.2 Should any regulatory inspection disclose any work performed by the Contractor which is not in compliance with the Contract Documents, the Contractor shall, prior to the issuance of the Certificate of Substantial Completion, complete or correct such Work. Should any regulatory inspection disclose any work

performed by the Contractor that complies with the Contract Documents but not acceptable to the regulatory inspector, the Owner shall promptly issue a Change Order extending the Contract Time and increasing the Contract Sum to compensate Contractor for the delays and any rework necessary to satisfy the inspector. The Contractor shall then schedule another inspection by the appropriate regulatory authority and notify the Architect of the time and date of such reinspection.

The first sentence of Subparagraph 9.8.2 shall be modified by adding the phrase "and after all regulatory inspections are complete and a Certificate of Occupancy is obtained" immediately following the words "is substantially complete."

Add new Subparagraph 9.8.6 immediately following Subparagraph 9.8.5 to read as follows:

9.8.6 Unless otherwise agreed upon in writing, the issuance of a Certificate of Substantial Completion shall not constitute acceptance of Work not in compliance with the requirements of the Contract Documents.

ARTICLE 11 INSURANCE AND BONDS

Add new Clause 11.1.1.1 immediately following Subparagraph 11.1.1 to read as follows:

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

11.2 OWNER'S INSURANCE – Shall be deleted in its entirety.

11.3 WAIVERS OF SUBROGATION - Shall be deleted in its entirety.

ARTICLE 13 MISCELLANEOUS PROVISIONS

Paragraph 13.1 is modified to provide that the laws of the State of Oklahoma shall apply and govern the enforcement and interpretation of the Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

The first sentence of Subparagraph 14.1.1 shall be modified by substituting "60 days" for "30 days."

Add new Clause 14.2.1.5 to Subparagraph 14.2.1 immediately following Clause 14.2.1.4 to read as follows:

14.2.1.5 is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency.

Subparagraph 14.4.3 shall be modified to delete reference to a termination fee.

ARTICLE 15 CLAIMS AND DISPUTES

Subparagraph 15.1.2 shall be deleted in its entirety.

Add the following Clauses 15.1.6.3 and 15.1.6.4 to Subparagraph 15.1.6:

15.1.6.3 Claims for increase in the Contract Time shall set forth in detail; the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim. The Owner assumes an average number of weather related delays. The Owner assumes delays for permitting, inspections

and material availability. Only delays beyond ordinary circumstances will be considered when evaluating claims for additional time.

15.1.6.4 The Owner may consider concurrent and interrelated effects on the progress of the Work and concurrent delays due to the fault of the Contractor in evaluating the Contractor's request for an increase in Contract Time.

Subparagraph 15.1.7 shall be deleted in its entirety.

Paragraph 15.2 shall be deleted in its entirety.

Paragraph 15.3 shall be deleted in its entirety.

ARTICLE 16 EMPLOYEE CRIMINAL CONVICTIONS

Add the following Paragraphs 16.1, 16.2, 16.3 and 16.4 to new Article 16:

16.1 The Contractor will not allow any employee of the Contractor or of any subcontractor to work on school premises during normal school hours if the employee is convicted in this state, the United States or another state of: (1) any sex offense subject to the Sex Offenders Registration Act of this state, similar law of another state, or the federal sex offender registration provisions; or (2) any felony offense, unless (a) the person is a volunteer or (b) the person is performing community service hours under court order or (c) the person is performing services under a supervised work release program or (d) ten (10) years have elapsed since the date of the criminal conviction or (e) the employee has received a Presidential or Gubernatorial pardon for the criminal offense.

16.2 As a condition to receiving progress payments on the contract sum, the Contractor will furnish with each application for payment a signed statement declaring that no employee working on school premises during normal school hours under the authority of the Contractor is in violation of the provisions of this Article. If this Contract does not provide for periodic payment against the Contract Sum, the signed statement referred to in this Section will be furnished as required from time to time by the Owner. The Owner's form of the signed statement will be used by the Contractor.

16.3 The Contractor agrees to obtain similar compliance statements from all subcontractors used by the Contractor on the Project with reference to employees of the subcontractors. No request for payment will be approved by the Contractor unless accompanied by the required compliance statements.

16.4 The Contractor's conviction of a violation of 57 O.S. § 589 (1998 Supp.) shall constitute grounds for termination of the Contract. The foregoing provisions are intended to comply with Senate Bill 1394 of the Second Regular Session (1998) of the 46th Oklahoma Legislature. The Contractor is obligated to comply with the provisions of that Act, as may be interpreted or amended from time to time as if fully incorporated herein.

Acknowledged and agreed to this 12th **day of** FEBRUARY**, 2024.**

"Owner"	**"Contractor"**
INDEPENDENT SCHOOL DISTRICT NO. 69 OF CANADIAN COUNTY, OKLAHOMA	**TIMBERLAKE CONSTRUCTION CO., INC.**
By_____ **Mustang Board of Education**	**By**_____ **Casey Logue, VP of Operations**
_____ **Printed Name, Title**	

Memo

To: Kirk Wilson, Executive Director of Communications, Mustang Public Schools

From: Kris Green, Director of Community Education, Mustang Public Schools

Date: 1/12/24

Re: Recommendation for Agreement with Black Rocket

Please discuss, consider and/or act upon the Agreement to offer 5 weeks of summer tech camps through Black Rocket for the Community Education program. There is no cost to the district, all fees are paid by class enrollees.

Course options:

Code Breakers
Lego Film and Stop Action
Python Programmers
Video Game Animation
Young Coders

*Camps will run June through July excluding the week of Camp Invention.

BLACKROCKET
Launch Your Creativity



MEMORANDUM OF AGREEMENT

Mustang Public Schools
AND
BLACK ROCKET PRODUCTIONS

Agree to the following:

Black Rocket Productions (hereby known as BRP) in collaboration with Mustang Public Schools (hereby known as the Partner) will provide curriculum, training, instructors, support, and select materials for the Partner's digital arts and creative sciences programs for children and teens.

Courses and Schedule:

The Partner will offer the schedule below.

Campus	Date	Course	Ages	Start Time	End Time	Days	Hours	Price
Mustang Public Schools	06-03-2024	LEGO Films and Stop Action!	8-12	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-03-2024	LEGO Films and Stop Action!	6-8	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-03-2024	Young Coders	6-8	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-03-2024	Young Coders	8-12	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-10-2024	Cloud Gamers: Mobile App Development	11-14	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-10-2024	Cloud Gamers: Mobile App Development	8-11	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-10-2024	Code Breakers	8-11	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-10-2024	Code Breakers	11-14	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-17-2024	Python Programmers	11-14	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-17-2024	Python Programmers	8-11	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-17-2024	Video Game Animation	8-11	09:00 am	12:00 pm	5	15	$140

Mustang Public Schools	06-17-2024	Video Game Animation	11-14	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-24-2024	A.I. Adventures - Intro to Machine Learning	8-11	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-24-2024	A.I. Adventures - Intro to Machine Learning	11-14	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	06-24-2024	Beats and Jams: Digital Music Creators	11-14	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	06-24-2024	Beats and Jams: Digital Music Creators	8-11	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	07-15-2024	LEGO Films and Stop Action!	8-12	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	07-15-2024	LEGO Films and Stop Action!	6-8	01:00 pm	04:00 pm	5	15	$140
Mustang Public Schools	07-15-2024	Young Coders	6-8	09:00 am	12:00 pm	5	15	$140
Mustang Public Schools	07-15-2024	Young Coders	8-12	01:00 pm	04:00 pm	5	15	$140

Responsibilities of BRP for Both Online and In-Room Programs:

1. To provide curriculum, software licenses, and an online learning platform for students.
2. To train instructors via online tutorials and sessions.
3. To provide real time support prior to the commencement of classes and as classes are in session to instructors.
4. To provide customer support up to one year after class is over to access the website and projects.
5. Upon partner request, Black Rocket may also offer general, non-binding marketing information, business information, and additional academic support.
6. To provide a Program Analysis (Profitability) and separately a Marketing Analysis if and at the Partner's request.
7. To provide technical specifications and support for all courses and software offered on the Partners schedule.
8. To comply with all applicable state and federal legal requirements for running an online summer enrichment program.

Responsibilities of Partner for Both Online and In-Room Programs:

1. To create and distribute marketing materials, including but not limited to flyers, email campaigns, mailings, and digital marketing.
2. To provide the contact information of any other related organization contacts who are involved in the program including, but not limited to: Finance (and/or Accounts Payable), Legal (only if relevant) and an alternate Primary Contact (in lieu of Program Director).
3. To advise BRP in advance of any Legal and/or Financial Procedures BRP needs to be aware of to ensure timely and mutual compliance with this Memorandum.
4. To provide all facility related needs to run in room programs including: LCD projector, projection screen, computers, chairs, tables, and Internet access. Computer rentals are available upon request.

6. To provide supervision and coordination of student arrival, dismissal, and lunch (if applicable for in room programs).
7. To provide installation of software when needed as necessary for in room programs.
8. To provide enrollment updates every two weeks starting April 15th for both online and in room programs unless using BRP registration.
9. To provide the name and contact information for the organization's IT contact person in a timely fashion so as to facilitate and arrange a BRP Tech Check

Instructor Options:
For Comprehensive Partners BRP will provide instructors and assistants. For Turnkey Partners, the Partner is responsible for providing instructional staff. All staff in the classroom must pass a federal and state background check.

	In-Room Instructor Provider	Online Instructor Provider
Instructor Provider	Black Rocket Productions	Black Rocket Productions

Registration Options
If Partners are using BRP instructors for online programs they may also choose to use BRP registration systems. Partners who choose BRP's registration will receive a dedicated website, co-branded with the Partner's name and logo. This website should be marketed directly to parents. The Partner may access registration data in real time by logging into my.blackrocket.com. BRP collects parent name, parent email, parent phone number, student name, gender, address, birthdate, and class registered for. Registration information is never shared with third parties. The cost of BRP's registration is $10 per student and will be included in the per student price listed in the schedule above.

For online classes, BRP must communicate with parents the week prior to classes commencing. Partners who choose to use their own registration must upload required data 72 hours prior to the start of the class. BRP is not responsible for failures to provide information in a timely fashion or mistakes with the upload process due to human error. Late registrations will result in a $20 per student fee. Included in the $10 BRP fee for registration is a 3.5% credit card processing fee. BRP assesses the dollar amount for this fee by providing a recommended parent price. Partners who utilize BRP registration and charge more than the BRP recommended parent price may have an additional credit card fee assessed.

	In-Room Registration Provider	Online Registration Provider
Registration Provider	Mustang Public Schools	Mustang Public Schools

Financial Arrangements:
BRP charges a fee per registered student, per section, per year based on an hourly rate. Please see the schedule above for the rate for the Partner. This fee includes BRP curriculum, software licenses, support, training, project hosting, and materials. Partners who run schedules with Virtual Reality, Robotics, or Drones courses should speak with a BRP representative for additional materials fee. Unopened VR headsets that are returned to BRP will not be charged to the Partner. If computer rental from BRP is needed it will cost $15.00 per student, per week. This BRP rental option is only available for Comprehensive partners. All Partners may also rent computers directly from a Black Rocket recommended

BRP will invoice the Partner for the enrolled students on the Wednesday after each section begins. Student enrollment is determined by the number of students registered. **If a student is absent or does not attend they will be counted on invoices unless the Partner has a refund policy for absentee students.**

For in-room programs only the Partner will provide a recruiting, training, and materials fee (RTM) of $0 by April 1st. The RTM fee **shall be applied as a credit** against the previously described Financial Arrangement. The RTM fee is refundable if both parties agree to cancel all classes prior to the start of the first section. Materials and access to the training portal are provided after receipt of the RTM fee. In the event that all classes are cancelled, payment will be returned after the materials are sent back to and received by BRP.

Purchase Orders and Late Payments
A purchase order must be created prior to the start of work to facilitate payment in a timely fashion. Black Rocket staff is familiar with the purchase order process and is willing to assist program directors in any way necessary. Whether a purchase order has been created or not, payment is due upon services rendered. Any payment 30 days past the invoice date will incur a late fee of 3% for every 30 days past due and may at BRP's discretion, potentially nullify any scholarships or incentive programs.

Online Financial Arrangements
For Partners who utilize the BRP registration portal payments will be sent on July 15th. August 15th, and September 15th for the summer programs, December 5th for fall programs, and May 15th for Winter/Spring Programs. **Partners revenue share will be their chosen Parent price minus BRP's fee in the schedule above.**

Additional Terms

Fall, Winter, Spring Programs
This memorandum of agreement is binding for one year and includes programs for Fall, Winter, and Spring semesters. Those programs will require a schedule confirmation by the Partner, but do not require an additional Memorandum of Agreement.

Refund Policy
Black Rocket provides a 100% happiness guarantee any time up to, and including, the last day of class. Refunds requested after the class ends will not be provided.

Marketing Verification
Partners should share marketing websites and materials with BRP as they are created. BRP reserves the right to request changes to marketing materials.

COVID Clause
This Memorandum of Agreement documents the expected in-room schedule in 2021. However, due to the uncertainty of the COVID virus, BRP cannot guarantee any in-room programs regardless of the minimum number of students. In the event that in-room programs have to be cancelled there will be an online alternative.

Upload Fee For Online Programs Using Partner Registration
Although BRP strongly recommends Partners use the BRP registration system for online classes, an uploader is provided for Partners who wish to use their own registration for online classes. BRP will train Partners on how to use the uploader and provide video and written instructions at no charge. However, from June 1st to August 31st if a Partner requires assistance from BRP with the uploader there will be a $50 weekly fee assessed within the week that the upload assistance is requested.

Minimum Section Number For In Room Comprehensive Partners
Comprehensive: A Partner must run a minimum of 10 sections to establish an in-room comprehensive partnership. Please note: the 10 sections minimum does not apply for turnkey partnerships. For online schedules there is no minimum section number regardless of Partner type.

For in-room comprehensive programs Black Rocket reserves the right to cancel any class below 10 students, 10 business days prior to the start of the class. Please note: this does not apply to **turnkey** partnerships. Different cancellation policies may be accommodated at the Partner's request. If a decision is made to run a class with less than 10 students an additional per student charge may be incurred or a scholarship may be used if available. Online programs have no minimum student number for individual Partners, but the BRP minimum still applies.

For in-room turnkey programs, Black Rocket leaves the right to cancel up to the Partner. Minimum number of students will be determined by the Partner. Any decisions to run or cancel a section must be made in writing to BRP.

Technological Arrangements for In-room Programs:
If the computers at the Partner school are used for the programs, BRP needs the following technical specifications for the software to run properly. Minimum computer specifications include: Intel i3 processor at 2.0ghz+ or AMD equivalent. More recent model years of i3 or higher are preferred. Minimum of 4 GB of RAM, ShaderModel 3 compatible graphics card or internal graphics accelerator (such as Intel HD) capable of utilizing OpenGL 2.1. Must be newer than Intel Q965/Q963 chipset. If the Partner is running Apple computers they will need to boot up as a PC using a program called 'boot camp'. If you have a virtual environment or thin clients let us know right away, because these require special configurations. All programs require internet access. *Note: These specifications are typical but may vary, to finalize technical specifications BRP will need to speak with a representative from the technology department.*

Technological Arrangements for Online Programs:
BRP will provide all software and list requirements for each course. BRP will provide parents with virtual support for programs. However, BRP does not provide or rent devices to individuals. Students must provide their own device, which meets the minimum technology requirements to participate in a course. If students are using a school issued device (Laptop or Chromebook) they must test the device prior to the start of class to ensure that the device works properly with BRP curriculum.

Rebates and Incentive Programs:
Rebates and incentive programs such as 'Add a Section' and 'Refer a Friend' are available for all Partners starting in their second year. Rebates are only paid after the Partner has paid all invoices in full. Invoices must be paid by September 1st of the contract year or within 30 days of the invoice being submitted for Partners to be eligible. All rebates and incentive programs are for the calendar year only and rebates are prorated for the week of July 4th. Please see rebate proposals for additional details and restrictions.

Proprietary Curriculum:
All course descriptions, handouts, course outlines, and teaching materials are the intellectual property of Black Rocket and may not be reproduced, modified, or used without the express written consent of a managing member or their authorized representative of the company.

Shared Marketing and Proprietary Brand:
It is understood that there is a mutual benefit to the Partner and BRP from all marketing done to promote program enrollment. Marketing materials should reference and provide links to Black Rocket's website, https://blackrocket.com whenever possible. Any BRP images, copy, video, or logos that are used for marketing may not be altered without written consent of BRP.

Creator Corps and Student Accounts
All BRP courses are project-based and include BRP hosting of student work online for one year after the program. To access student projects, student accounts are created with parent permission. Student accounts also provide access to an online learning community called The Creator Corps. The Creator Corps offers students the opportunity to participate in challenges, learning activities, receive monthly updates, and access customer support throughout the year. The Creator Corps if COPPA and FERPA compliant.

Project Ownership:

to request via email that their project be taken down from the Black Rocket site and ownership be transferred to the student.

Programming and Hiring Restrictions for In-room Programs:
Partners may not run similar programs with an instructor who was trained by BRP, or in a BRP licensed program, without renewing the BRP license for that year.
For example, Joe Smith is hired by the Partner and trained by Black Rocket to teach Video Game Design. Joe cannot be hired the following year to teach the same program or a similar program on his own, whether for the University or as an Independent Contractor. This hiring restriction will be in duration for a period of 3 years after the termination of the contract and applies to after Partner enrichment and summer programming only. Programs that are not in the Black Rocket course descriptions or instructors who were not trained by Black Rocket, or in a classroom that presented a Black Rocket Program, do not apply. Courses that are currently offered by the Partner are also exempt.

Use of Additional Vendors:
The Partner may not hire any other vendors or companies to offer the same programs during the duration of our relationship, unless the Partner demonstrates a pre-existing relationship that they are aware of prior to the onset of the agreement. Vendors who offer significantly different programs or vendors who provide similar services, but are not running similar classes do not apply to this clause.

Legal and Medical Responsibilities for In-room Programs:
Upon commencement of a partnership agreement, the Partner is responsible for any legal requirements & medical responsibilities specific to entering into the partnership agreement and for hosting children's programming. BRP employees do not administer any medical treatment.

Liability of Third Party Providers
BRP often uses third party software and services such as Shopify, Minecraft, Roblox, Unity, Storymakery, and many others. BRP is not liable or responsible for any aspect of the software or programs outside of their direct control.

Timely Communication
For the programs and the partnership to be a success, regular and timely communication is necessary. Progress updates from January to May, enrollment updates every two weeks starting April 15th to the end of the program, and attendance or viewing of Black Rocket informational webinars are requested.

MEMORANDUM OF AGREEMENT

Mustang Public Schools
AND
BLACK ROCKET PRODUCTIONS

READ, UNDERSTOOD, AND AGREED

Richard Ginn

Black Rocket Representative	Black Rocket Signature	01-10-2024 Date

Partner Representative	Partner Signature	Date

For questions, comments, concerns about this agreement please contact:
Black Rocket Representative:
Richard Ginn
732-778-4368
rich@blackrocket.com
www.blackrocket.com
P.O. Box 7494
Freehold, NJ 07728

Mustang Public Schools Representative:
Name: Kris Green

Title:

Phone: 405-376-7996

Email: greenk@mustangps.org

Address: 801 S Snyder Dr, Mustang, OK 73064, USA

Mustang Public Schools IT Contact Information (For scheduling 'Tech Checks'): (Required for in-room, recommended for Online)
Name:

Title:

Phone:

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Jeff Landes, Chief Financial Officer

From: Jeff Landes, Chief Financial Officer

Date: February 12, 2024

Contract Vendor: Lifetouch **Time Frame:** 24-25 School Year

Amount: $ 0.00 **Fund:** 60 **Project:** Varies

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following items or services:

This is a blanket Contract Agreement between Lifetouch and Mustang Schools for the 24-25 School Year. Under this Contract, if a site chooses to use this Vendor to provide their school photography services, the site may do so without additional contract documentation.

Lifetouch

Service Agreement

Mustang High School

Lifetouch ID: 54488
Account Representative Email: dallas.arnold@lifetouch.com

School Year(s): 2024-2025
Agreement Length: 1

Account Information

Mustang High School
801 S Snyder Dr
Mustang, OK 73064

Main Phone: 405-376-2404
Enrollment: 4000
Grades: 9 - 12

Summary of Programs Provided

- [x] Fall Individuals
- [ ] Yearbook
- [ ] Groups
- [ ] Commencements
- [ ] Spring Individuals
- [x] Prestige Seniors
- [ ] Dance
- [ ] Other/Misc
- [ ] Underclass Grads
- [ ] Sports
- [ ] Special Events

Program Type*	Start Date	End Date	Setup Time	Start Time	End Time	Est. Photo'd	Setup Location
Fall Individuals - Original							
Prestige Senior Portraits - Original							

*All dates are tentative and subject to change or TBD if blank.

Account Services

- [x] Yearbook - Media CD/DMD
- [ ] Storefront
- [ ] Lifetouch Portal

Storefront Contact:

Lifetouch Portal Contact:

Parent Notify is a complimentary service included when parent/guardian email addresses are provided

Other Services

Digital Media Download - Medium Res - Yearbook

Additional Details

Description	Incentive Details
Fall Individual	Eligible for up to 30% commission paid on net sales to end customers based upon % of students with purchases. This agreement is pending Mustang ISD (I-069) board of education approval

Contact information

Contact Name	Title	Phone	Email
Deana Silk	Yearbook Adviser	405-376-2404	silkd@mustangps.org

Agreement Terms

The account noted above (referred to as "you") designates Shutterfly Lifetouch, LLC (referred to as "Lifetouch") as your exclusive professional photographer and authorizes Lifetouch to: (i) photograph all students and staff who participate in "Picture Day" or other photography events, and (ii) produce and deliver photographs and services for the programs identified above. You are solely responsible for obtaining staff and parent or guardian consent to, or opt out of: (i) participation in all events and activities, and (ii) inclusion in class photographs or yearbooks (if included in services). You will provide us with access to students and staff, and use of your facilities, property and information for the purpose of performing the services, including Picture Day or event administration, fulfillment and distribution of photographs and yearbooks to you, delivery of Picture Day or event notices, and providing parents or guardians of photographed students opportunities to purchase individual and class pictures and yearbooks(if included in services).Lifetouch may modify the terms of this agreement or terminate this agreement upon notice to you. You may terminate this agreement if Lifetouch notifies you of a material change. If you do not terminate this agreement within 30 days after you receive notice of a change to the terms, you will be deemed to have accepted the change. Lifetouch's liability for any breach is limited to the amount you paid for services. Lifetouch will not disclose confidential information provided by you or use or retain it for any purpose other than performing the services or other internal uses as allowed by law. Lifetouch agrees to comply with laws, regulations and governmental orders governing the privacy and security of personal information including, where applicable and without limitation, the Family Educational Rights in Privacy Act. Lifetouch is and remains the copyright owner of all photographic images created in connection with this agreement. If Lifetouch is obligated to provide photographic images to the you as part of the services provided under this agreement, Lifetouch hereby grants you a nonexclusive, irrevocable, royalty-free license to use such photographic images solely for your administrative and educational purposes.

Signatures

Dallas Arnold

Dallas Arnold — Sales Account Executive - School

Board Member — Mustang Board of Education

Date Approved_____

Lifetouch

School Year 2024 – 2025 Service Agreement Explanation Addendum

Nature of Agreement

The Service Agreement with Mustang Public Schools is a "Preferred Agreement" and is exclusive for each school site that selects to use Lifetouch as it's photography partner. This is not an exclusive agreement for the entire school district.

Commissions by School Site

Pre-K – 8:

- Fall Individuals – Eligible for up to 30%
- Spring Individuals - Eligible for up to 20%
- Classroom Groups – Eligible for up to 20%

HIgh School:

- Fall Individuals – Eligible for up to 30%

School Commissions Schedule

Commissions for individual school sites will be calculated *45 days* after original photography date. This calculation encompasses all purchases made online, at-camera, or through customer service. Commission checks are remitted to individual school sites with an anticipated delivery date of no more than 30 days after commission calculation.

Explanation of Commission Eligibility

See "Additional Details" on page 1 of Service Agreement.

A sales participation threshold must be met to receive full eligibility of commissions agreed upon for each school. Participation is calculated by dividing the number of students who placed a paid order by the number of students photographed. Staff are not included in this calculation. The participation threshold percentage for schools are as follows:

- High School – 25%
- Middle School – 40%
- Elementary School – 50%

If the sales participation threshold is not met, the commission calculated will be reduced to reflect sales participation. The reduction thresholds and corresponding commissions earned are in the following example:

- Elementary School
    - 40% Participation = 25% commissions paid
    - 30% Participation = 20 % commmissions paid
    - 20% Participation = 10% commisions paid
    - Anything below 20% participation = no commissions paid

**All participating Mustang Public School sites have all exceeded sales participation threshold to earn maximum commissions in the past years. **

Lifetouch

Service Agreement

Mustang Public Schools

Lifetouch ID: 270859
Account Representative Email: dallas.arnold@lifetouch.com

School Year(s): 2024-2025
Agreement Length: 1

Account Information

Mustang Public Schools
12400 SW 15th St.
Yukon, OK 73099

Main Phone: 405-376-2461
Enrollment: 9700
Grades: Pre-K - 8

Summary of Programs Provided

- [x] Fall Individuals
- [ ] Yearbook
- [x] Groups
- [ ] Commencements
- [x] Spring Individuals
- [ ] Prestige Seniors
- [ ] Dance
- [ ] Other/Misc
- [ ] Underclass Grads
- [ ] Sports
- [ ] Special Events

Program Type*	Start Date	End Date	Setup Time	Start Time	End Time	Est. Photo'd	Setup Location
Classroom Groups - Original							
Fall Individuals - Original							
Spring Individuals - Original							

*All dates are tentative and subject to change or TBD if blank.

Account Services

- [ ] Yearbook - Media CD/DMD
- [ ] Storefront
- [x] Lifetouch Portal

Storefront Contact:

Lifetouch Portal Contact: Margaret Brown

Parent Notify is a complimentary service included when parent/guardian email addresses are provided

Additional Details

Description	Incentive Details
Fall Individual	Eligible for up to 30% commission paid on net sales to end customers based upon % of students with purchases.
Group	Eligible for up to 20% commission paid on net sales to end customers based upon % of students with purchases.
Spring Individual	Eligible for up to 20% commission paid on net sales to end customers based upon % of students with purchases.

Contact information

Contact Name	Title	Phone	Email
Jeff Landes	Chief Financial Officer	405-376-5810	landesj@mustangps.org

Agreement Terms

The account noted above (referred to as "you") designates Shutterfly Lifetouch, LLC (referred to as "Lifetouch") as your exclusive professional photographer and authorizes Lifetouch to: (i) photograph all students and staff who participate in "Picture Day" or other photography events, and (ii) produce and deliver photographs and services for the programs identified above. You are solely responsible for obtaining staff and parent or guardian consent to, or opt out of: (i) participation in all events and activities, and (ii) inclusion in class photographs or yearbooks (if included in services). You will provide us with access to students and staff, and use of your facilities, property and information for the purpose of performing the services, including Picture Day or event administration, fulfillment and distribution of photographs and yearbooks to you, delivery of Picture Day or event notices, and providing parents or guardians of photographed students opportunities to purchase individual and class pictures and yearbooks(if included in services).Lifetouch may modify the terms of this agreement or terminate this agreement upon notice to you. You may terminate this agreement if Lifetouch notifies you of a material change. If you do not terminate this agreement within 30 days after you receive notice of a change to the terms, you will be deemed to have accepted the change. Lifetouch's liability for any breach is limited to the amount you paid for services. Lifetouch will not disclose confidential information provided by you or use or retain it for any purpose other than performing the services or other internal uses as allowed by law. Lifetouch agrees to comply with laws, regulations and governmental orders governing the privacy and security of personal information including, where applicable and without limitation, the Family Educational Rights in Privacy Act. Lifetouch is and remains the copyright owner of all photographic images created in connection with this agreement. If Lifetouch is obligated to provide photographic images to the you as part of the services provided under this agreement, Lifetouch hereby grants you a nonexclusive, irrevocable, royalty-free license to use such photographic images solely for your administrative and educational purposes.

Signatures

Dallas Arnold

Dallas Arnold — Sales Account Executive - School

Board Member — Mustang Board of Education

Date Approved:_____

Lifetouch

School Year 2024 – 2025 Service Agreement Explanation Addendum

Nature of Agreement

The Service Agreement with Mustang Public Schools is a "Preferred Agreement" and is exclusive for each school site that selects to use Lifetouch as its photography partner. This is not an exclusive agreement for the entire school district.

Commissions by School Site

Pre-K – 8:

- Fall Individuals – Eligible for up to 30%
- Spring Individuals - Eligible for up to 20%
- Classroom Groups – Eligible for up to 20%

HIgh School:

- Fall Individuals – Eligible for up to 30%

School Commissions Schedule

Commissions for individual school sites will be calculated *45 days* after original photography date. This calculation encompasses all purchases made online, at-camera, or through customer service. Commission checks are remitted to individual school sites with an anticipated delivery date of no more than 30 days after commission calculation.

Explanation of Commission Eligibility

See "Additional Details" on page 1 of Service Agreement.

A sales participation threshold must be met to receive full eligibility of commissions agreed upon for each school. Participation is calculated by dividing the number of students who placed a paid order by the number of students photographed. Staff are not included in this calculation. The participation threshold percentage for schools are as follows:

- High School – 25%
- Middle School – 40%
- Elementary School – 50%

If the sales participation threshold is not met, the commission calculated will be reduced to reflect sales participation. The reduction thresholds and corresponding commissions earned are in the following example:

- Elementary School
    - 40% Participation = 25% commissions paid
    - 30% Participation = 20 % commmissions paid
    - 20% Participation = 10% commisions paid
    - Anything below 20% participation = no commissions paid

**All participating Mustang Public School sites have all exceeded sales participation threshold to earn maximum commissions in the past years. **

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Jeff Landes, Chief Financial Officer

From: Jeff Landes, Chief Financial Officer

Date: February 12, 2024

Contract Vendor: Tom Jackson Photography **Time Frame:** 24-25 School Year

Amount: $ 0.00 **Fund:** 60 **Project:** Varies

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following items or services:

This is a blanket Contract Agreement between Tom Jackson Photography and Mustang Schools for the 24-25 School Year. Under this Contract, if a site chooses to use this Vendor to provide their school photography services, the site may do so without additional contract documentation.



...the finest in school photography since 1979

Tom Jackson Photography

PO Box 19037 • Oklahoma City, OK 73144 • (405) 443-1948

Mustang Public Schools

Tom Jackson Photography shall be the exclusive provider of school photography services (i.e. Fall, Spring Group, Graduation) for any Mustang Public School site that selects to use Tom Jackson Photography for the 2024-2025 school year(s).

Tom Jackson Photography agrees to pay the school 45% of the gross sales from fall and spring groups and graduation portrait sales.

Tom Jackson Photography will work with the school's yearbook sponsor to provide to the school images and media needed to produce a yearbook. Tom Jackson Photography will provide requested Administration Cd's to the school at no charge.

Every student and staff member will be photographed at no charge for Fall Portraits. Staff members will received a teachers package for no charge. Teacher's Children will be photographed at ½ price. We will also schedule a retake day where we will set up to take photos of those that were absent or did not like their first photos.

Tom Jackson Photo will make every effort to satisfy the parents with their school photos. In the event that the parents are still not satisfied with the photos, we will refund 100% of all monies paid.

Randy Lusk — Tom Jackson Photography

Jan 17 2024
Date

School Representative

Date

CONTRACT APPROVAL MEMO

MUSTANG PUBLIC SCHOOLS

To: Mustang Board of Education

CC: Charles Bradley, Superintendent
Jeff Landes, Chief Financial Officer

From: Jeff Landes, Chief Financial Officer

Date:

Contract Vendor: Perry Weather **Time Frame:** February 2024 thru June 30, 2025

Amount: $ 10,941.00 **Fund:** 21 **Project:** 099

Discussion, motion and possible action to approve entry into an agreement with the above-referenced vendor for the following items or services:

This will expand our current weather assessment system to three additional sites, providing accurate weather assessment across the district. The three additional sites are North Middle School, Central Middle School and Prairie View Elementary. This contract will run through June 30, 2025 and then be combined with the current annual contract for the assessment system at the High School. The High School contract will go through one more contract cycle, July 1 2024 through June 30, 2025 prior to the merger.

DocuSign Envelope ID: D5801B43-21BA-4248-942F-460A48A976DE

perry weather

ORDER FORM

CUSTOMER	
Customer Name	Mustang Public Schools
Customer Address	12400 Southwest 15th Street Yukon, OK 73099
Exempt from Sales Tax?	*If your entity is exempt from sales tax, please email an exemption certificate to billing@perryweather.com to remove sales tax from your invoices.*
Perry Weather Rep	Cameron Ream

PRIMARY CONTACT	
Full Name	
Title	
Email	
Phone	

EMAIL INVOICES TO	
Accounts Payable Email	
Other Email(s)	

ORDER INFORMATION	
Quote #	20231009-110924434
Itemized Pricing	See attached quote
Initial Term: Start Date	02/13/2024
Initial Term: End Date	06/30/2025
Billing Frequency	Annual
Billing Method	Email
Additional Notes	

This Order Form is governed by the terms of Perry Weather Terms & Conditions ("PW Terms") available at https://perryweather.com/legal-terms. The PW Terms are hereby incorporated into this document by reference. Prices listed for products and services on the Quote and/or ordered hereunder may not include any applicable taxes. Subscriptions purchased under this Order Form may be billed in advance according to the Billing Frequency listed above and will renew according to the PW Terms. **By signing below, you represent and warrant that you have the full authority to enter into this Order and the PW Terms on behalf of Customer.**

Customer:

By: _____

Name: _____

Title: _____

Perry Weather:

By: DocuSigned by: James Skidmore 5DB54D2B57C0406...

Name: James Skidmore

Title: Chief Operating Officer

DocuSign Envelope ID: D5801B43-21BA-4248-942F-460A48A976DE

perry weather

Mustang Public Schools - 3 Units Subscription

Mustang Public Schools
12400 Southwest 15th Street
Mustang, OK 73099

Reference: 20231009-110924434
Quote created: October 9, 2023
Quote expires: February 15, 2024

Products & Services

Name	Qty	Unit price	Total
Software + Outdoor Warning System (OWS) Subscription Bundle OUTDOOR WARNING SYSTEM: - Fully Wireless (Solar/Cellular Powered) - Automated and Manually triggered - Custom text-to-speech PA - Full Control of Active Siren Days/Times	3	$2,199.00 / year	$6,597.00 / year for 2 years
Pack of 10 Additional Users Software access for an additional 10 users	2	$299.00 / year	$598.00 / year for 2 years
Pack of 50 Notification-Only Users Notifications for up to 50 individuals	1	$299.00 / year	$299.00 / year for 2 years
Assisted Installation, Per Unit Requires on-site assistance from customer	3	$899.00	$2,697.00
Shipping, per Unit	3	$250.00	$750.00

Subtotals

Annual subtotal	$7,494.00
One-time subtotal	$3,447.00

Total
$10,941.00

Important Notes: Customer is responsible for providing a lift or bucket truck if needed for hardware installation (if applicable). Quote does not include any applicable taxes. Tax exemption certificates may be emailed to billing@perryweather.com.

DocuSign Envelope ID: D5801B43-21BA-4248-942F-460A48A976DE

Questions? Contact me

Cameron Ream, Account Executive
cameron@perryweather.com, 913.608.2924

Mustang Public Schools

Memo

To: Mustang Public Schools Board of Education, Charles Bradley

From: Geromy Schrick

CC: Ryan McKinney

Date: July 21st, 2023

Re: Surplus equipment

Please consider the attached list of 448 Lenovo 100e Chromebook 2nd Gen MTK chromebooks from the district to be declared surplus. The following is the count of devices being surplused.

They are of no use to the district due to age or viability within the technology department structure. If a value is determined upon evaluation by the recycling vendor, an updated value of the surplus items will be provided. All items are to be parted out and data holding devices will be scrubbed and have all data removed by an R2:2013 certified recycler. Complete device destruction list will be provided upon completion by the recycler.

Geromy Schrick

Executive Director of Technology

Attachment: List of devices to be surplused

Asset ID	Serial Number	Make and Model
50500000452431	P20430DX	Lenovo 100e Chromebook 2nd Gen MTK
50500000464600	P206RWS4	Lenovo 100e Chromebook 2nd Gen MTK
50500000450443	P2041U1Y	Lenovo 100e Chromebook 2nd Gen MTK
50500000465888	P206S5RK	Lenovo 100e Chromebook 2nd Gen MTK
50500000451888	P2042G4A	Lenovo 100e Chromebook 2nd Gen MTK
50500000450906	P2042G8U	Lenovo 100e Chromebook 2nd Gen MTK
50500000464519	P206RY89	Lenovo 100e Chromebook 2nd Gen MTK
50500000451631	P2041TYA	Lenovo 100e Chromebook 2nd Gen MTK
50500000451003	P2042GG1	Lenovo 100e Chromebook 2nd Gen MTK
50500000450989	P2042FNY	Lenovo 100e Chromebook 2nd Gen MTK
50500000397818	P2042ZKF	Lenovo 100e Chromebook 2nd Gen MTK
50500000453561	P2042FW3	Lenovo 100e Chromebook 2nd Gen MTK
50500000467504	P2041MMR	Lenovo 100e Chromebook 2nd Gen MTK
50500000465995	P206S5W1	Lenovo 100e Chromebook 2nd Gen MTK
50500000397578	P20430BP	Lenovo 100e Chromebook 2nd Gen MTK
50500000453629	P2042V51	Lenovo 100e Chromebook 2nd Gen MTK
50500000451763	P2042FNQ	Lenovo 100e Chromebook 2nd Gen MTK
50500000452241	P2042JWC	Lenovo 100e Chromebook 2nd Gen MTK
50500000465946	P206S5MJ	Lenovo 100e Chromebook 2nd Gen MTK
50500000452563	P2042GH4	Lenovo 100e Chromebook 2nd Gen MTK
50500000451581	P2041UC1	Lenovo 100e Chromebook 2nd Gen MTK
50500000467827	P204R5B3	Lenovo 100e Chromebook 2nd Gen MTK
50500000453082	P2041U80	Lenovo 100e Chromebook 2nd Gen MTK
50500000465870	P206S5MN	Lenovo 100e Chromebook 2nd Gen MTK
50500000452787	P2042FEU	Lenovo 100e Chromebook 2nd Gen MTK
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Memo

To: Charles Bradley
CC: Sue Cavett, Jeff Landes
From: Chris Tobler
Date: February 6, 2024
Subject: Business Office Clerk

Please accept the attached new job title and description to be considered for the Monday, February 12, 2024 MPS Board of Education meeting.

MUSTANG PUBLIC SCHOOLS
MUSTANG, OKLAHOMA

TITLE:	Business Office Clerk
QUALIFICATIONS:	High School diploma; Accounting/school finance and/or banking experience; Good computer and communications skills; Associates Degree preferred
REPORTS TO:	Chief Financial Officer (CFO)

PERFORMANCE RESPONSIBILITIES:

1. Will report to the CFO to support the general operation of the Business office
2. Experience working with accounting and/or human resource software applications
3. Verifiable expertise with Microsoft Excel and/or Google Sheets
4. Comfortable with repetitive data entry tasks
5. Excellent attention to details and organizational strategy
6. Willing to be a team player with the entire business office staff
7. Committed to providing good customer service
8. Maintain confidentiality
9. Abide by all district policies, state and federal laws
10. Perform other duties as assigned by CFO

TERMS OF EMPLOYMENT:
Number of days and compensation based on Board approved support personnel salary schedule and the employee work calendars..

EVALUATION:
Job performance will be evaluated by the CFO.

PHYSICAL DEMANDS:
Ability to stand, walk, squat frequently.
Ability to lift up to 10 pounds frequently.

Adopted: 02-01
Revised: 10-09-06
Revised: 02-09-09
Revised: 01-12-15
Proposed: 02-12-24

Encumbrance Register

Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1157 - 49999, Fund(s): 11-General

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1157	01/03/2024	61446	OKLAHOMA SCHOOLS INSURANCE GROUP	016-Deductible	1,000.00
016-Deductible payment amount of $1000.00 for Bus accident DOL 12.15.23 @ 2:05pm		016-2720-521-000-0000-000-050			01/03/2024	1,000.00
11	1158	01/03/2024	61446	OKLAHOMA SCHOOLS INSURANCE GROUP	016-Deductible	1,000.00
016-Deductible payment amount of $1000.00 for Bus Accident DOL 12.15.23 3:05pm		016-2720-521-000-0000-000-050			01/03/2024	1,000.00
11	1159	01/03/2024	14462	Amazon Capital Services Inc.	066 MNMS Vocal Classroom Items	325.22
066 MNMS Expo Dry Erase Whiteboard Cleaning Spray 8 oz		066-1000-619-100-0000-000-510			01/03/2024	7.48
EXPO Dry Erase Whiteboard Cleaning Spray 22oz		066-1000-619-100-0000-000-510			01/03/2024	10.71
Better Office Products Black Plastic 2 Pocket Folders with Brads		066-1000-619-100-0000-000-510			01/03/2024	69.84
Amazon Basics Woodcased #2 Pencils, Pre-sharpened		066-1000-619-100-0000-000-510			01/03/2024	46.89
Oxford Index Cards, 500 Pack, 3x5 Index Cards, Ruled		066-1000-619-100-0000-000-510			01/03/2024	17.98
300 Pcs Colorful Plastic Long Disposable Drinking Straws		066-1000-619-100-0000-000-510			01/03/2024	19.98
Avery 6113 All-Purpose Labels, 1 x 2.75 Inches, White		066-1000-619-100-0000-000-510			01/03/2024	4.38
10 Pack Dry Erase Music Staff Lap White Boards 9" x 12"		066-1000-619-100-0000-000-510			01/03/2024	147.96
11	1160	01/03/2024	68556	Julie Yu-Oppenheim	066 Prof Dev Presenter	100.00
066 Fine Arts Presenter for Prof Dev on January 4, 2024		066-2212-320-000-0000-000-705			01/03/2024	100.00
11	1161	01/03/2024	14462	Amazon Capital Services Inc.	066 MMS Art Class	37.99
Masking Tape General Purpose Masking Tape 55 Yards Painting Tape for Painting Home Office School Stationery Arts Crafts Basic Use (45 Rolls, 0.8 Inch)		070-1000-619-030-0000-000-505			01/03/2024	37.99
11	1162	01/03/2024	19123	Oklahoma Music Educators Assoc.	066 MHS Conf 1/17-20, 2024 Stout/Easley MuskogeeOK	240.00
066 MHS Vocal OkMES Conference Registration for S Stout and S Easley on Jan 17-20, 2024 in Muskogee Ok		066-2573-860-000-0000-000-705			01/03/2024	240.00
11	1163	01/03/2024	67046	COMMERCE BANK	026-TEMSA-Charter bus roof hatch	1,000.00
026-Temsa - Replacement roof hatch for sold charter bus		026-2740-612-000-0000-000-050			01/03/2024	1,000.00
11	1164	01/03/2024	63565	OSBORN'S RADIATOR INC	026-Blanket-Radiator Repairs	1,000.00
026-Blanket-Radiator Repairs		026-2740-612-000-0000-000-050			01/03/2024	1,000.00
11	1165	01/03/2024	10064	All Season Building Supply Co Inc	026-Blanket - Shop/bus supplies	500.00
026-Blanket - Shop/bus supplies		026-2740-612-000-0000-000-050			01/03/2024	500.00
11	1166	01/03/2024	86953	Bailey Gayle Carey	412 - Carey Mileage Reimbursement	200.00
Carey Mileage Reimbursement to BPA SLC Prep Bootcamp (Nov. 15th)		412-2213-580-316-8100-000-705			01/03/2024	107.42
		412-2213-580-316-8100-000-705			01/03/2024	92.58

Encumbrance Register

Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1157 - 49999, Fund(s): 11-General

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1167	01/03/2024	61446	OKLAHOMA SCHOOLS INSURANCE GROUP	016-Deductible	1,000.00
016-Deductible payment amount of $1000.00 for Bus Accident DOL 12.18.23			016-2720-521-000-0000-000-050		01/03/2024	1,000.00
11	1168	01/04/2024	67087	BLAKE'S AV SOLUTIONS LLC	054 - GATE Musical Sound Design	1,590.00
GATE Musical Sound Design Consultant			054-1000-322-251-0000-000-505		01/04/2024	397.50
			054-1000-322-251-0000-000-510		01/04/2024	397.50
			054-1000-322-251-0000-000-525		01/04/2024	397.50
			054-1000-322-251-0000-000-705		01/04/2024	397.50
11	1169	01/04/2024	67128	REBECCA WALKER	054 - GATE Musical Choreographer	1,000.00
GATE Choreographer Consultant			054-1000-322-251-0000-000-505		01/04/2024	250.00
			054-1000-322-251-0000-000-510		01/04/2024	250.00
			054-1000-322-251-0000-000-525		01/04/2024	250.00
			054-1000-322-251-0000-000-705		01/04/2024	250.00
11	1170	01/04/2024	68549	Payton Dickerson	054 - GATE Musical Costume Design	1,000.00
GATE Musical Costume Design Consultant			054-1000-322-251-0000-000-505		01/04/2024	250.00
			054-1000-322-251-0000-000-510		01/04/2024	250.00
			054-1000-322-251-0000-000-525		01/04/2024	250.00
			054-1000-322-251-0000-000-705		01/04/2024	250.00
11	1171	01/04/2024	10170	Apple, Inc.	054 - GATE Technology Supplies	9,000.00
#2111491851GATE Technology Supplies: 10.9-inch iPad Air Wi-Fi 64GB - Space Gray (Packaged in a 10-pack)#MMA63LL/A$5440.004-Year AppleCare+ for Schools - iPad / iPad Air / iPad mini#S7828LL/A$109 x 10 = $1090Apple Pencil (2nd Generation) #MU8F2AM/A$119.00 x 10 = $1190.00Smart Folio for iPad Air (5th generation) - Black#MH0D3ZM/A$79 x 10 = $790.00Apps and Books Credit for Education#D6701Z/AProcreate - $12.99 - x 10 = $129.90Inspire - $9.99 x 10 = 99.90Adobe Creative Cloud - $Free			054-1000-653-251-0000-000-505		01/04/2024	1,987.50
			054-1000-653-251-0000-000-505		01/04/2024	262.50
			054-1000-653-251-0000-000-510		01/04/2024	1,987.50
			054-1000-653-251-0000-000-510		01/04/2024	262.50
			054-1000-653-251-0000-000-525		01/04/2024	1,987.50
			054-1000-653-251-0000-000-525		01/04/2024	262.50
			054-1000-653-251-0000-000-705		01/04/2024	1,987.50
			054-1000-653-251-0000-000-705		01/04/2024	262.50
11	1172	01/04/2024	14462	Amazon Capital Services Inc.	412 - Wakefield Classroom Supplies	831.47
Wakefield Classroom Supplies such as large dry erase calendar, small dry erase boards, envelopes etc.			412-1000-619-312-8600-000-705		01/04/2024	831.47
11	1173	01/05/2024	68000	Ok Recreational Therapy Assoc	048-ORTA Membership Dues-Kennedy Dehne	40.00
048-ORTA Membership Dues-Kennedy Dehne			048-2573-810-100-0000-000-130		01/05/2024	40.00

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Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1157 - 49999, Fund(s): 11-General

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1174	01/05/2024	11059	Blick Art Materials, LLC	066 ME Art Class Items	758.62
066 ME Art Pink Pencil Top Erasers - Pink, Box of 144			066-1000-619-100-0000-000-105		01/05/2024	30.18
Scratch-Art Scratchboard - 8-1/2" x 11", Silver, 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	105.14
Prang Medium Weight Construction Paper - Holiday Green, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.45
Prang Medium Weight Construction Paper -Pink, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.45
Prang Medium Weight Construction Paper - Violet, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.45
Prang Medium Weight Construction Paper - Turquoise, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.45
Prang Medium Weight Construction Paper - Orange, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	7.29
Prang Medium Weight Construction Paper - Holiday Red, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	8.10
Prang Medium Weight Construction Paper - Black, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.75
Prang Medium Weight Construction Paper - Blue, 9" x 12", Pkg of 50 Sheets			066-1000-611-100-0000-000-105		01/05/2024	6.45
Richeson 60 lb Bulk Drawing Paper Pack - 12" x 18", 800 Sheets			066-1000-611-100-0000-000-105		01/05/2024	79.58
Richeson 60 lb Bulk Drawing Paper Pack - 9" x 12", 1400 Sheets			066-1000-611-100-0000-000-105		01/05/2024	67.57
Richeson Drawing Paper Pack - 18" x 24", 100 lb, 350 Sheets			066-1000-611-100-0000-000-105		01/05/2024	220.04
Richeson 60 lb Bulk Drawing Paper Pack - 18" x 24", 700 Sheets			066-1000-611-100-0000-000-105		01/05/2024	201.72
11	1175	01/05/2024	14462	Amazon Capital Services Inc.	066-Valley Elem Music Item	79.20
066 Valley MusicRemo KD-0608-01 Kids Percussion 8" Djembe Drum, Rain Forest			066-1000-619-100-0000-000-110		01/05/2024	79.20
11	1176	01/05/2024	68013	Pronoss LLC	017-Bus Repairs	23,713.51
017-Payment for bus repairs related to Claim#009845-001337-AP-01 DOL 12.6.23			017-2620-521-000-0000-000-050		01/05/2024	23,713.51
11	1177	01/05/2024	13038	PRO-ED INC	621 TOCS: Test of Childhood Stuttering	250.80
621 TOCS: Test of Childhood Stuttering			621-2152-614-239-0000-000-110		01/05/2024	250.00
621 Increase PO 11-1177 TOCS			621-2152-614-239-0000-000-110		01/12/2024	0.80
11	1178	01/05/2024	87254	Brittney Nicole Harvey	041 District Mileage 23-24 SY	500.00
041 District Mileage 23-24 SY			041-2340-580-239-0000-000-115		01/05/2024	97.49
			041-2340-580-239-0000-000-115		01/05/2024	402.51
11	1179	01/09/2024	14462	Amazon Capital Services Inc.	572 - Study Carrel for WIDA Testing	350.00
WIDA Testing Carrel's at the High School Level			572-1000-614-410-1310-000-705		01/09/2024	170.64
			572-1000-614-410-1310-000-705		01/09/2024	179.36

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1180	01/09/2024	14462	Amazon Capital Services Inc.	572 - EL Instructional Games	300.00
EL Instructional Games			572-1000-619-410-1310-000-150		01/09/2024	300.00
11	1181	01/09/2024	10702	OKLAHOMA DEPT OF CAREER & TECH	412 - Rachel Kain Harper Reg. Fee (1/25/24)	35.00
Rachel Kain Harper registration fee for FACS New Teacher Academy (1/25/24), Stillwater, OK			412-2213-860-314-8400-000-705		01/09/2024	35.00
11	1182	01/09/2024	86826	Rachel Xiomara Courtney Kain	412 - Blanket Mileage - Rachel Kain Harper	300.00
Rachel Kain Harper Blanket Mileage Reimbursement			412-2213-580-314-8400-000-705		01/09/2024	300.00
11	1183	01/09/2024	12697	National Science Teaching Assoc.	003 - NSTA Conference Baxter, Buel, Brakebill	1,195.00
003- NSTA Conference Baxter/Buel			003-2213-320-900-0000-000-140		01/09/2024	1,195.00
11	1184	01/09/2024	67046	COMMERCE BANK	002 - Hilton Denver City Center - 3/19/24	2,500.00
002 - Hilton Denver City Center - 3/19/24Attendees: Deana Baxter, Cherish Buel & Heather Brakebill3/19 - 3/23/24 Denver, CONSTA annual science Conference			002-2575-580-900-0000-000-140		01/09/2024	2,500.00
11	1185	01/09/2024	85288	HEATHER RACHEL BRAKEBILL	002 - Per Diem Uber reimburs PD conference 3/19	655.50
002 - Per Diem / Uber Reimbursement PD conference 3/19			002-2575-580-900-0000-000-140		01/09/2024	655.50
11	1186	01/09/2024	85425	DEANNA KELLEY BAXTER	002 - Per Diem PD Conference	355.50
002- Per Diem PD Conference 3/19			002-2575-580-900-0000-000-140		01/09/2024	355.50
11	1187	01/09/2024	83188	CHERISH L BUEL	002 - Per Diem PD Conference 3/19	355.50
002 - Per Diem PD Conference 3/19			002-2575-580-900-0000-000-140		01/09/2024	355.50
11	1188	01/09/2024	62855	TRAVEL SOURCE, INC	003 - Flight DEN Baxter, Buel, Brakebill PD 3/19	1,500.00
003- Flight to Denver for PD 3/19-3/23Baxter, Buel, Brakebill			003-2575-582-900-0000-000-140		01/09/2024	1,500.00
11	1189	01/09/2024	12994	PITSCO EDUCATION, LLC	070 - SREB Items	629.69
070 - SREB Items39 solar cars + shipping			070-1000-681-034-2250-000-140		01/09/2024	629.69
11	1190	01/09/2024	14462	Amazon Capital Services Inc.	070 - SREB items	894.86
070 - SREB ItemsMagnetic Water Kit Class Set			070-1000-681-034-2250-000-140		01/09/2024	313.70
070 - SREB ItemsTalos Lightning Strike Detector			070-1000-681-034-2250-000-140		01/09/2024	159.00
070 - SREB Items4pc Metal Block Set - Brass, Aluminum, Steel & Copper - 2" x 0.5" - for Density Investigation, Specific Gravity & Specific Heat Experiments - Eisco Labs			070-1000-681-034-2250-000-140		01/09/2024	292.17
070 - SREB ItemsLrg mobile rolling whiteboard			070-1000-681-034-2250-000-140		01/09/2024	129.99
11	1191	01/11/2024	14462	Amazon Capital Services Inc.	412- Moore Classroom Materials	133.82
Moore Classroom Materials such as robot parts (amp connectors, foam, rivets, protective glasses)			412-1000-681-315-8700-000-705		01/11/2024	133.82

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1192	01/11/2024	68555	Jackson Alexander Anderson	054 - GATE Composer Alma Matter Project	4,500.00
GATE Composer Alma Matter Project			054-1000-322-251-0000-000-505		01/11/2024	1,125.00
			054-1000-322-251-0000-000-510		01/11/2024	1,125.00
			054-1000-322-251-0000-000-525		01/11/2024	1,125.00
			054-1000-322-251-0000-000-705		01/11/2024	1,125.00
11	1193	01/11/2024	68561	Jim F Graves	054 - GATE Jazz Vocal Coach	600.00
GATE Jazz Vocal Coach			054-1000-322-251-0000-000-505		01/11/2024	150.00
			054-1000-322-251-0000-000-510		01/11/2024	150.00
			054-1000-322-251-0000-000-525		01/11/2024	150.00
			054-1000-322-251-0000-000-705		01/11/2024	150.00
11	1194	01/11/2024	14462	Amazon Capital Services Inc.	412 - Carey Classroom Equipment	1,154.44
Bailey Classroom Equipment such a 3D Printer(2) - FLASHFORGE Adventurer 5M Pro 3D Pinter with 1 Click Auto Printing Systerm, 600mm/s High-Speed, Quick Detachable 280°C Nozzle, Core XY All-Metal Structure, Multi-Functional 220x220x220mm 3D Printer			412-1000-653-316-8100-000-705		01/11/2024	1,154.44
11	1195	01/11/2024	12598	Nasco Education LLC	054 - Rumbaugh Classroom Supplies	150.00
Rumbaugh Classroom Supplies such as Wearable Circuits Kits			054-1000-681-251-0000-000-110		01/11/2024	50.00
			054-1000-681-251-0000-000-125		01/11/2024	50.00
			054-1000-681-251-0000-000-150		01/11/2024	50.00
11	1196	01/11/2024	14462	Amazon Capital Services Inc.	054 - Rumbaugh Classroom Supplies	141.59
Rumbaugh Classroom supplies such as letter beads and invoice books			054-1000-681-251-0000-000-110		01/11/2024	47.20
			054-1000-681-251-0000-000-125		01/11/2024	47.20
			054-1000-681-251-0000-000-150		01/11/2024	47.19
11	1197	01/11/2024	14462	Amazon Capital Services Inc.	412 - Carey Classroom Supplies	2,500.00
Carey Classroom Supplies such as hand sanitizer, pens, sharpies, ink cartridge etc.			412-1000-681-316-8100-000-705		01/11/2024	1,915.12
			412-1000-681-316-8100-000-705		01/11/2024	584.88
11	1198	01/11/2024	15147	LOWES CREDIT SERVICES	412 - Moore Blanket Lowe's	900.00
Moore Blanket Lowe's for classroom supplies			412-1000-681-315-8700-000-705		01/11/2024	900.00
11	1199	01/11/2024	83772	ERIN ANN HOLDER	412 - Erin Holder Blanket Mileage	300.00
Erin Holder Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-160		01/11/2024	300.00
11	1200	01/11/2024	80765	MATT E MOORE	412 - Matt Moore Blanket Mileage	300.00
Matt Moore Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-705		01/11/2024	300.00
11	1201	01/11/2024	84045	JESSICA LEIGH HOLMAN	412 - Jessica Holman Blanket Mileage	300.00
Jessica Holman Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-705		01/11/2024	300.00
11	1202	01/11/2024	85367	JEREMY EDWARD FORD	412 - Jeremy Ford Blanket Mileage	300.00
Jeremy Ford Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-525		01/11/2024	300.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1203	01/11/2024	85368	BRETT W COFFMAN	412 - Brett Coffman Blanket Mileage	300.00
Brett Coffman Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-505		01/11/2024	300.00
11	1204	01/11/2024	84643	JASON THOMAS ATHA	412 - Jason Atha Blanket Mileage	300.00
Jason Atha Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-510		01/11/2024	300.00
11	1205	01/11/2024	67046	COMMERCE BANK	024-Marijuana test kits	265.00
50 Marijuana test kits from SwabTek; one box is $125.00. I plan to order two. These will be used to test vape pens and other items where we believe marijuana is present to back up suspension appeals			024-2660-344-000-0000-000-050		01/11/2024	250.00
Increase to PO 1205 for shipping fee of $15.00			024-2660-344-000-0000-000-050		01/11/2024	15.00
11	1206	01/11/2024	67046	COMMERCE BANK	012-12 months CHATGPT- Kirk Wilson	240.00
Reimbursement for 12 months CHATGPT (12 x $20)			012-2490-653-000-0000-000-050		01/11/2024	240.00
11	1207	01/11/2024	68563	Baker Distributing Company LLC	023 -SERVICE SEMINAR FOR MANITOWOC ICE MACHINES	170.00
SERVICE SEMINAR FOR MANITOWOC ICE MACHINES FOR BRET LAMB FOR MONDAY FEBRUARY 6TH, 2024			023-3140-860-700-0000-000-050		01/11/2024	85.00
SERVICE SEMINAR FOR MANITOWOC ICE MACHINES FOR BRANDON RICHARDSON ON TUESDAY, FEBRUARY 6TH			023-3140-860-700-0000-000-050		01/11/2024	85.00
11	1208	01/11/2024	14569	Staples, Inc.	11-Gen Fund Classroom Supplies Blanket	600.00
11-Gen Fund Classroom Supplies Blanket			002-1000-611-900-0000-000-145		01/11/2024	200.00
			002-1000-619-900-0000-000-145		01/11/2024	113.18
			002-1000-619-900-0000-000-145		01/11/2024	86.82
			002-1000-681-900-0000-000-145		01/11/2024	200.00
11	1209	01/11/2024	68565	Music Workshops LLC	003- PD Funds Amanda Thomas Music	540.00
World Music Drumming Workshop Level 1Edmond, Oklahoma June 17-21, 2024Amanda Thomas- Riverwood Elementary			003-2213-860-900-1050-000-155		01/11/2024	540.00
11	1210	01/11/2024	14462	Amazon Capital Services Inc.	005-Tactile boards for Sci Dept	650.00
005-Science DepartmentOBEX Frameless Rectangular Tackboard - 24" x 36" Thick Panels, Display, Organize & Reduces Noise, Easy Hanging Acoustical Soundboard Tackboard for Offices, Classrooms, or Conference Rooms,			005-1000-619-100-0000-000-705		01/11/2024	650.00
11	1211	01/11/2024	68547	Obsidian F/X, Inc.	11-940 002 Author Visit 1/30	970.55
11-940 002Author Visit/Jennifer Nielsen			002-2199-322-900-0000-000-160		01/11/2024	970.55
11	1212	01/11/2024	14462	Amazon Capital Services Inc.	003 Prof. Dev. materials Magicfly magnetic sheet	69.98
Magicfly Magnetic adhesive sheet pack of 30 (2)			003-2575-619-900-0000-000-120		01/11/2024	69.98

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1213	01/11/2024	68063	Ventris Learning LLC	003 Manuals for PD (13 total)	978.25
13 manuals			003-2213-645-900-0000-000-120		01/11/2024	978.25
11	1214	01/11/2024	21547	CREATIVE MATHEMATICS	003 Creative Mathematics PD for 6 people	1,314.00
PD for 6 people to Creative Mathematics			003-2575-860-000-0000-000-120		01/11/2024	1,314.00
11	1215	01/11/2024	19612	DOLLAR TREE STORE	003 Prof. Dev. materials steel cookie pans	200.00
cookie sheets - 6 cases, 24 units per case			003-2575-619-000-0000-000-120		01/11/2024	200.00
11	1216	01/11/2024	14462	Amazon Capital Services Inc.	045 CPR Supplies	100.00
045 CPR Supplies			045-2132-616-239-0000-000-050		01/11/2024	24.06
			045-2132-616-239-0000-000-050		01/24/2024	75.94
11	1217	01/12/2024	14462	Amazon Capital Services Inc.	045 Nurse Bulk Supplies	600.00
045 Nurse Bulk Supplies			045-2132-616-239-0000-000-505		01/12/2024	207.92
			045-2132-616-239-0000-000-505		01/12/2024	392.08
11	1218	01/12/2024	99999	MUSTANG PUBLIC SCHOOLS	003 150 Professional Development Substitute Pay	1,320.00
Substitute payroll for professional development on 1/5 and 1/12			003-5600-930-900-0000-000-150		01/12/2024	1,320.00
11	1219	01/12/2024	16319	NAFME	066 Band Teacher Annual Membership Dues	1,518.00
066 MENC-NAFME Annual Membership Dues for Ryan Edgmon			066-2575-810-000-0000-000-705		01/12/2024	138.00
066 MENC-NAFME Annual Membership Dues for Jacob Hofer			066-2575-810-000-0000-000-705		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Chris Ozinga			066-2575-810-000-0000-000-510		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Cleon Chai			066-2575-810-000-0000-000-510		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Jessica Holt			066-2575-810-000-0000-000-525		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Shane Holmquist			066-2575-810-000-0000-000-525		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Jonathon Knopfel			066-2575-810-000-0000-000-505		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Nick Steward			066-2575-810-000-0000-000-505		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Craig Amendt			066-2575-810-000-0000-000-140		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Kyle Thompson			066-2575-810-000-0000-000-145		01/12/2024	138.00
MENC-NAFME Annual Membership Dues for Madison Fleming			066-2575-810-000-0000-000-160		01/12/2024	138.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1220	01/12/2024	15926	Oklahoma Music Educators Assoc	066 Band Teachers Conf Reg Jan 17-20, 2024 TulsaOK	1,320.00
066 Registration for Ryan Edgmon to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-705		01/12/2024	120.00
066 Registration for Jacob Hofer to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-705		01/12/2024	120.00
066 Registration for Chris Ozinga to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-510		01/12/2024	120.00
066 Registration for Cleon Chai to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-510		01/12/2024	120.00
066 Registration for Jessica Holt to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-525		01/12/2024	120.00
066 Registration for Shane Holmquist to attend OkMEA conference January 18-20, 2024 in Tulsa OK			066-2573-860-000-0000-000-525		01/12/2024	120.00
066 Registration for Jonathon Knopfel to attend OkMEA conference January 18-20, 2024 in Tulsa OK			066-2573-860-000-0000-000-505		01/12/2024	120.00
066 Registration for Nick Steward to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-505		01/12/2024	120.00
066 Registration for Craig Amendt to attend OkMEA conference January 18 -20, 2024 in Tulsa OK			066-2573-860-000-0000-000-140		01/12/2024	120.00
066 Registration for Kyle Thompson to attend OkMEA conference January 18-20, 2024 in Tulsa OK			066-2573-860-000-0000-000-145		01/12/2024	120.00
066 Registration for Madison Fleming to attend OkMEA conference January 18-20, 2024 in Tulsa OK			066-2573-860-000-0000-000-160		01/12/2024	120.00
11	1221	01/12/2024	14462	Amazon Capital Services Inc.	070-030 OAC Grant MNMS	148.66
070-030 MNMS Unjoo Whiteout Correction Tape, Easy To Use Applicator for Instant Corrections Correct Wrong Writing At Any Time, For school, Office (12pack, 5M/196" x 0.2", Black)			070-1000-619-030-0000-000-510		01/12/2024	9.99
Crayola Broad Line Markers Classpack (256 Ct), Bulk School Supplies For Teachers, Kids Markers For School, Classroom Supplies			070-1000-619-030-0000-000-510		01/12/2024	59.73
Rarlan Highlighters, Chisel Tip, Assorted Fluorescent, 96 Count Bulk Pack			070-1000-619-030-0000-000-510		01/12/2024	24.96
Astrobrights Mega Collection, Colored Paper, Punchy Pastel 5-Color Assortment, 625 Sheets, 24 lb./89 gsm, 8.5" x 11"			070-1000-611-030-0000-000-510		01/12/2024	20.99
Pacon Super Value Poster Board, 22"X28", White, 50 Sheets			070-1000-611-030-0000-000-510		01/12/2024	32.99

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1222	01/12/2024	11059	Blick Art Materials, LLC	070 OAC MMS Art Items	457.22
070 OACSoft-Kut Printing Block 12" x 12" by 1/4"			070-1000-619-030-0000-000-505		01/12/2024	31.50
Soft-Kut Printing Block 4"x6" by 1/4"			070-1000-619-030-0000-000-505		01/12/2024	68.70
Soft-Kut Printing Block 12" x 18" by 1/4"			070-1000-619-030-0000-000-505		01/12/2024	107.45
Sharpie Metallic Fine Point Markers and Sets			070-1000-619-030-0000-000-505		01/12/2024	72.77
Crayola Broad Line Marker Violet			070-1000-619-030-0000-000-505		01/12/2024	4.73
Crayola Broad Line Marker Green			070-1000-619-030-0000-000-505		01/12/2024	4.73
Crayola Broad Line Marker Orange			070-1000-619-030-0000-000-505		01/12/2024	4.73
Crayola Broad Line Marker Blue			070-1000-619-030-0000-000-505		01/12/2024	6.02
Crayola Broad Line Marker Red			070-1000-619-030-0000-000-505		01/12/2024	6.02
Crayola Broad Line Marker Yellow			070-1000-619-030-0000-000-505		01/12/2024	5.82
Amaco Wax Resist 16 oz			070-1000-619-030-0000-000-505		01/12/2024	16.38
Amaco Lead-Free Velvet Underglaze Ultra White 16 oz			070-1000-619-030-0000-000-505		01/12/2024	30.51
Amaco Teacher's Palette Glazes Pumpkin			070-1000-619-030-0000-000-505		01/12/2024	13.78
Teacher's Palette Glazes TP-24 Medium Blue			070-1000-619-030-0000-000-505		01/12/2024	13.78
Teacher's Palette Glazes TP-43 Green Leaf			070-1000-619-030-0000-000-505		01/12/2024	13.78
Blick Essentials Gloss Glaze Violet			070-1000-619-030-0000-000-505		01/12/2024	11.46
Fineline Precision Applicator Bottles and Tips, Pkg of 2 18 Gauge Tip			070-1000-619-030-0000-000-505		01/12/2024	30.04
Fineline Precision Applicator Bottles and Tips Pkg of 2 20 Gauge Tip			070-1000-619-030-0000-000-505		01/12/2024	15.02
11	1223	01/16/2024	66447	GINA SEWELL-DELANEY	412 - Gina Sewell-Delaney Blanket Mileage	300.00
Gina Sewell-Delaney Blanket Mileage Travel Expenses			412-2213-580-315-8700-000-140		01/16/2024	300.00
11	1224	01/16/2024	68562	David L Howard	054 - GATE Men's Vocal Coach	600.00
GATE Men's Vocal Coach			054-1000-322-251-0000-000-505		01/16/2024	150.00
			054-1000-322-251-0000-000-510		01/16/2024	150.00
			054-1000-322-251-0000-000-525		01/16/2024	150.00
			054-1000-322-251-0000-000-705		01/16/2024	150.00
11	1225	01/16/2024	21547	CREATIVE MATHEMATICS	003- PD Math Seminar	657.00
Making Every Math Minute CountMarch 27 2024 Oklahoma City Presenter Kim Sutton			003-2213-860-900-1050-000-155		01/16/2024	657.00
11	1226	01/16/2024	99999	MUSTANG PUBLIC SCHOOLS	003 - Sub Repay G. Delaney Career Tech PD 1/26	110.00
003 - Sub Repay G. Delaney Career Tech PD 1/26			003-5600-930-900-0000-000-140		01/16/2024	110.00
11	1227	01/17/2024	99999	MUSTANG PUBLIC SCHOOLS	014-Substitute coverage	330.00
Substitute Coverage for Erin Teddy January 17, 18, & 19th			002-5600-930-900-1050-000-125		01/23/2024	330.00
11	1228	01/17/2024	67046	COMMERCE BANK	026 - Airfare School Bus Summit - Tucson, AZ	500.00
026 - Airfare for Donnie Ryan to attend the School Bus Summit in Tucson, AZ March 13-15. Cost of airfare (not counting fees) will be reimbursed by conference			026-2573-582-000-0000-000-050		01/17/2024	500.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1229	01/17/2024	17451	J.W. Pepper & Son, Inc.	066 Band Sheet Music	300.00
066 Sheet Music for Band Department			066-1000-619-100-1195-000-705		01/17/2024	300.00
11	1230	01/17/2024	17652	Edmond Music Inc	066 Keyboard and Stand MHS Band Dept	720.00
066 Yamaha HD300 Harmony Director Keyboard			066-1000-655-100-1195-000-705		01/17/2024	600.00
Z Stand			066-1000-655-100-1195-000-705		01/17/2024	120.00
11	1231	01/17/2024	17652	Edmond Music Inc	066 MHS Band Mic/Speaker Stand	132.99
066 PA Mic/Speaker Stand			066-1000-655-100-3000-000-705		01/17/2024	132.99
11	1232	01/17/2024	99999	MUSTANG PUBLIC SCHOOLS	066 Band Mileage for 23-24	5,700.00
066 Band Mileage Reimbursement for 2023-2024			066-1000-580-100-0000-000-050		01/17/2024	326.98
			066-1000-580-100-0000-000-050		01/17/2024	5,373.02
11	1233	01/17/2024	17942	Mustang Times, LLC	Subscription	36.00
Subscription			011-2321-647-000-0000-000-050		01/17/2024	36.00
11	1234	01/18/2024	68332	Organization of American Kodaly Edu	003- 2024 OAKE Conference	390.00
March 14-17, 2024Chicago, ILFull registration: $280Choir participant: $30Mini-conference reg: $80Total: $390			003-2213-860-000-0000-000-150		01/18/2024	390.00
11	1235	01/18/2024	67296	Follett Content Solutions, LLC	006 Media Allocation Bond 34 - Book order	960.20
Follett book order for Bond 34, Media allocation for Trails			006-2220-641-000-0000-000-120		01/18/2024	960.20
11	1236	01/18/2024	61446	OKLAHOMA SCHOOLS INSURANCE GROUP	016-Deductible	1,000.00
016-Deductible payment in the amount of !000.00 for Bus Accident DOL 1.10.24			016-2720-521-000-0000-000-050		01/18/2024	1,000.00
11	1237	01/21/2024	64886	Mustang Hospitality, LLC	066 Musical Consultant Jan31-Feb 4 Hotel	600.00
066 Musical Rigging Consultant (Cameron Good) Hotel stay for Jan 31 - Feb 4, 2024			066-2199-810-000-0000-000-705		01/21/2024	600.00
11	1238	01/21/2024	68567	Jenny Wheelis	066 Vocal Accompanist Jan,Feb,Mar,Apr,May 2024	2,500.00
066 MHS Vocal Accompanist for Jan, Feb, March, April and May 2024			066-2199-810-100-3000-000-705		01/21/2024	2,500.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1239	01/21/2024	12960	Betrold Enterprises, Inc.	060 MHS Vocal OSSAA Contest Concert Music	1,975.00
066 MHS VocalGod is our Refuge and Strength SATB Allen Pote			066-1000-619-100-3000-000-705		01/21/2024	255.20
Dance on My Heart SSA Koepke			066-1000-619-100-3000-000-705		01/21/2024	68.20
Water Night SATB Whitacre			066-1000-619-100-3000-000-705		01/21/2024	77.50
Dulaman SATB Early			066-1000-619-100-3000-000-705		01/21/2024	214.50
Pax SATB Marshall Webb			066-1000-619-100-3000-000-705		01/21/2024	249.75
Salve Regina SSAA Busto			066-1000-619-100-3000-000-705		01/21/2024	128.10
Ouvre ton couer SSA Biddlecombe			066-1000-619-100-3000-000-705		01/21/2024	143.35
Dies Irae TBB Stroope			066-1000-619-100-3000-000-705		01/21/2024	18.20
Demon in my View TTBB Horvath			066-1000-619-100-3000-000-705		01/21/2024	85.50
Hope Is SSAA Randy Johnson			066-1000-619-100-3000-000-705		01/21/2024	90.00
Shenandoah SSA Arr. Goetze			066-1000-619-100-3000-000-705		01/21/2024	245.10
Sing Creations Music On SSA Steven Paulus			066-1000-619-100-3000-000-705		01/21/2024	123.75
The Seal Lullaby TB Eric Whitacre			066-1000-619-100-3000-000-705		01/21/2024	151.25
Viva Tutti TTB Arr. Hunter			066-1000-619-100-3000-000-705		01/21/2024	124.60
11	1240	01/21/2024	12834	OSSAA	066 State Contest Entry Fees 3-27& 4/3/24 at OU	750.00
066 OSSAA State Context Entries Fee for March 27, 2024 and April 3, 2024			066-1000-320-100-3000-000-705		01/21/2024	750.00
11	1241	01/21/2024	19251	Oklahoma Bandmasters Association	066 Band Festival Entries Middle Schools 4-4-24	900.00
066 Middle School Concert Band Festival Entries for April 4-5, 2024			066-1000-320-100-3000-000-505		01/21/2024	300.00
			066-1000-320-100-3000-000-510		01/21/2024	300.00
			066-1000-320-100-3000-000-525		01/21/2024	300.00
11	1242	01/21/2024	19251	Oklahoma Bandmasters Association	066 HS Concert Band Festival Entries 4-4-24	1,500.00
066 High School Concert Band Festival Entries April 4-5,2024			066-1000-320-100-3000-000-705		01/21/2024	1,500.00
11	1243	01/21/2024	68559	Consensus Cloud Solutions LLC	025 -J2 CLOUD NAME CHANGE - EFAX DISTRICT	3,304.20
REPLACING PO 11-463 APPROVED 8-3 -23J2 CLOUD IS NOW CONSENSUSEFAX FOR DISTRICT			025-2580-653-000-0000-000-050		01/21/2024	333.88
			025-2580-653-000-0000-000-050		01/21/2024	2,970.32
11	1244	01/21/2024	13059	PSYCHOLOGICAL ASSESSMENT RESOU	621 Emotional Disturbance Decision Tree EDDT	887.76
621 Emotional Disturbance Decision Tree EDDT - Kendra Kim			621-2140-614-239-0000-000-705		01/21/2024	887.76
11	1246	01/21/2024	13963	CAPITAL ONE TRADE CREDIT	389 - Misty Edison Blanket PO	500.00
High Dosage Tutoring Grant - Blanket PO (Supplies)			389-1000-681-429-0000-000-120		01/21/2024	29.24
			389-1000-681-429-0000-000-120		01/21/2024	70.76
			389-1000-681-429-0000-000-125		01/21/2024	29.25
			389-1000-681-429-0000-000-125		01/21/2024	70.75
			389-1000-681-429-0000-000-135		01/21/2024	29.25
			389-1000-681-429-0000-000-135		01/21/2024	70.75
			389-1000-681-429-0000-000-150		01/21/2024	29.25
			389-1000-681-429-0000-000-150		01/21/2024	70.75
			389-1000-681-429-0000-000-155		01/21/2024	29.25
			389-1000-681-429-0000-000-155		01/21/2024	70.75

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1247	01/21/2024	11381	FROG PUBLICATIONS	389- High Dosage Tutoring Grant Materials	3,000.00
SDE High Dosage Tutoring Grant - Classroom Materials for tutoring			389-1000-619-429-0000-000-120		01/21/2024	600.00
			389-1000-619-429-0000-000-125		01/21/2024	600.00
			389-1000-619-429-0000-000-135		01/21/2024	600.00
			389-1000-619-429-0000-000-150		01/21/2024	600.00
			389-1000-619-429-0000-000-155		01/21/2024	600.00
11	1248	01/21/2024	68530	REALLY GREAT READING COMPANY, LLC	389 - High Dosage Tutoring Grant	2,000.00
SDE High Dosage Tutoring Grant - Virtual Implementation Training for Teachers			389-1000-653-429-0000-000-120		01/21/2024	400.00
			389-1000-653-429-0000-000-125		01/21/2024	400.00
			389-1000-653-429-0000-000-135		01/21/2024	400.00
			389-1000-653-429-0000-000-150		01/21/2024	400.00
			389-1000-653-429-0000-000-155		01/21/2024	400.00
11	1249	01/21/2024	68530	REALLY GREAT READING COMPANY, LLC	389 - Really Great Reading Tutoring Materials	14,000.00
SDE High Dosage Tutoring Grant - Really Great Reading Tutoring Materials			389-1000-681-429-0000-000-120		01/21/2024	2,800.00
			389-1000-681-429-0000-000-125		01/21/2024	2,800.00
			389-1000-681-429-0000-000-135		01/21/2024	2,800.00
			389-1000-681-429-0000-000-150		01/21/2024	2,800.00
			389-1000-681-429-0000-000-155		01/21/2024	2,800.00
11	1250	01/21/2024	62855	TRAVEL SOURCE, INC	051 - NAGC '23 Travel Fees	90.00
NAGC '23 Travel Fees			051-2213-580-251-0000-000-050		01/21/2024	90.00
11	1251	01/22/2024	11059	Blick Art Materials, LLC	070 OAC CRI Art Supplies	57.37
070 OAC CRIBlick Hardwood Manikin 12" Male			070-1000-619-030-0000-000-145		01/22/2024	33.03
Blick essentials Gloss Glaze - Pint Indigo			070-1000-619-030-0000-000-145		01/22/2024	12.17
Blick Essentials Gloss Glaze - Candy Apple, Pint			070-1000-619-030-0000-000-145		01/22/2024	12.17
11	1252	01/22/2024	14462	Amazon Capital Services Inc.	070 OAC CRI Art Supplies	76.94
070 OAC CRI HP 952XL Black High-yield Ink Cartridge | Works with HP OfficeJet 8702, HP OfficeJet Pro 7720, 7740, 8210, 8710, 8720, 8730, 8740 Series | Eligible for Instant Ink | F6U19AN			070-1000-611-030-0000-000-145		01/22/2024	48.43
Helen's Asian Kitchen Dumpling Rolling Pin 10-Inches Natural Bamboo			070-1000-619-030-0000-000-145		01/22/2024	28.51
11	1253	01/24/2024	68549	Payton Dickerson	066-Musical Costume Construction	1,000.00
066 Musical Costume Construction for Wizard of Oz			066-2199-619-900-4000-000-705		01/24/2024	1,000.00
11	1254	01/24/2024	23416	TOUCAN PRODUCTIONS INC	066 Tech items for Musical	250.00
066 GOBOS for Musical Wizard of Oz			066-2199-653-900-4000-000-705		01/24/2024	90.00
Gel Sheets			066-2199-653-900-4000-000-705		01/24/2024	160.00
11	1255	01/24/2024	67956	Howard industries Inc	025-WALL MOUNT FOR LOCKDOWN DEVICES	210.00
Anti-Theft Tablet Wall MNTMPN: MI-3872B			025-2580-653-000-0000-000-050		01/24/2024	210.00
11	1256	01/24/2024	99999	MUSTANG PUBLIC SCHOOLS	003 150 Professional Development Substitute Pay	110.00
Substitute payroll for professional development on 1/29 (Cox)			003-5600-930-900-0000-000-150		01/24/2024	110.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1257	01/24/2024	13384	SCHOLASTIC	940 - Books for Book Vending Machine	300.00
940 - Books for Book Vending Machine			002-2199-641-900-1050-000-105		01/24/2024	300.00
11	1258	01/24/2024	14462	Amazon Capital Services Inc.	002-Books	149.39
Whole Brain Teaching for Challenging Kids			002-1000-641-900-1050-000-125		01/24/2024	149.39
11	1259	01/24/2024	67063	AMERICAN INDIAN CULTURAL FOUNDATION	561-FAMcamp Admission for Title VI students	13,500.00
561-FAMcamp Admission for Title VI students			561-1000-321-100-0000-000-105		01/24/2024	13,500.00
11	1260	01/24/2024	99999	MUSTANG PUBLIC SCHOOLS	003 - Sub Reimbursment	220.00
003 - Sub ReimbursementMcLeckie & CookOK Council of Social Studies Conference - OKCJan 30, 2024			003-5600-930-900-0000-000-525		01/24/2024	220.00
11	1261	01/24/2024	61177	DREW EICHELBERGER	003 PD registration New teacher workshop	540.00
New teacher WorkshopBaylee CederquistHannah GentryLisa LaredoShelbi DykesTaylor Harding - Free Aministrator			003-2575-860-900-0000-000-135		01/24/2024	540.00
11	1262	01/24/2024	23733	OKLAHOMA COUNCIL FOR SOCIAL STUDIES	003 - Conference Registration Jan 30	50.00
003 - Conference RegistrationJan 30, 2024OK Council for Social Studies - McLeckie & Cook			003-1000-860-900-0000-000-525		01/24/2024	50.00
11	1263	01/24/2024	14462	Amazon Capital Services Inc.	002 MNMS CABINET SAFETY LOCKS	129.99
CHILD SAFETY CABINET LOCKS FOR FUNCTIONAL SKILLS CLASSROOM			002-2199-619-900-0000-000-510		01/24/2024	129.99
11	1264	01/24/2024	62879	STEM Fuse LLC	002-Game IT Software for Game Designs	3,600.00
002- MHSWeb access to digital curriculum for game design classes at MHS			002-1000-346-100-0000-000-705		01/24/2024	3,600.00
11	1265	01/24/2024	66584	SHL US LLC	412 - Carey Certification Enrollment	635.25
Bailey Carey Certification Exams			412-1000-337-316-8100-000-705		01/24/2024	635.25
11	1266	01/24/2024	90833	NICHOL VICTORIA DESBIEN	572 - In District Mileage Request	200.00
In District Mileage Reimbursement for Nichole Destine			572-1000-580-410-1310-000-110		01/24/2024	45.49
			572-1000-580-410-1310-000-110		01/24/2024	54.51
			572-1000-580-410-1310-000-135		01/24/2024	45.49
			572-1000-580-410-1310-000-135		01/24/2024	54.51

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1267	01/26/2024	66640	Trafera Holdings, LLC	361 - Interactive Panels for HS	93,981.00
Estimate No: E000110208361 INTERACTIVE PANEL 75" 750Q 4K LED and WALL MOUNT FORNEWLINE PANELS UP TO86"			361-1000-653-426-0000-000-705		01/26/2024	85,756.00
WALL MOUNT FOR IFP 50-80" 310LB MAXChief Over-the-Whiteboard Interactive Display Mount- For Display 42-100" - Black bracket - for interactiveflat panel - silverChief Over -the-Whiteboard Interactive Display Mount- For Monitors 42-100" - Bracket - for interactive flatpanel - silver - screen size: 50"-80" - wall-mountable and One Seat On-Demand Training Platform			361-1000-653-426-0000-000-705		01/26/2024	8,225.00
11	1268	01/26/2024	14462	Amazon Capital Services Inc.	361-ACE Tech Items	445.88
361 Title Comments Price Quantity Total Hard-to-Find Fastener 014973240868 Fender Washers, 3/16 x 3/4, Piece-100			361-1000-653-426-0000-000-505		01/26/2024	28.00
1/4" x 1" OD Stainless Fender Flat Washer,18-8 (304) Stainless Steel,120 Pieces by Cerpourt |			361-1000-653-426-0000-000-505		01/26/2024	55.96
zcfochi 100PCS Zinc Self-Drilling Drywall Anchors, Hollow-Wall Anchors Kit with #8 x 1-1/4'' Screws,50 Heavy Duty Metal Wall Anchors and 50 Screws by zcfochi (Unknown Binding)			361-1000-653-426-0000-000-505		01/26/2024	45.96
TOGGLER SNAPTOGGLE Drywall Anchor 100-Pack 1/4-in Dia Toggle Bolt Drywall Anchor; Holds 265 pounds Each in 1/2-in Drywall by TOGGLER(2.5 inch Bolts Included) by TOGGLER (Unknown Binding)			361-1000-653-426-0000-000-505		01/26/2024	315.96
11	1269	01/26/2024	14462	Amazon Capital Services Inc.	066 Sensory Friendly Concert Ear Plugs	30.94
066 Quality Foam Earplugs 200 Pair-32dB Noise Cancelling Sound Blocking Soft Ear Plugs for Sleeping Travel Loud Music Concert Shooting Hunting Study Work Construction Safety Hearing Protection			066-1000-619-100-0000-000-705		02/05/2024	30.94
11	1270	01/26/2024	14578	SYNERGY DATA COM	361 ACE HDMI Raceway Tech Items	6,788.31
quote#1192510361 Ic Usb over Cat5e 60m/196ft			361-1000-653-426-0000-000-705		01/26/2024	944.10
Vanco 50ft High Speed HDMI Cable, Bulk			361-1000-653-426-0000-000-705		01/26/2024	3,019.50
Arlington 1g Cable Entrance Plate White			361-1000-653-426-0000-000-705		01/26/2024	237.00
Tyton 1 Gang Surface Mount Box White 1.2			361-1000-653-426-0000-000-705		01/26/2024	392.00
Wavenet Cat6 PVC Blue Box2000 Ft			361-1000-653-426-0000-000-705		01/26/2024	280.00
Ic FastCrimp CAT6 RJ45, 100PK			361-1000-653-426-0000-000-705		01/26/2024	46.86
C2G 3.5mm Stereo F to 2-RCA Male Cable			361-1000-653-426-0000-000-705		01/26/2024	161.55
Philmore 3.5mm Male/Male Stereo Cable 50			361-1000-653-426-0000-000-705		01/26/2024	551.25
Tripp-Lite 7-Outlet Surge Protector 7ft			361-1000-653-426-0000-000-705		01/26/2024	1,156.05

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1271	01/26/2024	62453	K.S. PRESS INC	066 Musical Programs	3,000.00
066 Musical Program Printing			066-2199-383-900-4000-000-705		01/26/2024	3,000.00
11	1272	01/26/2024	17451	J.W. Pepper & Son, Inc.	066 MBI Vocal Classroom Music	247.80
066 MBI Vocal MusicOne Minute Sight Singing # 1 By Holly Shaw-Slabbinck & Ronald Slabbinck Choral Book			070-1000-619-030-0000-000-160		01/26/2024	9.99
Making Sight Reading Fun Book by Mary Jane Phillips Teacher Book			070-1000-619-030-0000-000-160		01/26/2024	12.99
Sing at first Sight, Level 1 Reproducible Book and CD by Andy Beck, Karen Farnum Surmani & Brian Lewis Unison/Two-Part Reproducible Book & CD Companion			070-1000-619-030-0000-000-160		01/26/2024	39.95
Sing at First Sight(Foundations in Choral Sight-Singing)Andy Beck, Karen Farnum Surmani & Brian Lewis - Alfred Music Publishing			070-1000-619-030-0000-000-160		01/26/2024	39.95
Sing at First Sight Accessory Pack(32 Solfege and Rhythm Syllable Posters) Brian Lewis, Karen Farnum Surmani & Andy Beck - Alfred Music Publishing			070-1000-619-030-0000-000-160		01/26/2024	29.99
Sing at First Sight, Level 2 (Foundations in Choral Sight-Singing) Andy Beck, Karen Farnum Surmani & Brian Lewis - Alfred Music Publishing			070-1000-619-030-0000-000-160		01/26/2024	39.95
Sing at First Sight...More Melodies! Andy Beck & Brian Lewis - Alfred Music Publishing			070-1000-619-030-0000-000-160		01/26/2024	39.99
One-Minute Sight SingingHolly Shaw-Slabbinck & Ronald Slabbinck - Neil A. Kjos Music Company			070-1000-619-030-0000-000-160		01/26/2024	34.99
11	1273	01/26/2024	13963	CAPITAL ONE TRADE CREDIT	412- Cox Blanket PO (Classroom Supplies/Groceries)	2,000.00
Marinda Cox Blanket PO - Classroom Supplies and Groceries			412-1000-681-314-8400-000-705		01/26/2024	2,000.00
11	1274	01/26/2024	11592	HAC, INC.	412 - Cox Blanket PO Classroom Supplies/Groceries	500.00
Marinda Cox Blanket PO for Classroom Supplies and Groceries			412-1000-681-314-8400-000-705		01/26/2024	500.00
11	1275	01/26/2024	68571	Karsten Rex Longhurst	054 - GATE Men's Vocal Coach	600.00
GATE Men's Vocal Coach			054-1000-322-251-0000-000-505		01/26/2024	150.00
			054-1000-322-251-0000-000-510		01/26/2024	150.00
			054-1000-322-251-0000-000-525		01/26/2024	150.00
			054-1000-322-251-0000-000-705		01/26/2024	150.00
11	1276	01/26/2024	68557	Tutteo Inc	054 - GATE Flat for Education Licenses	150.00
GATE Flat for Education Licenses			054-1000-322-251-0000-000-505		01/26/2024	37.50
			054-1000-322-251-0000-000-510		01/26/2024	37.50
			054-1000-322-251-0000-000-525		01/26/2024	37.50
			054-1000-322-251-0000-000-705		01/26/2024	37.50
11	1277	01/26/2024	23066	AndyMark Inc.	412- MMoore Classroom Materials	550.00
Matt Moore Classroom Materials such as robot parts and robot batteries			412-1000-681-315-8700-000-705		01/26/2024	550.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1278	01/26/2024	67046	COMMERCE BANK	014 -Job Fair- Arkansas	175.00
Job Fair/Teacher Education Career Fair/University of Arkansas		014-2571-810-000-0000-000-050			01/26/2024	175.00
11	1279	01/26/2024	68579	Jennifer Jones, dba	003- Kinder Instructional items	3,003.00
P000120-06 Pink Fiction Books 6 pack		002-1000-641-900-1024-000-155			01/26/2024	2,145.00
M000120-06 Mint Non fiction 6 pack		002-1000-641-900-1024-000-155			01/26/2024	858.00
11	1280	01/26/2024	99999	MUSTANG PUBLIC SCHOOLS	003- Sub Coverage professional development	330.00
March 27th Professional Development Sub coverageMisty GroveJen WestNatalie Stalsworth		003-5600-930-900-1050-000-155			01/26/2024	330.00
11	1281	01/26/2024	85127	Donald E Ryan	029- School Bus Summit per diem and reimbursements	400.00
026 - Reimbursements and per diem for Donnie Ryan attending School Bus Summit in Tuscon, AZ March 13-15		026-2573-582-000-0000-000-050			01/26/2024	400.00
11	1282	01/26/2024	68553	House of Healing, Inc.	042-House Of Healing-Equine Therapy	3,000.00
042-House of Healing-Equine Therapy Groups-10 week session with MMS Boost Program.		042-1000-322-100-0000-000-505			01/26/2024	3,000.00
11	1283	01/26/2024	68000	Ok Recreational Therapy Assoc	048-Kennedy Dehne-2/24/24-Stillwater -Rec Therapy	150.00
048-Kennedy Dehne-Conference		048-2573-860-100-0000-000-130			01/26/2024	150.00
11	1284	01/26/2024	68000	Ok Recreational Therapy Assoc	048-Maggie Maples-Conference-2/24/24-OSU-CEU's	65.00
048-Maggie Maples-Conference		048-2575-860-100-0000-000-050			01/26/2024	65.00
11	1285	01/26/2024	68565	Music Workshops LLC	003 150 World Music Drumming Workshop	540.00
Registration for World Music Drumming WorkshopJennifer HootenJune 17-21, 2024University of Central Oklahoma100 N. University DriveEdmond, OK 73034		003-2213-860-000-0000-000-150			01/26/2024	540.00
11	1286	01/26/2024	67046	COMMERCE BANK	014 1099 Misc Forms	50.00
1099 Misc Tax Forms		014-2511-550-000-0000-000-050			01/26/2024	50.00
11	1287	01/26/2024	61222	SWOSU	014-Job Fair - SWOSU	50.00
SWOSU Spring Education Career & Resource Fair		014-2571-810-000-0000-000-050			01/26/2024	50.00
11	1288	01/26/2024	14462	Amazon Capital Services Inc.	11 Gen. Funds Tech. Supplies of classrooms	800.00
11 Gen. Funds Tech. Supplies of classrooms/teachers- wireless mouse, usb c dongle,chromebook chargers.		002-1000-653-900-0000-000-145			01/26/2024	800.00
11	1289	01/26/2024	67956	Howard industries Inc	002-Smart board display legs	888.00
Chief over the white board interactive display mount for display 42-100'black bracket 3 pack		002-1000-653-900-1050-000-125			01/26/2024	888.00
11	1290	01/26/2024	65037	FLASHFORGE USA, INC.	412 - Coffman Classroom Materials	200.00
Brett Coffman Classroom Materials such as filament		412-1000-611-315-8700-000-505			01/26/2024	200.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1291	01/26/2024	68573	CHANGING PERSPECTIVES INC	621 Educators Portal Subscriptions	420.00
621 Educators Portal Curriculum 1yr Subscription			621-1000-530-239-0000-000-140		01/26/2024	140.00
			621-1000-530-239-0000-000-505		01/26/2024	140.00
			621-1000-530-239-0000-000-510		01/26/2024	140.00
11	1292	01/26/2024	15117	Pearson Education Inc	621 OT Protocols	500.00
621 OT Testing Protocols			621-2135-614-239-0000-000-145		01/26/2024	500.00
11	1293	01/29/2024	14462	Amazon Capital Services Inc.	002 - Weight Room Equipment	420.00
Chris Sawyer/SouthGW Tech Barbell Clamps 2 inch, Heavy Duty Exercise Collars 2" Quick Release Pair of Locking Pro Olympic Weight Bar Plate Locks Collar Clips for Workout Weightlifting Fitness Training - Red			002-1000-619-900-0000-000-505		01/29/2024	160.00
Rage Fitness Olympic Training Barbell (6FT) (15 Pound Weight) (300 LBS Capacity), Home Gym Fitness Equipment, Strength Training Workout Bar, Weight bar for Squats, Deadlift, Weightlifting, Bench Press			002-1000-619-900-0000-000-505		01/29/2024	260.00
11	1294	01/29/2024	10583	CDW GOVERNMENT, LLC	002 150 ViewSonic PA700X Projector	385.99
Quote from Annette Marshall:QUOTE# NRWR525ViewSonic PA700X - Lumens XGA High Brightness Projector#7404930			002-2199-652-000-0000-000-150		01/29/2024	385.99
11	1295	01/29/2024	66397	MNJ TECHNOLOGIES DIRECT, INC.	002-Additional projectors for MHS	2,553.55
002- MHSNEC Display NP_MV423W LCD Projector 16:10MFG Part No: NP-MC423W#MNJ 15263788			002-1000-653-100-0000-000-705		01/29/2024	2,553.55
11	1296	01/30/2024	23066	AndyMark Inc.	412 - Moore Classroom Materials	574.18
Matt Moore Classroom materials for robots such as stealth wheels and timing belts			412-1000-681-315-8700-000-705		01/30/2024	574.18
11	1297	01/30/2024	14462	Amazon Capital Services Inc.	412 - Moore Classroom Materials	60.00
Matt Moore classroom materials such as thermoplastic rubber and vinyl			412-1000-681-315-8700-000-705		01/30/2024	60.00
11	1298	01/30/2024	16447	GUILLOWS INC	412 - Atha Classroom Materials	200.00
Jason Atha Classroom Materials such as Glider Packs			412-1000-681-315-8700-000-510		01/30/2024	200.00
11	1299	01/30/2024	17621	American Plant Products & Svcs Inc	412 - Conway AG Supplies	1,000.00
Chris Conway AG Materials such as pots, soil, fertilizer, and greenhouse supplies			412-1000-681-311-8000-000-705		01/30/2024	1,000.00
11	1300	01/30/2024	14462	Amazon Capital Services Inc.	412 - Cox Classroom Supplies	75.00
Marinda Cox Classroom Supplies such as Nitrile gloves			412-1000-681-314-8400-000-705		01/30/2024	75.00
11	1301	01/30/2024	94087	TONYA DAWN WYATT	572 TW PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Tonya Wyatt Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-510		01/30/2024	350.00
11	1302	01/30/2024	80188	ROSARIO C CHAVEZ	572 RC PD Plain Talk (1/20-2/2, New Orleans, LA)	350.00
Rosario Chavez Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-705		01/30/2024	350.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1303	01/30/2024	81832	STACY MATTINGLY	572 SM PD Plain Talk(1/30-2/2, New Oceans, LA)	350.00
Stacy Mattingly Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-705		01/30/2024	350.00
11	1304	01/30/2024	85945	STEPHANIE RENEE WESTMORELAND	572 SW PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Stephanie Westmorland Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-160		01/30/2024	175.00
			572-2213-580-410-1310-000-525		01/30/2024	175.00
11	1305	01/30/2024	84311	KRISTINA ANN DUNN	572 KD PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Kristina Dunn Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-140		01/30/2024	175.00
			572-2213-580-410-1310-000-505		01/30/2024	175.00
11	1306	01/30/2024	83513	KATIE LOUISE PRUETT	572 KP PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Katie Pruitt Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-115		01/30/2024	175.00
			572-2213-580-410-1310-000-145		01/30/2024	175.00
11	1307	01/30/2024	90833	NICHOL VICTORIA DESBIEN	572 ND PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Nichol Desbien Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-110		01/30/2024	175.00
			572-2213-580-410-1310-000-135		01/30/2024	175.00
11	1308	01/30/2024	85392	CALLEY ANN MARTINEZ	572 CM PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Calley Martinez Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-105		01/30/2024	175.00
			572-2213-580-410-1310-000-125		01/30/2024	175.00
11	1309	01/30/2024	22345	AMANDA MILLS	572 AM PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Amanda Mills Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-150		01/30/2024	350.00
11	1310	01/30/2024	90251	KELLY TROTTER	572 KT PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Kelly Trotter Per Diem - Plain Talk (1/30-1/2, New Orleans, LA)			572-2213-580-410-1310-000-125		01/30/2024	175.00
			572-2213-580-410-1310-000-155		01/30/2024	175.00
11	1311	01/30/2024	83385	AMY LYN WILSON	541-AW PD Plain Talk (1/30-2/2 New Orleans)	350.00
Amy Wilson Per DiemPlain Talk Literacy Conference1/30-2/2, 2024 New Orleans, LA			541-2213-580-429-0000-000-150		01/30/2024	350.00
11	1312	01/30/2024	81812	JENNIFER JOY PENICK	541-JP PD Plain Talk (1/30-2/2 New Orleans)	350.00
Jennifer Penick Per DiemPlain Talk Literacy Conference1/30-2/2, 2024 New Orleans, LA			541-2213-580-429-0000-000-105		01/30/2024	350.00
11	1313	01/30/2024	81643	JANA KINCAID MALONE	541-JM PD Plain Talk (1/30-2/2 New Orleans)	350.00
Jana Malone Per DiemPlain Talk Literacy1/30-2/2, 2024 New Orleans, LA			541-2213-580-429-0000-000-125		01/30/2024	350.00
11	1314	01/30/2024	85448	JAMIE MICHELLE SUMMERS	541-JS PD Plain Talk (1/30-2/2 New Orleans)	350.00
Jamie Summers Per DiemPlain Talk Literacy Conference1/30-2/2, 2024 - New Orleans, LA			541-2213-580-429-0000-000-120		01/30/2024	350.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1315	01/30/2024	81991	MISCHA KAY GRAY	541-MG PD Plain Talk (1/30-2/2 New Orleans, LA)	350.00
Mischa Gray Per DiemPlain Talk Conference1/30-2/2, 2024 New Orleans, LA		541-2213-580-429-0000-000-155		01/30/2024		350.00
11	1316	01/30/2024	82704	SHATHAR MARIE BATES	541-SB PD Plain Talk (1/30-2/2 New Orleans, LA)	350.00
Shathar Bates Per DiemPlain Talk Literacy Conference1/30-2/2, 2024New Orleans, LA		541-2213-580-429-0000-000-135		01/30/2024		350.00
11	1317	01/30/2024	86359	CRYSTAL DAWN WILLINGHAM	541-CW PD Plain Talk (1/30-2/2 New Orleans, LA)	350.00
Crystal Willingham Per DiemPlain Talk Literacy Conference1/30-2/2, 2024 New Orleans, LA		541-2213-580-429-0000-000-115		01/30/2024		350.00
11	1318	01/30/2024	82218	AMY DANIELLE HILL	541-AH PD Plain Talk (1/30-2/2 New Orleans, LA)	350.00
Amy Hill Per DiemPlain Talk Literacy Conference1/30-2/2, 2024, New Orleans, LA		541-2573-580-429-0000-000-050		01/30/2024		350.00
11	1319	01/30/2024	83397	MISTY D EIDSON	541 -ME PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Misty Eidson Per DiemPlain Talk Literacy Conference1/30-2/2, 2024 - New Orleans, LA		541-2573-580-429-0000-000-050		01/30/2024		350.00
11	1320	01/30/2024	86810	Lesa Lyn Rohrer	541-LR PD Plain Talk (1/30-2/2, New Orleans, LA)	350.00
Lesa Rohrer Per DiemPlain Talk Conference (1/30-2/2, 2024)New Orleans, LA		541-2573-580-429-0000-000-050		01/30/2024		350.00
11	1321	01/30/2024	82988	SHANDA LYNNE CUMMINGS	541 - SC PD Plain Talk (1/30-2/2, New Orleans)	350.00
Shanda Cummings Per Diem Plain Talk Literacy Conference (1/30-2/2)		541-2573-580-429-0000-000-050		01/30/2024		350.00
11	1322	01/30/2024	21339	TCO, LLC	025-UPS BATTERIES	3,975.00
SLA1079 IB 12 8 SLA 250		025-2580-653-000-0000-000-050		01/30/2024		1,860.00
SLA1056 IB 12 5 SLA 250		025-2580-653-000-0000-000-050		01/30/2024		1,692.00
		025-2580-653-000-0000-000-050		01/30/2024		423.00
11	1323	01/30/2024	14462	Amazon Capital Services Inc.	012 - Office Supplies	93.75
012- Tripod and Tape		012-2490-619-000-0000-000-050		01/30/2024		80.88
012-shipping and handling for PO 2024-11-1323		012-2490-619-000-0000-000-050		01/31/2024		12.87
11	1324	02/01/2024	68063	Ventris Learning LLC	002-Books for teachers	245.00
Fund 11 - Books for Teachers		002-1000-641-100-1050-000-115		02/01/2024		225.00
Fund - 11 Shipping for Books		002-2212-641-100-1050-000-115		02/01/2024		20.00
11	1325	02/01/2024	67046	COMMERCE BANK	024Hotel Phoenix NASRO conf July 14-19, 2023	1,500.00
Hotel for Jennifer Newell to attend the 2024 NASRO conf. in Phoenix, AZ. Current hotel is JW Marriott Phoenix Desert Ridge or overflow hotel- estimate $205/night for 6 nights		024-2660-580-000-0000-000-050		02/01/2024		1,500.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1326	02/01/2024	67046	COMMERCE BANK	024-Reg for NASRO conf July 14-19, 20204	550.00
Registration for the 2024 NASRO conference. This will be held in Phoenix, AZ, July 14-19, 2024. $550.00 - for Jennifer Newell			024-2660-860-000-0000-000-050		02/01/2024	550.00
11	1327	02/05/2024	67046	COMMERCE BANK	412 - Hampton Inn - 03/06/24	700.00
Hotel Accommodations to Hampton Inn for Jessica Holman and Matt Moore (03/06-03/09/24, Broken Arrow, OK) for Tulsa Regionals Event			412-2213-580-315-8700-000-705		02/05/2024	700.00
11	1328	02/05/2024	14462	Amazon Capital Services Inc.	11-066 NMS Vocal Class Supplies	129.29
066 MNMS Vocal Rarlan Washable Markers Bulk, Markers for Kids, Bulk pack, 12 Colors, 240 Count			066-1000-619-100-0000-000-510		02/05/2024	42.99
Amazon Basics 1/3-Cut Tab, Assorted Positions File Folders, Letter Size, Manila - Pack of 100			066-1000-619-100-0000-000-510		02/05/2024	20.42
Getinbulk Compact Tabletop Mount Mirror Bulk, Round Makeup Mirror for Purse, Set of 36 (4-Color), Black,blue,white, Red			066-1000-619-100-0000-000-510		02/05/2024	20.89
Rarlan Highlighters, Chisel Tip, Assorted Fluorescent, 96 Count Bulk Pack			066-1000-619-100-0000-000-510		02/05/2024	44.99
11	1329	02/05/2024	11059	Blick Art Materials, LLC	066 Creek Art Supplies	146.03
066 Creek Art Water-Soluble Block Printing Ink			066-1000-619-100-0000-000-125		02/05/2024	3.90
Water-Soluble Block Printing Ink			066-1000-619-100-0000-000-125		02/05/2024	3.90
Water-Soluble Block Printing Ink			066-1000-619-100-0000-000-125		02/05/2024	3.90
Crayola Oil Pastels - Neon Colors, Set of 12			066-1000-619-100-0000-000-125		02/05/2024	34.50
Crayola Oil Pastels - Assorted Colors, Classpack of 336			066-1000-619-100-0000-000-125		02/05/2024	42.22
Kwik Stix Tempera Paint Stick Set - Metalix Colors, Set of 6			066-1000-619-100-0000-000-125		02/05/2024	57.61
11	1330	02/05/2024	11059	Blick Art Materials, LLC	066 NMS Art Supplies	170.04
066 NMS Art Blickrylic Student Acrylics - Chrome Yellow, Half Gallon			066-1000-619-100-0000-000-510		02/05/2024	17.82
Blickrylic Student Acrylics - Blockout White, Half Gallon			066-1000-619-100-0000-000-510		02/05/2024	17.82
Blickrylic Student Acrylics - Mars Black, Half Gallon			066-1000-619-100-0000-000-510		02/05/2024	17.82
Blick Studio Drawing Pencils - Class Pack of 144			066-1000-619-100-0000-000-510		02/05/2024	116.58
11	1331	02/05/2024	14462	Amazon Capital Services Inc.	002 - Pencil Sharpeners	700.00
Shiella Vardeman/SouthX-ACTO(R) SchoolPro(R) Electric Pencil Sharpener, 001670			002-1000-619-900-0000-000-505		02/05/2024	700.00
11	1332	02/05/2024	99998	MUSTANG SCHOOL ACTIVITY	042-Transportation-House Of Healing	1,000.00
042-Transportation to and from House of Healing for Equine Therapy			042-5200-930-100-0000-000-505		02/05/2024	1,000.00

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Fund	PO No	Date	Vendor No	Vendor	Description	Amount
11	1333	02/05/2024	68593	Mary Lollis	054 - GATE Clinician for MS Band Assessment	650.00
GATE Clinician for MS Band Assessment			054-1000-322-251-0000-000-505		02/05/2024	162.50
			054-1000-322-251-0000-000-510		02/05/2024	162.50
			054-1000-322-251-0000-000-525		02/05/2024	162.50
			054-1000-322-251-0000-000-705		02/05/2024	162.50
11	1334	02/05/2024	67046	COMMERCE BANK	054 - Embassy Suites - 03/05/24	200.00
GATE Accommodation for Mary Lollis (03/05-03/06/2024, OKC Will Rogers Airport) - Clinician for MS Band Assessment			054-1000-322-251-0000-000-505		02/05/2024	50.00
			054-1000-322-251-0000-000-510		02/05/2024	50.00
			054-1000-322-251-0000-000-525		02/05/2024	50.00
			054-1000-322-251-0000-000-705		02/05/2024	50.00
11	1335	02/05/2024	68027	Lonnie Thomas Dobbs	054- GATE Clinician for MS Band Assessment	650.00
GATE Clinician for MS Band Assessment			054-1000-322-251-0000-000-505		02/05/2024	162.50
			054-1000-322-251-0000-000-510		02/05/2024	162.50
			054-1000-322-251-0000-000-525		02/05/2024	162.50
			054-1000-322-251-0000-000-705		02/05/2024	162.50
11	1336	02/05/2024	68341	Carey N Morrow	337 - OAC Grant Guitar Instructor for Alt Ed	3,900.00
377 - OAC Grant Guitar Instructor for Alt Ed Jan-May 2024			337-1000-322-100-0000-000-750		02/05/2024	3,900.00
11	1337	02/05/2024	16705	Multi-Health Systems, Inc.	621 Psych Supplies	1,750.00
621 Psych Supplies			621-2140-614-239-0000-000-050		02/05/2024	1,750.00
11	1338	02/05/2024	64696	RIVERSIDE ASSESSMENTS, LLC	621 Psych Testing Protocols	6,000.00
621 Psych Testing Protocols			621-2140-614-239-0000-000-050		02/05/2024	6,000.00
11	1339	02/05/2024	15117	Pearson Education Inc	621 Psych Protocols and Kits	6,000.00
621 Psych Protocols and Kits - District Use			621-2140-614-239-0000-000-050		02/05/2024	6,000.00
11	1340	02/05/2024	64409	ROGUE COMP AUTOMOTIVE INC.	026-Blanket Bus Repairs	5,000.00
026-Blanket; Bus repairs			026-2740-612-000-0000-000-050		02/05/2024	5,000.00
11	1341	02/05/2024	12785	OKLAHOMA LIBRARY ASSOCIATION	003 Librarian Conf in Tulsa, OK 3/7-8/24	250.00
003 OK Library Assoc ConferenceJessica PoolTulsa, OK March 7-8/2024			003-2213-320-900-0000-000-160		02/05/2024	250.00
11	1342	02/05/2024	13119	REALLY GOOD STUFF	002 Kinder Curriculum and classroom supplies	553.88
Qty 6 305364 AlphabetArcs 59.99/359.94Qty 6 305265 CVC Cards and tiles 26.99/161.94Free Shipping			002-1000-681-900-1024-000-155		02/05/2024	521.88
Qty 4 708464 Staplers 7.99/32.00			002-2410-619-900-1024-000-155		02/05/2024	32.00
11	1343	02/05/2024	14092	WPS PUBLISHERS DISTRIBUTERS	621 Speech Protocols	950.00
621 Speech Protocols			621-2152-614-239-0000-000-110		02/05/2024	950.00
11	1344	02/05/2024	14462	Amazon Capital Services Inc.	621 DD Classroom Supplies @ MEC	365.00
621 DD Classroom Furniture @ MEC			621-1000-651-239-0000-000-130		02/05/2024	300.00
621 DD Classroom Supplies @ MEC			621-1000-619-239-0000-000-130		02/05/2024	65.00

Non-Payroll Total:	**$309,313.10**
Payroll Total:	**$0.00**
Balance Forward:	**$0.00**
Report Total:	**$309,313.10**

Encumbrance Register

Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 187 - 500, Fund(s): 21-Building

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
21	187	01/03/2024	68554	PetroChoice Holdings, Inc.	037-Oil and other fluids for white fleet	1,500.00
037-Purchase oil and other fluids for the white fleet vehicles			037-2620-618-000-0000-000-000		01/03/2024	465.00
			037-2620-618-000-0000-000-000		01/03/2024	1,035.00
21	188	01/04/2024	18261	Carrier Enterprise, LLC	036-Blanket for Misc Parts and Supplies	1,500.00
036-Blanket for Misc parts and supplies			036-2620-656-000-0000-000-000		01/04/2024	44.61
			036-2620-656-000-0000-000-000		01/04/2024	1,440.36
			036-2620-656-000-0000-000-000		01/04/2024	15.03
21	189	01/05/2024	63646	MIDWEST MACHINERY OK, INC	036-Parts/supplies	1,200.00
036-Camus Sola Display, Black			036-2620-655-000-0000-000-000		01/05/2024	1,200.00
21	190	01/11/2024	68563	Baker Distributing Company LLC	032-Manitowoc Ice Machine Training	255.00
032-Manitowoc training for Michael Higgins, Roy Mason on Monday, February 5, 2024 and Brian Walters on Tuesday, February 6, 2024.			032-2620-860-000-0000-000-000		01/11/2024	255.00
21	191	01/16/2024	68156	Perry Weather, Inc.	Three Additional Monitoring Stations	10,941.00
Adding Three Additional Monitoring Stations (North MS, Central MS and Prairie View), plus additional user licenses, through June 2025			099-2620-653-000-0000-000-150		01/16/2024	3,647.00
			099-2620-653-000-0000-000-510		01/16/2024	3,647.00
			099-2620-653-000-0000-000-525		01/16/2024	3,647.00
21	192	01/17/2024	23237	Contract Paper Group Inc	035-One truck load of copy paper	25,065.60
035-Purchase one truck load of copy paper - 840 cases			035-2620-611-000-0000-000-000		01/17/2024	25,065.60
21	193	01/18/2024	99998	MUSTANG SCHOOL ACTIVITY	017-HS Furniture Reimbursement	6,117.76
Reimbursement to HS Activity Fund 131 for insurance proceeds on items that were water damaged from the 12.21.23 freeze event			017-2620-651-000-0000-000-705		01/18/2024	6,117.76
21	194	01/18/2024	14053	YORK INTERNATIONAL	036-Inducer Motor for FB Fieldhouse	750.00
036-Inducer Motor for the FB Fieldhouse			036-2620-656-000-0000-000-705		01/18/2024	750.00
21	195	01/21/2024	62873	Classic Paper Supply, Inc.	034-Ice Melt	735.00
Ice melt(Rock Salt-Chicago Market Pricing)			034-2620-618-000-0000-000-050		01/21/2024	735.00
21	196	01/21/2024	63339	Lux Lawns, LLC	034-Inclement Weather contractor(treat)	1,500.00
Treat with Ice melt, ice melt pre treat, scrapping with equipment			034-2620-420-000-0000-000-050		01/21/2024	1,500.00
21	197	01/21/2024	63161	Stryker Integrated Solutions LLC	032-Blanket for Safety Repairs DW	15,000.00
032-Blanket for Safety Equipment repairs district wide			032-2620-438-000-0000-000-000		01/21/2024	15,000.00
21	198	01/29/2024	87105	Christopher D Deloe	032-ASC Certification fee	150.00
032-ASC Certification fee reimbursement.			032-2620-810-000-0000-000-000		01/29/2024	150.00

Encumbrance Register

Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 187 - 500, Fund(s): 21-Building

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
21	199	01/30/2024	15012	Dell Marketing LP	031-New OptiPlex for General Maintenance	878.37
031-031-OptiPlex Micro for the General Maintenance Department. This will be for the GM employees for work orders/wengage/ etc.eQuote3000171611698			031-2620-653-000-0000-000-000		01/30/2024	878.37
21	200	02/01/2024	13894	UNITED REFRIGERATION, INC.	036-AC Unit for MEC	2,000.00
036-New Thermal Zone A/C 14 Seer 4.0 ton 1 phase 208/230 unit for MEC, also a diversitech HPR-6-2PG 6" Pump Riser, and other misc parts and supplies to install			036-2620-656-000-0000-000-130		02/01/2024	2,000.00

Non-Payroll Total:	**$67,592.73**
Payroll Total:	**$0.00**
Balance Forward:	**$0.00**
Report Total:	**$67,592.73**

Mustang Public Schools

Encumbrance Register

Options: Year: 2023-2024, Date Range: 1/2/2024 - 2/6/2024, PO Range: 176 - 500, Fund(s): 34-2012 Recurring

Fund	PO No	Date	Vendor No	Vendor	Description	Amount
34	176	01/04/2024	14066	YUKON TROPHY CO.	089-Signage	100.00
089-Signage for Office Doors at the MERC			089-2620-651-000-0000-000-050		01/04/2024	16.50
			089-2620-651-000-0000-000-050		01/04/2024	83.50
34	177	01/09/2024	17942	Mustang Times, LLC	088 - Bid Advertisement for MS HVAC	500.00
088 - Bid Advertisement for MS HVAC			088-2560-540-000-0000-000-000		01/09/2024	500.00
34	178	01/09/2024	64677	Jones General Contractors, LLC	085-Remove/Repair sidewalk areas at TE	4,716.00
085-Repair/Remove/and replace sidewalk areas at Trails Elementary			085-2620-455-000-0000-000-120		01/09/2024	4,716.00
34	179	01/09/2024	67475	BURGESS BUILDING COMPANY LLC	087-ARC Release Device at MB	3,000.00
085-Installation of replac ement ARC release device and reinspection to the Cornell Fire Door at MB.			087-2620-438-000-0000-000-160		01/09/2024	3,000.00
34	180	01/09/2024	12971	HERTZBERQ-NEW METHOD, INC.	Bond Funds 155 Media	967.23
Perma Bound Books 54 titles Q-17702093			006-1000-641-900-1050-000-155		01/09/2024	967.23
34	181	01/09/2024	12971	HERTZBERQ-NEW METHOD, INC.	006- Books for Library	610.00
Q-17676618, Books for Media Center			006-2220-641-900-1050-000-150		01/09/2024	610.00
34	182	01/11/2024	15147	LOWES CREDIT SERVICES	087-New Refrigerator for HS FACS	1,899.00
087-Purchase a new refrigerator for the FACS classroom at the HS "C" Hall			087-2620-651-000-0000-000-705		01/11/2024	1,899.00
34	183	01/16/2024	12971	HERTZBERQ-NEW METHOD, INC.	#006 - Library Books	945.00
Mandy Sawyer/SouthLibrary Books			006-2220-641-900-0000-000-505		01/16/2024	945.00
34	184	01/16/2024	12124	LARSEN MUSIC CO.	064 Music Items for MEC	1,519.92
064 8 Yamaha GIGMAKERCLAS Gigmaker Classical Pack C40 PKG Guitars.			064-1000-655-100-0000-000-130		01/16/2024	1,519.92
34	185	01/18/2024	67296	Follett Content Solutions, LLC	006- Library Books, List number 207215977,	79.00
Library books, Attention-Address: Mustang Public Schools, 12400 SW 15th, Yukon, OK 73099DNE: $79.00			006-2220-641-900-1050-000-110		01/18/2024	71.06
			006-2220-641-900-1050-000-110		01/18/2024	7.94
34	186	01/18/2024	67296	Follett Content Solutions, LLC	Fund 34 Proj 006 Books Media Budget for 2023-24	809.68
Fund 34 Media Book Funds for 2023/24			006-2220-641-100-1050-000-115		01/18/2024	809.68
34	187	01/18/2024	67014	EVCO SERVICE CO., INC	037-Tractor Repair	1,500.00
037-Hydraulic pump repair on the John Deere Tractor			037-2640-439-000-0000-000-000		01/18/2024	1,500.00
34	188	01/29/2024	63793	Goforth Plumbing & Mechanical, LLC	085-Concrete and water main repair at Horizon	28,000.00
085-Concrete and water main repair at Horizon Intermediate			085-2620-455-000-0000-000-140		01/29/2024	28,000.00
34	189	02/01/2024	14129	FOLLETT SCHOOL SOLUTIONS, INC	006 - Books for Library	838.23
006 - Books for Library			006-2220-641-900-0000-000-105		02/01/2024	838.23

Non-Payroll Total:	**$45,484.06**
Payroll Total:	**$0.00**
Balance Forward:	**$0.00**
Report Total:	**$45,484.06**

Change Order Listing

Options: Fund(s): 11-General, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 1156, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
62	07/01/2023	14462	Amazon Capital Services Inc.	041 Blanket Admin General Supplies		-0.66
Administration General Supplies		041-2490-619-239-0000-000-050		07/01/2023	01/17/2024	-0.66
109	07/01/2023	14462	Amazon Capital Services Inc.	048-Blanket Office Supplies-Jae Miller		-17.48
048-Blanket Office Supplies for Jae Miller SY 23-24		048-2120-619-100-0000-000-160		07/01/2023	01/16/2024	-17.48
110	07/01/2023	14462	Amazon Capital Services Inc.	048-Blanket Office Supplies-Jordan Gruenberg		-9.66
048-Blanket Office Supplies-Jordan Gruenberg		048-2120-619-100-0000-000-505		07/01/2023	01/16/2024	-9.66
111	07/01/2023	14462	Amazon Capital Services Inc.	048-Blanket Office Supplies-Cody Keyser		-14.50
048-Blanket Office Supplies-Cody Keyser		048-2120-619-100-0000-000-510		07/01/2023	01/16/2024	-14.50
114	07/01/2023	14462	Amazon Capital Services Inc.	048-Blanket Office Supplies-Filiz Sprouse		-161.57
048-Blanket Office Supplies-Filiz Sprouse		048-2120-619-100-0000-000-705		07/01/2023	01/16/2024	-161.57
120	07/01/2023	86017	FILIZ SPROUSE	048-District Mileage Reimbursement		-250.00
048-District Mileage Reimbursement SY 23-24		048-2575-580-100-0000-000-705		07/01/2023	01/16/2024	-250.00
126	07/01/2023	86557	LINDSAY JOY PHILLIPS	048-District Mileage Reimbursement		-400.00
048-District Mileage Reimbursement SY 23-24		048-2575-580-100-0000-000-130		07/01/2023	01/16/2024	-400.00
128	07/01/2023	90162	KELLY DENNISON	048-Per Diem-Mileage Reimbursement		-78.07
048-Per Diem & Mileage Reimbursement for Kelly Dennison to attend 504 Conference November 13-14, 2023		048-2573-580-100-0000-000-050		07/01/2023	01/16/2024	-78.07
134	07/01/2023	13803	THOMPSON SCHOOL BK.DEPOSITORY	333 Elem ELA Growth SY24		-3,159.41
RW Comprehensive Student Bundle W/5 YR Subscription, GR 4 '26		333-1000-641-100-1110-000-105		07/01/2023	01/04/2024	-399.90
		333-1000-641-100-1110-000-115		07/01/2023	01/04/2024	-1,039.74
		333-1000-641-100-1110-000-125		07/01/2023	01/04/2024	-79.98
		333-1000-641-100-1110-000-150		07/01/2023	01/04/2024	-639.84
		333-1000-641-100-1110-000-155		07/01/2023	01/04/2024	-159.96
Shipping and Handling		333-1000-641-100-1110-000-105		07/01/2023	01/04/2024	-105.00
		333-1000-641-100-1110-000-110		07/01/2023	01/04/2024	-104.99
		333-1000-641-100-1110-000-115		07/01/2023	01/04/2024	-105.00
		333-1000-641-100-1110-000-120		07/01/2023	01/04/2024	-104.99
		333-1000-641-100-1110-000-125		07/01/2023	01/04/2024	-105.00
		333-1000-641-100-1110-000-135		07/01/2023	01/04/2024	-105.02
		333-1000-641-100-1110-000-150		07/01/2023	01/04/2024	-105.00
		333-1000-641-100-1110-000-155		07/01/2023	01/04/2024	-104.99
161	07/01/2023	63606	MEARES MECHANICAL LLC	023 BLANKET FREEZER & REFRIGERATOR REPAIR		-10,000.00
FREEZER AND REFRIGERATOR REPAIR		023-3140-439-700-0000-000-050		07/01/2023	02/06/2024	-14,283.00
		023-3140-439-700-0000-000-050		02/06/2024		4,283.00
170	07/01/2023	67763	Angela Zayas, LCSW	048-LPC Supervision		-3,800.00
048-LPC Supervision for Lindsay		048-2120-321-100-0000-000-130		07/01/2023	01/16/2024	-3,800.00

Change Order Listing

Options: Fund(s): 11-General, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 1156, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
Phillips SY 23-24						
215	07/06/2023	14462	Amazon Capital Services Inc.	042- Blanket Office Supplies-Ryan Penner-BA		-250.00
042- Blanket Office Supplies-Ryan Penner-Bronco Academy		042-1000-658-100-0000-000-505		07/06/2023	01/18/2024	-250.00
216	07/06/2023	14462	Amazon Capital Services Inc.	042- Blanket Office Supplies-Linda Kolar-BA		-250.00
042- Blanket Office Supplies-Linda Kolar-Bronco Academy		042-1000-658-100-0000-000-505		07/06/2023	01/18/2024	-250.00
217	07/06/2023	14462	Amazon Capital Services Inc.	042-Blanket Office Supplies Behavior Programs		-12.76
042-Blanket Office Supplies -Behavior Programs BRAIN,BOOST,Parent University) SY 23-24		042-1000-658-100-0000-000-110		07/06/2023	01/18/2024	-12.76
220	07/06/2023	18290	OKLAHOMA FAMILY COUNSELING CENTERS	042-Crisis Assessments SY 23-24		-4,000.00
042-Crisis Assessments for SY 23-24		042-1000-322-100-0000-000-140		07/06/2023	01/26/2024	-12,000.00
		042-1000-322-100-0000-000-140		01/26/2024		8,000.00
230	07/06/2023	85777	ERIN LINSAY WAKEFIELD	412 E Wakefield Per Diem Summer Summit		-37.13
Per Diem for Erin Wakefield to attend Summer Summit in Tulsa, OK 8/1-8/2		412-2213-580-312-8600-000-705		07/20/2023	01/24/2024	-37.13
246	07/10/2023	83802	JACQUELINE ADELE HARRISON	412 J Harrison Per Diem Summer Summit		-125.00
Per Diem for Jacque Harrison to attend Career Tech Summer Summit in Tulsa, OK 8/1-8/2		412-2213-580-314-8400-000-705		07/10/2023	01/24/2024	-125.00
248	07/10/2023	83729	KRISTIN JEAN PUMFORD	412 K Pumford Per Diem Summer Summit		-36.50
Per Diem for Krissy Pumford to attend Career Tech Summer Summit in Tulsa, OK 8/1-8/2		412-2213-580-314-8400-000-705		07/10/2023	01/24/2024	-36.50
256	07/10/2023	64746	OK Assoc of Career & Tech Ed	412 OKACTE Registration Summer Summit Holman		-25.00
Registration for Jessica Holman to attend Career Tech Summer Summit in Tulsa, OK 8/1-8/2		412-2213-860-315-8700-000-705		07/19/2023	01/24/2024	-25.00
296	07/19/2023	84643	JASON THOMAS ATHA	412 J Atha Per Diem Summer Summit		-142.51
Per Diem for Jason Atha to attend Career Tech Summer Summit in Tulsa, OK 8/1-8/2		412-2213-580-315-8700-000-510		07/19/2023	01/24/2024	-142.51
297	07/19/2023	84045	JESSICA LEIGH HOLMAN	412 J Holman Per Diem Summer Summit		-62.55
Per Diem for Jessica Holman to attend Career Tech Summer Summit in Tulsa, OK 7/31-8/2		412-2213-580-315-8700-000-705		07/19/2023	01/24/2024	-62.55
309	07/19/2023	86826	Rachel Xiomara Courtney Kain	412 R Kain Per Diem Summer Summit		-400.00
Per Diem for Rachel Kain to Career Tech Summer Summit in Tulsa, OK 8/1-8/2		412-2213-580-314-8400-000-000		07/19/2023	01/24/2024	-125.00
Increase to PO 309 due to changes in travel arrangements		412-2213-580-314-8400-000-705		07/25/2023	01/24/2024	-275.00
341	07/25/2023	14569	Staples, Inc.	023 - BLANKET OFFICE SUPPLIES		1,500.00

Change Order Listing

Options: Fund(s): 11-General, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 1156, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
INCREASE P.O. 341ONGOING OFFICE SUPPLY NEEDS		023-3140-619-700-0000-000-050		01/24/2024		1,500.00
398	07/31/2023	14462	Amazon Capital Services Inc.	012 - Office Supplies		-13.39
Office supplies		012-2490-619-000-0000-000-050		07/31/2023	01/18/2024	-13.39
411	07/31/2023	13963	CAPITAL ONE TRADE CREDIT	412 Walmart Blanket Matlock		-70.67
Classroom Supplies		412-1000-681-314-8400-000-705		07/31/2023	01/24/2024	-70.67
425	08/02/2023	14092	WPS PUBLISHERS DISTRIBUTERS	621 Psych Testing Protocols		200.00
621 Increase PO 425 Psych Testing Protocols		621-2140-614-239-0000-000-705		02/03/2024		200.00
463	08/03/2023	65137	J2 Cloud Services, LLC	025 - EFAX		-3,304.20
EFAX SERVICES		025-2580-653-000-0000-000-050		08/03/2023	01/18/2024	-3,304.20
477	08/08/2023	61820	PROJECT LEAD THE WAY INC	412 PLTW Coffman		-1,034.00
Design & Modeling Consumable Kit and Flight & Space Consumable Kit		412-1000-681-315-8700-000-505		08/08/2023	01/24/2024	-1,034.00
479	08/08/2023	13963	CAPITAL ONE TRADE CREDIT	412 Walmart Blanket Cox		-1,000.00
Groceries and classroom supplies		412-1000-681-314-8400-000-705		08/08/2023	01/24/2024	-1,000.00
500	08/10/2023	62437	THINK SOCIAL PUBLISHING, INC	048-Blanket Supplies		-295.20
048-Social Thinking Supplies for Mental Health Counselors		048-2120-619-100-0000-000-110		08/10/2023	01/16/2024	-295.20
501	08/10/2023	68334	Center At Restore	048-IFS Intensive Training		-900.00
048-IFS-Intensive training for LPC-Filiz Sprouse		048-2213-860-100-0000-000-705		08/10/2023	01/16/2024	-900.00
513	08/10/2023	13963	CAPITAL ONE TRADE CREDIT	412 - Classroom Supplies		-1.03
Matlock - Classroom Supplies		412-1000-681-314-8400-000-705		08/10/2023	01/24/2024	-1.03
517	08/11/2023	13963	CAPITAL ONE TRADE CREDIT	412 - Welcome Bag Supplies/Classroom Supplies		-7.88
Harper - Classroom & Welcome Bag Supplies		412-1000-681-314-8400-000-705		08/11/2023	01/24/2024	-7.88
518	08/11/2023	13963	CAPITAL ONE TRADE CREDIT	412 - Classroom Supplies		-34.39
Harrison - Classroom Supplies		412-1000-681-314-8400-000-705		08/11/2023	01/09/2024	-34.39
519	08/11/2023	13963	CAPITAL ONE TRADE CREDIT	412 - Groceries & Classroom Supplies		-12.35
Cox - Wal-Mart Supplies		412-1000-681-314-8400-000-705		10/04/2023	01/24/2024	-12.35
522	08/15/2023	67770	KR ACQUISITIONS LLC	048-Hotel for 504 Conference		-100.27
048-Hotel for 504 Conference-Kelly DennisonNovember 13-14, 2023 Round Rock Texas		048-2575-580-100-0000-000-050		08/15/2023	01/16/2024	-100.27
523	08/15/2023	14462	Amazon Capital Services Inc.	042-Bronco Academy Supplies		-17.87
042-Bronco Academy Supplies		042-1000-658-100-0000-000-505		08/15/2023	01/18/2024	-17.87
536	08/16/2023	62855	TRAVEL SOURCE, INC	048-Hotel for Maggie Maples		-22.39
048-Maggie MaplesConference 9/8/23-9/12/23 ATRA Rec Therapy Conference St.Louis ,Missouri		048-2573-580-100-0000-000-050		08/16/2023	01/16/2024	-22.39
537	08/16/2023	86094	HELEN MARGARETT MAPLES	048-Maggie Maples -Per Diem		-182.17
048-Maggie Maples Per Diem for ATRA Conference September 8-12, 2023		048-2573-580-100-0000-000-050		08/16/2023	01/16/2024	-182.17
556	08/18/2023	14462	Amazon Capital Services Inc.	412 - Harrison Classroom Supplies		-27.61
Harrison - Classroom Supplies		412-1000-681-314-8400-000-705		08/18/2023	01/24/2024	-27.61
559	08/18/2023	14462	Amazon Capital Services Inc.	412 - Knowles Class Supplies		-145.95
Knowles Class Supplies		412-1000-681-315-8700-000-705		08/18/2023	01/24/2024	-145.95
567	08/22/2023	62437	THINK SOCIAL PUBLISHING, INC	042-BOOST Program Supplies		-15.73

Change Order Listing

Options: Fund(s): 11-General, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 1156, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
042-BOOST Program Supplies		042-1000-658-100-0000-000-110		08/22/2023	01/18/2024	-15.73
579	08/22/2023	14462	Amazon Capital Services Inc.	412 - Harrison Classroom Supplies		-1,716.37
Supplies (lights charging cables, label maker, etc.)		412-1000-681-314-8400-000-705		08/22/2023	01/24/2024	-1,716.37
585	08/24/2023	68285	AccuTrain Corporation	048-Heather Wiggins-Conference Nov 1-4 ,Chicago		-48.00
048-Heather Wiggins to attend Innovative Schools Summit November 1-4,2023 in Chicago,IL		048-2573-580-100-0000-000-050		08/24/2023	01/16/2024	-48.00
587	08/24/2023	62855	TRAVEL SOURCE, INC	048-Heather Wiggins-Travel Accommodations		-1,177.88
048-Heather Wiggins, Flight and Hotel for Innovative Schools Summit, November 1-4,2023 in Chicago,IL		048-2573-580-100-0000-000-050		08/24/2023	01/16/2024	-1,177.88
593	08/24/2023	14462	Amazon Capital Services Inc.	412 - Ford Classroom Supplies		-63.20
Ford Classroom Supplies		412-1000-681-315-8700-000-525		08/24/2023	01/24/2024	-63.20
617	08/24/2023	14462	Amazon Capital Services Inc.	412 - Staats (Computer Monitor)		-57.35
Computer Monitor for Design Projects		412-1000-681-316-8100-000-705		08/24/2023	01/24/2024	-57.35
652	09/01/2023	64179	ITsavvy LLC	412 - Staats Classroom Supplies		-234.00
316/ Surface Pro Tablet & Keyboard		412-1000-653-316-8100-000-705		09/01/2023	01/24/2024	-234.00
654	09/01/2023	14462	Amazon Capital Services Inc.	412 - Staats Classroom Materials		-52.94
316/4K Projector, Smart TV, Keyboards		412-1000-681-316-8100-000-705		09/01/2023	01/24/2024	-52.94
655	09/01/2023	14462	Amazon Capital Services Inc.	412 - Pumford Classroom Supplies		-30.23
314/Classroom Supplies		412-1000-681-314-8400-000-705		09/01/2023	01/24/2024	-30.23
670	09/06/2023	14462	Amazon Capital Services Inc.	412 - Holman Classroom Materials		-35.10
315/Holman (Classroom Materials)		412-1000-681-315-8700-000-705		09/06/2023	01/24/2024	-35.10
682	09/11/2023	67066	OK STATE BOARD OF LIC COUNSELORS	048-Supervisory Ethics training-Jordan Gruenberg		-80.00
048-Supervisory Ethics training-Jordan Gruenberg		048-2213-860-100-0000-000-505		09/11/2023	01/16/2024	-80.00
709	09/13/2023	14462	Amazon Capital Services Inc.	412 - Atha Classroom Supplies		-12.77
315/Atha Classroom Supplies		412-1000-681-315-8700-000-510		09/13/2023	01/24/2024	-12.77
710	09/13/2023	14462	Amazon Capital Services Inc.	412 - Ford Classroom Supplies		-491.64
315/Ford Classroom Supplies		412-1000-681-315-8700-000-525		09/13/2023	01/24/2024	-491.64
732	09/18/2023	19393	OKLAHOMA BPA	412 - Carey Fall Registration		-280.00
316/Conference RegistrationFLC Norman, OK October 16, 2023		412-2213-860-316-8100-000-705		09/18/2023	01/24/2024	-280.00
742	09/19/2023	14462	Amazon Capital Services Inc.	412 - Pumford Classroom Supplies		-251.83
314/Pumford Classroom Supplies		412-1000-681-314-8400-000-705		09/19/2023	01/24/2024	-251.83
758	09/21/2023	63566	REV Robotics LLC	412 - Ford Classroom Supplies		-346.23
Ford Classroom Supplies		412-1000-681-315-8700-000-525		09/21/2023	01/24/2024	-346.23
759	09/21/2023	68421	Base10 Assets, LLC	412 - Ford Classroom Supplies		-122.52
Ford Classroom Supplies		412-1000-681-315-8700-000-525		09/21/2023	01/24/2024	-122.52
763	09/22/2023	14462	Amazon Capital Services Inc.	070 - SREB Items		-24.59
070 - SREB ItemsHuman Skeleton Model for Anatomy		070-1000-681-034-2250-000-140		09/22/2023	01/05/2024	-22.56
070 - SREB ItemsMagnetic Water Kit Class Set		070-1000-681-034-2250-000-140		09/22/2023	01/05/2024	-2.03
776	09/25/2023	62437	THINK SOCIAL PUBLISHING, INC	042-Behavior Supplies		-22.32
042-Behavior Supplies		042-1000-658-100-0000-000-115		09/25/2023	01/18/2024	-22.32

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PO No	Date	Vendor No	Vendor	Description		Amount
799	09/28/2023	14462	Amazon Capital Services Inc.	412 - Wakefield (Classroom Supplies)		-119.48
Wakefield Classroom Supplies		412-1000-681-312-8600-000-705		09/28/2023	01/24/2024	-119.48
802	09/28/2023	14462	Amazon Capital Services Inc.	412 - Carey (Classroom Supplies)		-1,000.00
Carey Classroom Supplies (Headphones)		412-1000-681-316-8100-000-705		09/28/2023	01/24/2024	-1,000.00
809	09/28/2023	62437	THINK SOCIAL PUBLISHING, INC	042-Core Classroom Supplies		-500.00
042-Core Classroom Supplies		042-2575-658-100-0000-000-135		09/28/2023	01/18/2024	-500.00
820	09/29/2023	18323	TECHNOLOGY STUDENT ASSOCIATION	412- Atha (Student Registration Fees)		-150.00
Atha - TSA Fall Leadership Conference (10/18/23)		412-2213-810-315-8700-000-510		09/29/2023	01/24/2024	-150.00
876	10/10/2023	99999	MUSTANG PUBLIC SCHOOLS	003-PD Speaker 10/16		-250.00
003-MHSSpeaking for PD Day 10/16Discussing Reading Strategies in the Classroom		003-5600-930-100-0000-000-705		12/12/2023	01/18/2024	-250.00
877	10/16/2023	83770	CHRISTOPHER MICHAEL OZINGA	066 Band Mileage Ozinga 23-24		-742.75
066 Mileage Reimbursement for 23-24 SY		066-1000-580-100-0000-000-510		10/16/2023	01/17/2024	-742.75
878	10/16/2023	84409	CLEON KIAN-WUI CHAI	066 Band Mileage Reimbursement 23-24		-702.64
066 Band Mileage Reimbursement for 23-24 SY		066-1000-580-100-0000-000-510		10/16/2023	01/17/2024	-702.64
879	10/16/2023	86468	KYLE RAY THOMPSON	066 Band Mileage Reimbursement 23-24		-1,200.00
066 Band Mileage Reimbursement fo 23-24 SY		066-1000-580-100-0000-000-145		10/16/2023	01/17/2024	-1,200.00
880	10/16/2023	86013	MADISON A FLEMING	066 Band Mileage Reimbursement 23-24		-800.00
066 Band Mileage Reimbursement for 23-24 SY		066-1000-580-100-0000-000-160		10/16/2023	01/17/2024	-800.00
881	10/16/2023	86410	SHANE MICHAEL HOLMQUIST	066 Band Mileage Reimbursement 23-24		-514.17
066 Band Mileage Reimbursement 23 -24 SY		066-1000-580-100-0000-000-525		10/16/2023	01/17/2024	-514.17
882	10/16/2023	20842	JACOB HOFER	066 Band Mileage Reimbursement 23-24		-510.11
066 Band Mileage Reimbursement 23 -24		066-1000-580-100-0000-000-705		10/16/2023	01/17/2024	-510.11
883	10/16/2023	85785	NICHOLAS E STEWARD	066 Band Mileage Reimbursement 23-24		-211.90
066 Band Mileage Reimbursement for 23-24 SY		066-1000-580-100-0000-000-505		10/16/2023	01/17/2024	-211.90
896	10/18/2023	62855	TRAVEL SOURCE, INC	572- Flights for Plain Talk Conference Attendees		1,000.00
Increase to PO 896 - Additional Flight Charge		572-2213-580-410-0000-000-050		01/24/2024		1,000.00
901	10/19/2023	14689	STAPLES BUSINESS ADVANTAGE 1561215	066 Fine Arts Custom Signs for Art Show		-5.03
066 Custom Printed Signs for MPS Art Show		066-2560-550-900-0000-000-050		10/19/2023	01/04/2024	-5.03
909	10/19/2023	14462	Amazon Capital Services Inc.	621 Core Classroom Supplies		-22.34
Core Classroom Supplies- Assorted Adaptive Resource Supplies-New		621-1000-658-239-0000-000-125		10/19/2023	01/17/2024	-22.34

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PO No	Date	Vendor No	Vendor	Description		Amount
Program-Creek						
914	10/19/2023	84059	REBECCA MAY REDDISH	615 Per Diem 11/15-11/19-ASHA		-144.50
Perdiem ASHA Conference 11-15/11-19-Boston, MA		615-2573-580-239-0000-000-050		10/19/2023	01/31/2024	-144.50
921	10/20/2023	13963	CAPITAL ONE TRADE CREDIT	002 - skills for living sewing project		-14.24
002 - skills for livingsewing project supplies		002-1000-681-900-0000-000-525		10/20/2023	01/30/2024	-14.24
945	10/25/2023	68068	ZFX Inc	066 MHS Rigging for Musical		-65.00
066 MHS MusicalRigging Install Rental for Musical		066-2199-810-900-4000-000-705		10/25/2023	01/30/2024	-65.00
962	10/26/2023	18908	WILSON LANGUAGE TRAINING	003 WRS intro course - Tracy Sondag		-710.00
Public Wilson Reading System introductory Course/ 2324-4627997CVirtual Dec 12 -Dec 14 2023 9am- 3pmTracy Sondag		003-2213-860-900-1050-000-155		11/29/2023	01/11/2024	-710.00
977	10/30/2023	14462	Amazon Capital Services Inc.	412- Carey Classroom Instructional Supplies		-31.04
Carey Classroom Instructional Supplies such as headphones and wireless keyboards		412-1000-653-316-8100-000-705		10/30/2023	01/24/2024	-31.04
978	10/30/2023	14462	Amazon Capital Services Inc.	412 - Coffman Classroom Instructional Supplies		-67.84
Coffman Instructional Supplies such as Mini Drones		412-1000-681-315-8700-000-505		10/30/2023	01/24/2024	-67.84
981	10/30/2023	99999	MUSTANG PUBLIC SCHOOLS	613- Substitute Reimbursement-1/24-25		-340.00
Substitute Reimbursement-1/24-25Aron Holt, Aaron Manuel, Jessica Stanley, Kimberly VanAken		613-5600-930-239-0000-000-140		10/30/2023	01/31/2024	-340.00
995	11/02/2023	16705	Multi-Health Systems, Inc.	621 Psych Testing Protocols		-750.00
Increase for Bilingual services		621-2152-323-239-0000-000-505		12/20/2023	01/03/2024	-750.00
997	11/02/2023	12710	Okla. Assoc.of School Bus.Officials	OISBF Workshops		-280.00
Registration for Randi Spencer to attend the OISBF virtual workshops for payroll and treasure, December - June 14 sessions at $20 each		014-2511-860-000-0000-000-050		11/02/2023	01/08/2024	-280.00
1001	11/02/2023	11480	W.W. Grainger, Inc.	002-Crowd control barriers- Bus loops		-1.44
002-MHSCrowd control barrierPart# 31DW18 Approx. 12 for the bus loops		002-2199-344-900-0000-000-705		11/02/2023	01/10/2024	-1.44
1005	11/03/2023	99999	MUSTANG PUBLIC SCHOOLS	003 MNMS SUB REIMBURSEMENT FOR PD TRAINING		-110.00
SUB REIMBURSEMENT FOR FUNCTIONAL SKILLS TEACHER TO ATTEND A HALF DAY OAAP PD TRAINING.January 25, 2024.		003-5600-930-900-0000-000-510		11/03/2023	02/05/2024	-110.00
1008	11/03/2023	14462	Amazon Capital Services Inc.	412 - Wakefield Instructional Classroom Supplies		-125.87
Wakefield Instructional Classroom supplies such as crayons, markers etc.		412-1000-619-312-8600-000-705		11/03/2023	01/24/2024	-125.87
1023	11/08/2023	99999	MUSTANG PUBLIC SCHOOLS	003 - sub reimbursement		-110.00
940 - sub reimbursementTy SullivanTAHPERD ConventionNov 29-Dec 1		003-5600-930-900-0000-000-525		11/08/2023	01/04/2024	-110.00

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PO No	Date	Vendor No	Vendor	Description		Amount
1034	11/10/2023	12960	Betrold Enterprises, Inc.	066CRI Vocal Music		-26.00
You're A Mean One Mr. Grinch		066-1000-619-100-1183-000-145		11/10/2023	01/30/2024	-26.00
1035	11/10/2023	65058	CONCORD THEATRICALS CORP	066 Script Rental for Musical		-151.25
066 The Wizard of Oz (RSC Version) (#WIR) Acting Edition TOS		066-1000-449-100-4000-100-705		11/10/2023	01/04/2024	-151.25
1047	11/17/2023	14462	Amazon Capital Services Inc.	066 MHS Musical Items		-37.71
066 Musical30 packet of Plastic Bradded Pocket Folders		066-2199-619-900-4000-000-705		11/17/2023	02/05/2024	-37.71
1053	11/17/2023	14462	Amazon Capital Services Inc.	070 - Science Kit		-47.44
Shiella Vardeman/SouthNEWTON'S ANTICS SCIENCE KIT		070-1000-681-034-2250-000-505		11/17/2023	01/04/2024	-47.44
1056	11/27/2023	14462	Amazon Capital Services Inc.	412- Kain Instructional Classroom Supplies		-992.64
Kain Instructional Classroom Supplies (Baby/Parenting Unit such as books, games etc)		412-1000-681-314-8400-000-705		11/27/2023	01/24/2024	-992.64
1078	11/30/2023	60974	NATIONAL ARCHERY IN THE SCHOOL PRGM	002-105 - Archery Equipment and Supplies		-356.00
002-105 - Archery Equipment and Supplies		002-1000-681-100-0000-000-105		11/30/2023	01/30/2024	-356.00
1084	12/04/2023	13803	THOMPSON SCHOOL BK.DEPOSITORY	333 Intermediate Reading Growth		100.00
333 Growth5th Grade: OK MYVIEW BUNDLE 5YR + 5YR LICENSE '20		333-1000-643-100-1132-000-140		12/04/2023	01/23/2024	-1,400.00
		333-1000-643-100-1132-000-145		12/04/2023	01/23/2024	-1,400.00
		333-1000-643-100-1132-000-160		12/04/2023	01/23/2024	-1,400.00
		333-1000-643-100-1132-000-140		01/23/2024		1,400.00
		333-1000-643-100-1132-000-145		01/23/2024		1,400.00
		333-1000-643-100-1132-000-160		01/23/2024		1,400.00
6th Grade: MYP22 SE CONS 5Y + 5Y LIC G06		333-1000-643-100-1132-000-140		12/04/2023	01/23/2024	-1,050.00
		333-1000-643-100-1132-000-145		12/04/2023	01/23/2024	-1,050.00
		333-1000-643-100-1132-000-160		12/04/2023	01/23/2024	-1,050.00
		333-1000-643-100-1132-000-140		01/23/2024		1,050.00
		333-1000-643-100-1132-000-145		01/23/2024		1,050.00
		333-1000-643-100-1132-000-160		01/23/2024		1,050.00
333 Increase PO 2024-11-1084 due to price increase in6th grade reading items		333-1000-643-100-1132-000-145		01/18/2024		26.50
		333-1000-643-100-1132-000-145		01/23/2024		73.50
1085	12/04/2023	68534	PD MONSTER, LLC	003- Cartwright and Hopson		-210.00
Highly Effective Teir 1 Behavior Strategies Live Webinar Melessia Hopson and Shea Cartwright Dec 15th 1-3 PM		003-2213-860-900-1050-000-155		12/04/2023	01/24/2024	-210.00
1087	12/05/2023	68518	JOSHUA AND HOPE FINN	412 - Knowles Classroom Supplies		-264.03
Knowles Supplies such as motors, cutters, glue, sanding blocks, scissors, etc.		412-1000-681-315-8700-000-705		12/05/2023	01/24/2024	-264.03
1088	12/05/2023	14689	STAPLES BUSINESS ADVANTAGE 1561215	931 MNMS OFFICE SUPPLIES		-106.75
Staples Pastel 30% Recycled Color Copy Paper, 20 lbs., 8.5" x 11", Lilac, 500/Ream		002-1000-611-900-0000-000-510		12/05/2023	01/04/2024	-8.00
Xerox Vitality Multipurpose Paper, 20 lbs., 8.5" x 11", Blue, 500 Sheets/Ream		002-1000-611-900-0000-000-510		12/05/2023	01/04/2024	-5.97
Staples EasyClose Security Tinted #10 Business Envelopes, 4 1/8" x 9 1/2", White, 500/Box		002-1000-617-900-0000-000-510		12/05/2023	01/04/2024	-18.39

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PO No	Date	Vendor No	Vendor	Description		Amount
Expo Block Eraser		002-1000-619-900-0000-000-510		12/05/2023	01/04/2024	-42.45
Neenah Exact Vellum Bristol Cardstock, 8.5" x 11", 67 lb., White, 250 Sheets/Ream		002-1000-611-900-0000-000-510		12/05/2023	01/04/2024	-7.96
Sharpie Permanent Markers, Fine Tip, Black, 36/Pack		002-1000-619-900-0000-000-510		12/05/2023	01/04/2024	-12.08
Pentel EnerGel RTX Retractable Gel Pens, Medium Point, Purple Ink, 3/Pack		002-1000-619-900-0000-000-510		12/05/2023	01/04/2024	-11.90
1099	12/08/2023	15147	LOWES CREDIT SERVICES	066 Valley Art Items		-33.00
Beach Pebble Company Caribbean Beach Pebble 1-2-in 30lbs, Item #1359978, 20 @ 12.98 = $259.60		070-1000-619-030-0000-000-110		12/08/2023	01/09/2024	-33.00
1100	12/08/2023	11059	Blick Art Materials, LLC	066 Creek Art Supplies		-61.60
Blick Square Charcoal Sticks - Set of 12		066-1000-619-100-0000-000-125		12/08/2023	01/18/2024	-5.51
Canson Watercolor Papers - 9" x 12", 500 Sheets		066-1000-611-100-0000-000-125		12/08/2023	01/18/2024	-1.59
Blick Sulphite 80 lb Drawing Papers - 12" x 18", White, 500 Sheets, 80 lb		066-1000-611-100-0000-000-125		12/08/2023	01/18/2024	-54.50
1101	12/08/2023	11059	Blick Art Materials, LLC	066 Horizon Art Class		-25.16
Paycon truray construction paper 9x12 smart stack 240 sheets		066-1000-611-100-0000-000-140		12/08/2023	01/09/2024	-25.16
1106	12/08/2023	14462	Amazon Capital Services Inc.	412 - Pumford Instructional Classroom Supplies		-43.22
Pumford Classroom Supplies such as graph paper and beads		412-1000-681-314-8400-000-705		12/08/2023	01/24/2024	-43.22
1107	12/08/2023	14462	Amazon Capital Services Inc.	412 - Cox Classroom Supplies		-78.68
314/Cox Classroom Supplies such as popsicle sticks and protective gloves		412-1000-681-314-8400-000-705		12/08/2023	01/12/2024	-177.90
		412-1000-681-314-8400-000-705		12/08/2023	01/24/2024	-72.10
		412-1000-681-314-8400-000-705		01/12/2024		171.32
1111	12/11/2023	14462	Amazon Capital Services Inc.	572 - Wyatt Classroom Supplies		-35.10
Wyatt Classroom Supplies (headphones with microphone)		572-1000-653-410-1310-000-510		12/11/2023	01/09/2024	-35.10
1113	12/11/2023	62855	TRAVEL SOURCE, INC	412-Pumford/Harrison Airfare (6/12-15: NYC, NY)		-240.42
WindowsWear Conference Airfare (6/12 - 6/15; NYC, NY) for Krissy Pumford and Jacqueline Harrison		412-2213-580-314-8400-000-705		12/11/2023	01/24/2024	-240.42
1115	12/12/2023	10220	Automatic Fire Control, Inc	FIRE SUPPRESSION SYSTEM INSPECTION & MAINTENANCE		-665.95
FIRE SUPPRESSION SYSTEMS INSPECTION AND MAINTENANCE		023-3140-439-700-0000-000-050		12/12/2023	01/04/2024	-665.95
1117	12/12/2023	86066	WILLIAM D BENNYHOFF	541/Per Diem Safety Forum (1/22-1/24/24), Katy, TX		-42.50
William Bennyhoff - Per Diem for Safety & Security Forum (1/22-1/24/2024) Katy, TX		541-2573-580-429-0000-000-050		12/12/2023	01/31/2024	-42.50
1119	12/12/2023	86055	SAMANTHA KYE WALDROP	541/Per Diem- Safety Forum (1/22 -1/24/24) Katy, TX		-42.50
Samantha Wilson - Per Diem for Safety & Security Forum (1/22-1/24/2024) Katy, TX		541-2573-580-429-0000-000-050		12/12/2023	01/31/2024	-42.50
1121	12/12/2023	85043	ANDREA CHRISTINE GUZIEC	541/Per Diem Safety Forum (1/22-1/24/24), Katy, TX		-42.50

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PO No	Date	Vendor No	Vendor	Description		Amount
Andrea Guziec - Per Diem for Safety & Security Forum (1/22-1/24/2024) Katy, TX		541-2573-580-429-0000-000-050		12/12/2023	01/31/2024	-42.50
1122	12/12/2023	67399	JENNIFER NEWELL	541/Per Diem -Safety Forum (1/22 -1/24/24) Katy, TX		-42.50
Jennifer Newell - Per Diem -Safety & Security Forum (1/22-1/24/2024) Katy, TX		541-2573-580-429-0000-000-050		12/12/2023	01/31/2024	-42.50
1124	12/12/2023	14462	Amazon Capital Services Inc.	412 - BCoffman Classroom Materials		-35.82
Moore Classroom Materials such as glue sticks, rubber bands, super glue etc.		412-1000-681-315-8700-000-705		12/12/2023	01/02/2024	-35.82
1127	12/13/2023	12710	Okla. Assoc.of School Bus.Officials	014- ASBO Training 1/9-1/10 Level 1		-250.00
OKASBO- Level 1 training Jan. 9-10, 2024		014-2575-860-000-0000-000-050		12/13/2023	01/31/2024	-250.00
1147	12/15/2023	14462	Amazon Capital Services Inc.	412 - Atha Classroom Equipment		-101.00
Atha - Classroom Equipment such as a Flashforge Adventurer 4 3D Printer		412-1000-653-315-8700-000-510		12/15/2023	01/24/2024	-101.00

Non-Payroll Total:	**($46,074.99)**
Payroll Total:	**$0.00**
Report Total:	**($46,074.99)**

Project Totals

002	Site General Budget	-478.43
003	Site Prof Dev Budget	-1,390.00
012	Public Relations	-13.39
014	Business Office	-530.00
023	Child Nutrition	-9,165.95
025	Technology	-3,304.20
041	Special Ed (Budget/Salaries)	-0.66
042	Behavioral Counseling	-5,068.68
048	Student Assistance	-7,537.19
066	Fine Arts	-5,053.32
070	Grants	-105.03
333	STATE TEXTBOOK	-3,059.41
412	VOCATIONAL PRGMS INCENTIVE	-10,106.79
541	TITLE II, PART A, TCHR/PRINC.	-170.00
572	PART A, ENGLISH LANGUAGE....	964.90
613	SPECIAL ED P.D. OSDE SPONSORED	-340.00
615	SPECIAL ED P.D. DISTRICT	-144.50
621	FLOW THROUGH PL 108-446	-572.34

Unit Totals

000	PAYROLL ALLOCATED	-125.00
050	District Wide	-13,942.51
105	Mustang Elem	-860.90
110	Valley Elem	-461.68
115	Lakehoma Elem	-1,167.06

Change Order Listing

Options: Fund(s): 11-General, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 1156, Include Negative Changes: True

120	Trails Elem	-104.99
125	Creek Elem	-268.92
130	MEC-PreK	-4,200.00
135	Centennial Elem	-605.02
140	Horizon Int	-4,389.75
145	Canyon Ridge Int	-1,126.00
150	Prairie View Elem	-744.84
155	Riverwood Elem	-1,184.95
160	Meadow Brook Int	-817.48
505	Mustang Middle	-2,718.71
510	North Middle	-2,118.02
525	Central Middle	-1,662.00
705	Mustang High	-9,577.16

Fiscal Year
2023-2024

Fund
11 11-General

Accounting Purchase Order

Mustang Public Schools
Mustang High Alt Ed
12400 S.W. 15TH ST
YUKON OK 73099

PO No
2024-11-1061

PO Date
11/27/2023

Ship To: Mustang Public Schools
12400 S.W. 15TH ST
YUKON OK 73099

Amount
$2,948.86

Date Requested	Date Approved
11/27/2023	11/27/2023

Requested By
ANGELICA HULL

Vendor No: 66397
To: MNJ TECHNOLOGIES DIRECT, INC.

PO BOX 771861
CHICAGO IL 60677-1861

Encumbered By
Judy W Kellogg

Approved By
[signature]

Description: 002-Projectors for MHS

Description	Vendor Item No / Amount	Qty / Start Date	Unit Price	Extended Price / Classification
002-MHS		2.000	$729.38	$1,458.76
	993.40	11/27/2023		002-1000-653-100-0000-000-705
NEC Display NP-ME423W LCD Projector 16:10	465.36	11/27/2023		002-1000-653-100-0000-000-705
#MNJ15263791				
$729.38				
002-MHS	MNJ15263788	3.000	$496.70	$1,490.10
	1,490.10	12/20/2023		002-1000-653-100-0000-000-705
2 additional projectors	Increase encumbered 1-5-24	RQ Date		
NEC Display NP-MC423W LCD PROJECTOR - 16:10 - WHITE MFG PART # - NP-MC423W				

Mustang Public Schools

Change Order Listing

Options: Fund(s): 21-Building, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 186, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
7	07/10/2023	64679	DONNELLY RESOURCES INC	034-Contract Custodial Cleaning		156,327.00
10 Month Contract personnel		034-2620-420-000-0000-954-050		07/10/2023	01/04/2024	-540,960.00
		034-2620-420-000-0000-954-050		01/04/2024		99,283.00
		034-2620-420-000-0000-954-050		01/04/2024		598,004.00
29	07/10/2023	62873	Classic Paper Supply, Inc.	034 Blanket - Misc Supplies		3,950.00
Outdoor Trash Cans Rugged 40 Gallon All Weather Trash Container		034-2620-618-000-0000-000-050		01/17/2024		1,950.00
Open Funds for non Bulk Items		034-2620-618-000-0000-000-050		01/17/2024		2,000.00
38	07/11/2023	10064	All Season Building Supply Co Inc	032-Blanket for Parts and Supplies		2,500.00
032-Increase PO 2024-21-38 to purchase general maintenance supplies		032-2620-618-000-0000-000-000		01/10/2024		2,500.00
44	07/11/2023	15147	LOWES CREDIT SERVICES	036-Blanket for mics parts and supplies		1,500.00
036-Increase PO 2024-21-44 for misc parts and supplies		036-2620-618-000-0000-000-000		01/11/2024		1,500.00
48	07/11/2023	85468	BRIAN WAYNE GEORGE	036-Journeyman License Renewal		39.00
036-Increase PO 2024-21-48 for the unexpected continuing education that Brian W George had to take before renewing his journeyman license		036-2620-810-000-0000-000-000		01/24/2024		39.00
55	07/19/2023	11321	FEDERAL CORPORATION	036-Blanket PO for Parts/Supplies		1,500.00
036-Increase PO 2024-21-55		036-2620-655-000-0000-000-000		01/05/2024		1,500.00
86	07/26/2023	13894	UNITED REFRIGERATION, INC.	036-Blanket for parts and supplies		1,000.00
036-blanket-Increase PO 2024-21-86 for parts and supplies		036-2620-655-000-0000-000-000		01/25/2024		1,000.00
102	08/03/2023	63606	MEARES MECHANICAL LLC	036-Blanket PO for Service/Repairs DW		5,000.00
036-Increase PO 2024-21-102 for installation/service/and repairs on district wide HVAC issues		036-2620-438-000-0000-000-000		01/30/2024		5,000.00
136	09/15/2023	14221	VOSS ELECTRIC CO	036-Lights for the HS Woodshop		-357.60
036-Lights for the HS Woodshop		036-2620-651-000-0000-000-705		09/20/2023	01/09/2024	-357.60
142	09/21/2023	15147	LOWES CREDIT SERVICES	037-Maintenance Equipment		-25.03
037-Original PO# 2024-34-132, Purchase parts/supplies/and tools for the new maintenance mechanic		037-2640-655-000-0000-000-000		09/21/2023	01/05/2024	-25.03
183	12/12/2023	68546	Bass Law	Legal services		-355.00
Legal Services for purchase of two lots across from the MERC		099-2317-357-000-0000-000-050		12/12/2023	02/05/2024	-355.00
185	12/18/2023	14569	Staples, Inc.	031-Printer for Maintenance		-93.41
031-Printer for the maintenance department		031-2620-619-000-0000-000-000		12/18/2023	01/09/2024	-70.01
031-Ink cartridges for new printer		031-2620-611-000-0000-000-000		12/18/2023	01/09/2024	-23.40

Non-Payroll Total:	**$170,984.96**
Payroll Total:	**$0.00**
Report Total:	**$170,984.96**

Project Totals

031	Operations	-93.41
032	Building & Grounds	2,500.00
034	Custodial	160,277.00

Mustang Public Schools

Change Order Listing

Options: Fund(s): 21-Building, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 186, Include Negative Changes: True

036	Licensed Trades	8,681.40
037	White Fleet	-25.03
099	CFO Special Projects	-355.00

Unit Totals

000	PAYROLL ALLOCATED	11,420.56
050	District Wide	159,922.00
705	Mustang High	-357.60

Fiscal Year
2023-2024
Fund
21 21-Building

Accounting Purchase Order

Mustang Public Schools
Mustang High Alt Ed
12400 S.W. 15TH ST
YUKON OK 73099

PO No
2024-21-182
PO Date
12/1/2023

Ship To: Mustang Public Schools
12400 S.W. 15TH ST
YUKON OK 73099

Vendor No: 63277
To: HI-TECH PLUMBING & LEAK DETECT

3712 E 2ND STREET
EDMOND OK 73034

Amount	
$3,000.00	
Date Requested	Date Approved
12/1/2023	12/1/2023
Requested By	
JANA WEST	
Encumbered By	
Judy W Kellogg	
Approved By	

Description: 036-Leak diagnosis at Horizon Intermediate

Description	Vendor Item No / Amount	Qty / Start Date	Unit Price	Extended Price / Classification
036-Leak diagnosis at Horizon Intermediate		1.000	$1,000.00	$1,000.00
	1,000.00	12/1/2023		036-2620-457-000-0000-000-140
036-Increase PO 2024-21-182 per Mr. Green for the plumbing issue at the High School Old Gymnasium Feb Board Mtg - Needs Approval		1.000	$2,000.00	$2,000.00
	2,000.00	12/20/2023		036-2620-457-000-0000-000-705

Mustang Public Schools

Change Order Listing

Options: Fund(s): 34-2012 Recurring, Year: 2023-2024, ReferenceDate: PO Date, Date Range: 1/2/2024 - 2/6/2024, PO Range: 1 - 175, Include Negative Changes: True

PO No	Date	Vendor No	Vendor	Description		Amount
65	07/19/2023	67961	A+Door and Gate Services LLC	037-Repair overhead door at the HVAC Shop		5,000.00
037-Increase the blanket PO for overhead door repairs		037-2620-438-000-0000-000-000		01/30/2024		5,000.00
154	11/07/2023	12971	HERTZBERQ-NEW METHOD, INC.	006/Various books 927/pay partial		-0.91
Fund 34 Various books 772.05927 pay 1155.54 separate POTOTAL 1927.59		006-2220-641-006-0000-000-160		11/07/2023	01/10/2024	-0.91
175	12/18/2023	67296	Follett Content Solutions, LLC	006-Library books, quote 11374478		-79.27
006-Library BooksQuote # 11374478DNE $899.21Ship to: Mustang Valley Elementary School, 12400 SW 15th Street, Yukon, OK 73099		006-2220-641-900-0000-000-110		12/18/2023	01/08/2024	-79.27

Non-Payroll Total:	**$4,919.82**
Payroll Total:	**$0.00**
Report Total:	**$4,919.82**

Project Totals

006	Site Media Budget	-80.18
037	White Fleet	5,000.00

Unit Totals

000	PAYROLL ALLOCATED	5,000.00
110	Valley Elem	-79.27
160	Meadow Brook Int	-0.91

Fiscal Year
2023-2024
Fund
34 34-2012 Recurring

Accounting Purchase Order

Mustang Public Schools
Mustang High Alt Ed
12400 S.W. 15TH ST
YUKON OK 73099

PO No
2024-34-163
PO Date
11/27/2023

Ship To: Mustang Public Schools
12400 S.W. 15TH ST
YUKON OK 73099

Vendor No: 14462
To: Amazon Capital Services Inc.

PO BOX 035184
SEATTLE WA 98124-5184

Amount	
$2,932.36	
Date Requested	Date Approved
11/17/2023	11/27/2023
Requested By	
DANIEL ADKISSON	
Encumbered By	
Judy W Kellogg	
Approved By	
Charles Bradley	

Description: 061 - Classroom Supplies

Description	Vendor Item No	Qty	Unit Price	Extended Price
	Amount	Start Date		Classification
061 - Sonos Beam 2		4.000	$499.00	$1,996.00
	1,996.00	11/27/2023		061-1000-653-900-0000-000-705
061 - Soundbar Mount		4.000	$64.99	$259.96
	259.96	11/27/2023		061-1000-653-900-0000-000-705
061 - Rfiver Mobile TV Stand		4.000	$89.99	$359.96
	359.96	11/27/2023		061-1000-653-900-0000-000-705
061 - 3 ft HDMI Cable		4.000	$6.68	$26.72
	26.72	11/27/2023		061-1000-653-900-0000-000-705
061 - 6 ft HDMI Cable		4.000	$9.55	$38.20
	38.20	11/27/2023		061-1000-653-900-0000-000-705
061 - 25' Surge Protector		4.000	$39.99	$159.96
	159.96	11/27/2023		061-1000-653-900-0000-000-705
061 - Apple TV Mount		4.000	$17.99	$71.96
	71.96	11/27/2023		061-1000-653-900-0000-000-705
Increase encumbered 12-8-23 Needs Board Approval		1.000	$19.60	$19.60
	19.60	11/27/2023		061-1000-653-100-0000-000-705

Mustang Public Schools

Revenue Analysis

Options: Type of Revenue: Estimated, As Of Date: 1/31/2024

	Estimated Revenue	Revenue Collected	Revenue Receivable	Unappropriated Receipts	% Rev Collected	Current Month
Fund - 11 11-General						
Series - 1000						
Source - 1110 Ad Valorem Current Year	$25,918,160.95	$20,806,236.69	$5,111,924.26	$0.00	80.28%	$20,298,909.36
Source - 1120 Ad Valorem Prior Years	$0.00	$667,692.76	$0.00	$667,692.76	N/A	$32,485.39
Source - 1310 Interest Earnings	$0.00	$14,162.68	$0.00	$14,162.68	N/A	$1,817.49
Source - 1312 Investment Interest Earnings	$500,000.00	$589,953.87	$0.00	$89,953.87	117.99%	$90,872.09
Source - 1352 Unapportioned Interest	$0.00	$3,157.55	$0.00	$3,157.55	N/A	$365.07
Source - 1440 Sales of Equip, Service and Mat	$0.00	$197,234.75	$0.00	$197,234.75	N/A	$0.00
Source - 1510 Insurance Loss Recovery	$0.00	$22,713.51	$0.00	$22,713.51	N/A	$22,713.51
Source - 1550 Workers' Compensation	$0.00	$2,244.64	$0.00	$2,244.64	N/A	$0.00
Source - 1590 Misc Reimbursements	$0.00	$85,225.21	$0.00	$85,225.21	N/A	$706.28
Source - 1620 Community Service	$0.00	$3,910.00	$0.00	$3,910.00	N/A	$0.00
Source - 1680 Refund of PY Expense	$0.00	$124,258.64	$0.00	$124,258.64	N/A	$1,410.68
Source - 1690 Misc Revenue/ District Source	$0.00	$97,796.29	$0.00	$97,796.29	N/A	$32,796.29
Source - 1710 Lunch/Breakfast	$2,335,029.11	$0.00	$2,335,029.11	$0.00	0.00%	$0.00
Source - 1794 Commodity Rebate	$0.00	$0.00	$0.00	$0.00	N/A	$0.00
Source - 1795 Promotional Rebate	$0.00	$13,957.73	$0.00	$13,957.73	N/A	$3,074.48
Series - 1000 Total	**$28,753,190.06**	**$22,628,544.32**	**$7,446,953.37**	**$1,322,307.63**	**78.70%**	**$20,485,150.64**
Series - 2000						
Source - 2100 County 4 Mill Tax	$2,997,566.98	$2,382,294.29	$615,272.69	$0.00	79.47%	$2,269,391.33
Source - 2200 County Mortgage Tax	$719,600.15	$366,661.24	$352,938.91	$0.00	50.95%	$47,779.64
Series - 2000 Total	**$3,717,167.13**	**$2,748,955.53**	**$968,211.60**	**$0.00**	**73.95%**	**$2,317,170.97**
Series - 3000						
Source - 3110 Gross Production	$6,560,359.35	$2,939,061.66	$3,621,297.69	$0.00	44.80%	$466,668.61
Source - 3120 Motor Vehicle	$5,561,561.43	$2,942,717.53	$2,618,843.90	$0.00	52.91%	$427,871.73
Source - 3130 Rural Electric	$208,712.08	$119,960.03	$88,752.05	$0.00	57.48%	$14,190.62
Source - 3140 State School Land	$1,963,827.98	$1,212,782.04	$751,045.94	$0.00	61.76%	$267,335.21
Source - 3150 Vehicle Tax Stamp	$7,856.21	$4,893.19	$2,963.02	$0.00	62.28%	$587.45
Source - 3210 State Aid	$48,204,530.17	$26,624,790.26	$21,579,739.91	$0.00	55.23%	$4,932,751.68
Source - 3250 Flex Benefit Allowance	$9,428,838.96	$5,194,028.35	$4,234,810.61	$0.00	55.09%	$951,050.81
Source - 3310 Alt/High Challenge Ed	$100,000.00	$57,737.17	$42,262.83	$0.00	57.74%	$0.00
Source - 3412 Nationally Board Certified Bonus	$0.00	$64,050.00	$0.00	$64,050.00	N/A	$64,050.00
Source - 3415 Reading Sufficiency Act	$0.00	$285,964.80	$0.00	$285,964.80	N/A	$0.00
Source - 3420 State Textbook	$859,446.13	$875,100.96	$0.00	$15,654.83	101.82%	$15,654.83
Source - 3435 Redbud School Act	$0.00	$1,510,169.90	$0.00	$1,510,169.90	N/A	$1,510,169.90
Source - 3436 School Resource Officer Program	$92,000.00	$71,980.00	$20,020.00	$0.00	78.24%	$0.00
Source - 3811 Career Tech Salary	$305,957.51	$32,830.00	$273,127.51	$0.00	10.73%	$0.00
Source - 3812 Career Tech Program	$0.00	$119,624.00	$0.00	$119,624.00	N/A	$0.00
Series - 3000 Total	**$73,293,089.82**	**$42,055,689.89**	**$33,232,863.46**	**$1,995,463.53**	**57.38%**	**$8,650,330.84**
Series - 4000						
Source - 4140 Title VI Indian Education	$299,818.00	$169,370.75	$130,447.25	$0.00	56.49%	$0.00
Source - 4210 Title I/Part A	$1,107,196.00	$209,590.78	$897,605.22	$0.00	18.93%	$0.00
Source - 4271 Title II Part A	$279,231.00	$32,788.27	$246,442.73	$0.00	11.74%	$0.00
Source - 4281 Title III Part A ELL	$97,924.00	$49,553.25	$48,370.75	$0.00	50.60%	$49,553.25
Source - 4310 IDEA Part B	$2,912,038.00	$1,266,890.99	$1,645,147.01	$0.00	43.51%	$584,233.52
Source - 4340 IDEA PART B Preschool	$45,386.00	$25,053.87	$20,332.13	$0.00	55.20%	$11,739.54
Source - 4442 Title IV Student Supp	$75,097.00	$6,438.59	$68,658.41	$0.00	8.57%	$0.00
Source - 4689 Other Misc Fed Rev	$1,364,896.74	$82,019.98	$1,282,876.76	$0.00	6.01%	$8,010.35
Source - 4705 Supply Chain Assist	$0.00	$318,440.27	$0.00	$318,440.27	N/A	$0.00
Source - 4710 Federal Lunch	$3,230,606.70	$1,520,740.00	$1,709,866.70	$0.00	47.07%	$247,883.83
Source - 4720 Federal Breakfast	$757,796.63	$387,718.87	$370,077.76	$0.00	51.16%	$64,392.89
Source - 4821 Carl Perkins	$97,551.00	$2,833.64	$94,717.36	$0.00	2.90%	$0.00
Series - 4000 Total	**$10,267,541.07**	**$4,071,439.26**	**$6,514,542.08**	**$318,440.27**	**39.65%**	**$965,813.38**

Mustang Public Schools

Revenue Analysis

Options: Type of Revenue: Estimated, As Of Date: 1/31/2024

	Estimated Revenue	Revenue Collected	Revenue Receivable	Unappropriated Receipts	% Rev Collected	Current Month
Series - 5000						
Source - 5160 Activity Fund Reimb	$1,000,000.00	$363,692.74	$636,307.26	$0.00	36.37%	$1,265.00
Source - 5600 Correcting Entry	$0.00	$14,316.91	$0.00	$14,316.91	N/A	$5,656.14
Series - 5000 Total	**$1,000,000.00**	**$378,009.65**	**$636,307.26**	**$14,316.91**	**37.80%**	**$6,921.14**
Fund - 11 11-General Total	**$117,030,988.08**	**$71,882,638.65**	**$48,798,877.77**	**$3,650,528.34**	**61.42%**	**$32,425,386.97**
Report Total	**$117,030,988.08**	**$71,882,638.65**	**$48,798,877.77**	**$3,650,528.34**	**61.42%**	**$32,425,386.97**

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: Mustang High School Title: Native American Club Project#: 928 Program#: _____

☐ Initial Form ☑ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
T-shirt Sales	October and March
Food Truck Sale	November
Indian Taco Sale	September

Other Sources of Revenue (income other than from fundraisers):

Donations, field trip fees

Expenditures (how the funds will be spent):

Food and supplies for club events

Graduation awards for seniors

Student support/need assistance*

Bailey Murrah — Sponsor Name (Please Print)

1/19/24 — Date Submitted

2023-2024 — School Year

Bailey Murrah — Sponsor Signature

Activity Fund Custodian or CFO Signature 1/22/24

Katy Patterson — Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: MCMS Title: Counseling Project#: 940 Program#: 923

☑ Initial Form ☐ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
Tshirt Sales	January

Other Sources of Revenue (income other than from fundraisers):

Donations, Income from fundraisers,

Expenditures (how the funds will be spent):

Fundraising items, student fidgets, supplies/snacks for counseling week and testing,

Conference registrations

Amy Cozens
Sponsor Name (Please Print)

1/5/24
Date Submitted

2023-2024
School Year

Sponsor Signature

Activity Fund Custodian or CFO Signature 1/12/24

Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: MCMS Title: Theater Project#: 940 Program#: 945

☑ Initial Form ☐ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
Admissions to play production	December

Other Sources of Revenue (income other than from fundraisers):

Donations, Income from fundraisers,

Expenditures (how the funds will be spent):

Costumes and props, food/snacks for students, fundraising items

Ian Eastland
Sponsor Name (Please Print)

Sponsor Signature

Principal or Director Signature

1/5/24
Date Submitted

2023-2024
School Year

Activity Fund Custodian or CFO Signature 1/12/24

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: MCMS Title: Science Project#: 940 Program#: 933

☑ Initial Form ☐ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
Selling Candy & Suckers	Feb 24-May 24

Other Sources of Revenue (income other than from fundraisers):

Donations, Income from Fundraisers, Income from Engineering fair

Expenditures (how the funds will be spent):

Fundraising Items, Science Supplies and Equipment, Classroom Supplies

Ryan Badillo
Sponsor Name (Please Print)

2/5/24
Date Submitted

2023-2024
School Year

Sponsor Signature

Brian Kaiser 2/5/24
Activity Fund Custodian or CFO Signature

Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: MCMS Title: Staff Account Project#: 940 Program#: 900

☐ Initial Form ☑ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
School Spirit Items, School Club Items, School Dance	2023-2024
Student Fee, Yearbook, Entry/Admission Fees	2023-2024
Concessions, Snocones, 1/2 Court Shots	2023-2024
Resale of Food Items - Sandwiches, chicken, pizza etc	Dec 23-May24
*Restaurant Giveback - % of sales for a specific time period	Feb 24-May 24

Other Sources of Revenue (income other than from fundraisers):

Donations, Student Activity Apparel, Approved Fundraisers, Field Trip Fees,
Vending Machine Commissions, Awards, Student Agendas, Reimbursement of expenses

Expenditures (how the funds will be spent):

Student/Office/Teacher Supplies, Entry fees for clubs & organiziations, Books,Furniture
Student Incentives,PD/Conferences,Bus Mileage/Driver,Speaker Fees,Media Supplies
Learning/Resource Materials,Membership Fees,School Decorations,Teacher Recognition
Awards/Party/Assembly Supplies,Yearbook/Photo Supplies,Student Activity Apparel

Lisa Stacey — Sponsor Name (Please Print)

2/5/2024 — Date Submitted

2023-2024 — School Year

Sponsor Signature

Brian Kaiser 2/5/24 — Activity Fund Custodian or CFO Signature

Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: MCMS Title: Staff Account Project#: 940 Program#: 900

☐ Initial Form ☒ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned

Other Sources of Revenue (income other than from fundraisers):

Donations,

Expenditures (how the funds will be spent):

Refunds, Field Trip Fees, Equipment/Technology Purchase & Repair, Fundraiser Items

Student Agendas, Parent/Student/Staff/Visitor Meals/Refreshments, Incidental Supplies

School Beautification ImprovementsPlants/Landscaping Supplies, Playground Equip

Student Store Expenses,Postage,Printing/Poster/Signage Services,Teacher Recognition

Lisa Stacey — Sponsor Name (Please Print)

12/04/23 — Date Submitted

2023-2024 — School Year

Sponsor Signature

Activity Fund Custodian or CFO Signature

Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Donation Approval Form
($500 or Greater)

Jennifer Hooten | Music teacher | PVE | 1-26-2024

Person Receiving the Donation | Job Title | Site | Date

O.T. Myer's Trust | $ 4,265.79

Entity Providing the Donation | Value of Donation (Approximate if Necessary)

If Cash or Check, Project # where funds will be deposited: 946

If Materials, general description of the items: 6 Sonor Smart xylophones, 3 tubano drums

How the Donation will be used: These instruments will be used nearly in the music room to enhance learning for the 785+ students at PVE.

"I understand that all supplies, materials, technology, etc. purchased with a donation become the property of Mustang Public Schools and are not the personal property of individual employees."

Jennifer M Hooten — 1-26-2024

Recipient Signature — Date

Sandra Honeman — 1-29-2024

Principal or Director Signature — Date

Chief Financial Officer Signature — Date

Revised: 2/15/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: Mustang High School Title: DECA Project#: 900 Program#: 957

☐ Initial Form ☑ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
School Based Enterprise	Year Long

Other Sources of Revenue (income other than from fundraisers):

Donations, DECA Membership Dues, Educational Conference Registeration, DECA Membership Shirts, Conference Registerations.

Expenditures (how the funds will be spent):

Vendors to stock School Based Enterprise, DECA State & International Conferences, Improvements/Investments to School Based Enterprise, MPS Transportation, Educational Travel, Member Shirts, Meeting Supplies, Social/Event Supplies, Chapter Campaigns, Charitable Donations*

Erin Wakefield	1/19/2024	23-24
Sponsor Name (Please Print)	Date Submitted	School Year
E Wakefield	Erin Kaiser 1/22/24	
Sponsor Signature	Activity Fund Custodian or CFO Signature	
Kathy Knowles		
Principal or Director Signature	Date of Board Approval	

Revised: 5/22/2023

MUSTANG PUBLIC SCHOOLS

Purpose of Activity Fund Account

School: District Admin Title: General Fund Refund Project#: 915 Program#: 900

☑ Initial Form ☐ Amended Form (Indicate Additions with an *)

Fundraisers (selling items for a profit):

Description	Month Planned
n/a	

Other Sources of Revenue (income other than from fundraisers):

Donations, reimbursements by staff, students or others for repairs or replacements of lost or damaged items such as books and badges.

Expenditures (how the funds will be spent):

At the end of the fiscal year, these funds will be transferred to the General Fund

Jeff Landes, CFO
Sponsor Name (Please Print)

2/3/2024
Date Submitted

2023-2024
School Year

Sponsor Signature

Activity Fund Custodian or CFO Signature

Principal or Director Signature

Date of Board Approval

Revised: 5/22/2023

REQUEST FOR APPROVAL OF STATE AID AND/OR FEDERAL FUNDS FOR SCHOOLS

Building FUND

Mustang Public Schools

S.A.& I. 307 (2006) **School District I - 69**

To the County Clerk of Canadian County, State of Oklahoma:

We, the undersigned, duly qualified and acting officers of the Governing Board of aforementioned school district of said County and State hereby certify that the notice of approval of the following State and/or Federal Funds has been received and is currently on file in the school's business office:

1.	Redbud School Grant	$ 1,510,169.90
2.		
3.		
4.		
5.		
6.		
7.		
8.		
	TOTAL	$ 1,510,169.90

We, further certify that these funds are in addition to and in excess of the State and/or Federal Funds previously appropriated for the school district. We, therefore, request that the school's appropriations be increased by the following amounts:

Purpose of Item of Appropriations	**Prior Approved Appropriations**	**Requested Application of Funds**	**Current Approved Appropriations**	**Added by County Clerk**
1. Current Expense	$ 5,430,062.58	$ 1,510,169.90	$ 6,940,232.48	
2. Interest Reserve				
3. Grand Total	$ 5,430,062.58	$ 1,510,169.90	$ 6,940,232.48	

Submitted, by order of the Board, this 12th day of February, 2024.

Board President

Board Clerk

CERTIFICATE OF COUNTY CLERK

STATE OF OKLAHOMA, COUNTY OF CANADIAN, SS:

I, the duly qualified and acting County Clerk in and for the said County and State, do hereby certify that I have added the requested amounts to the appropriations of the school district in the manner requested by the School's Board of Education.

Done at _____ Oklahoma, this _____ day of _____, 20_____ .

_____, County Clerk

(SEAL) By _____, Deputy

REQUEST FOR APPROVAL OF STATE AID AND/OR FEDERAL FUNDS FOR SCHOOLS

General FUND

Mustang Public Schools

S.A.& I. 307 (2006) **School District I - 69**

To the County Clerk of Canadian County, State of Oklahoma:

We, the undersigned, duly qualified and acting officers of the Governing Board of aforementioned school district of said County and State hereby certify that the notice of approval of the following State and/or Federal Funds has been received and is currently on file in the school's business office:

1.	SDE Foundation and Salary Incentive	$ 1,095,513.28
2.		
3.		
4.		
5.		
6.		
7.		
8.		
	TOTAL	$ 1,095,513.28

We, further certify that these funds are in addition to and in excess of the State and/or Federal Funds previously appropriated for the school district. We, therefore, request that the school's appropriations be increased by the following amounts:

Purpose of Item of Appropriations	**Prior Approved Appropriations**	**Requested Application of Funds**	**Current Approved Appropriations**	**Added by County Clerk**
1. Current Expense	$ 126,800,214.17	$ 1,095,513.28	$ 127,895,727.45	
2. Interest Reserve				
3. Grand Total	$ 126,800,214.17	$ 1,095,513.28	$ 127,895,727.45	

Submitted, by order of the Board, this 12th day of February, 2024.

Board President

Board Clerk

CERTIFICATE OF COUNTY CLERK

STATE OF OKLAHOMA, COUNTY OF CANADIAN, SS:

I, the duly qualified and acting County Clerk in and for the said County and State, do hereby certify that I have added the requested amounts to the appropriations of the school district in the manner requested by the School's Board of Education.

Done at _____ Oklahoma, this _____ day of _____, 20_____ .

_____, County Clerk

(SEAL) By _____, Deputy

AIA® Document A133® – 2019 Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the Fifteenth day of January in the year Two Thousand Twenty Four , is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Twenty Seventh day of December in the year Two Thousand Twenty Three (the "Agreement")
(In words, indicate day, month, and year.)

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

Softball Batting Facility
909 S. Mustang Rd, Mustang, OK 73064

THE OWNER:
(Name, legal status, and address)

Mustang Public Schools
12400 SW 15th St.
Yukon, OK 73099

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Timberlake Construction Co., IncCasey Logue
7613 N. Classen, Oklahoma City, OK 73116

TABLE OF ARTICLES

A.1 GUARANTEED MAXIMUM PRICE

A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed One Million Five Hundred Forty Three Thousand Four Hundred Eighty Five Dollars and Ninety One Cents ($ 1,543,485.91), subject to additions and deductions by Change Order as provided in the Contract Documents.

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User Notes: (1647531886)

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement. Allowances and Contingencies will be used with District approval. Any remaining balances will be returned at end of the project.
(Provide itemized statement below or reference an attachment.)

See attached Breakout of Construction Cost Summary Dated 12-27-23

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates
§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
No Alternates	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ A.1.1.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
Soft Soil Removal / Replacement	CY	$42.00
Rock Removal	CY	50.00

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ A.2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of execution of this Amendment.

[X] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

May 13, 2024

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion
§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

Init.
/
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User Notes:
(1647531886)

[X] Not later than Two Hundred (200) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit C	MPS Softball Batting Facility Scope	01-29-24	4

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Exhibit E

Section	Title	Date	Pages

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Exhibit F

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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Item	Price
See Exhibit A	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

See Exhibit C

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

See Exhibit D

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

None

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Mustang Public School Board of Education	Casey Logue VP of Operations
(Printed name and title)	*(Printed name and title)*

Init.
/
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(1647531886)

Additions and Deletions Report for

AIA® Document A133® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:09:24 ET on 01/30/2024.

PAGE 1

This Amendment dated the Fifteenth day of January in the year Two Thousand Twenty Four , is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Twenty Seventh day of December in the year Two Thousand Twenty Three (the "Agreement")

...

Softball Batting Facility
909 S. Mustang Rd, Mustang, OK 73064

...

Mustang Public Schools
12400 SW 15th St.
Yukon, OK 73099

...

Timberlake Construction Co., IncCasey Logue
7613 N. Classen, Oklahoma City, OK 73116

...

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed One Million Five Hundred Forty Three Thousand Four Hundred Eighty Five Dollars and Ninety One Cents ($ 1,543,485.91), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement. Allowances and Contingencies will be used with District approval. Any remaining balances will be returned at end of the project.

PAGE 2

See attached Breakout of Construction Cost Summary Dated 12-27-23

...

No Alternates

...

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Soft Soil Removal / Replacement	CY	$42.00
Rock Removal	CY	50.00

...

[X] Established as follows:

...

May 13, 2024

PAGE 3

[X] Not later than Two Hundred (200) calendar days from the date of commencement of the Work.

...

Exhibit C	MPS Softball Batting Facility Scope	01-29-24	4

...

Exhibit E

...

Exhibit F

PAGE 4

See Exhibit A

...

See Exhibit C

...

See Exhibit D

...

None

...

Mustang Public School Board of Education Casey Logue VP of Operations

Additions and Deletions Report for AIA Document A133 – 2019 Exhibit A. Copyright © 1991, 2003, 2009, and 2019>. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This draft was produced at 10:09:24 ET on 01/30/2024 under Order No.4104245422 which expires on 09/19/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.
User Notes:
(1647531886)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:09:24 ET on 01/30/2024 under Order No. 4104245422 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019 Exhibit A, Guaranteed Maximum Price Amendment, other than those additions and deletions shown in the associated Additions and Deletions Report.

Cory Lyse
(Signed)

V.P. of Operations
(Title)

01-29-2024
(Dated)

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User Notes:
(1647531886)

CERTIFICATE OF LIABILITY INSURANCE

8/1/2024

DATE (MM/DD/YYYY) 1/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Lockton Companies
444 W. 47th Street, Suite 900
Kansas City MO 64112-1906
(816) 960-9000

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Zurich American Insurance Company	16535
INSURER B : Travelers Property Casualty Company of America	25674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
1072562
TIMBERLAKE CONSTRUCTION CO., INC.
PO BOX 18297
OKLAHOMA CITY OK 73154

COVERAGES * **CERTIFICATE NUMBER:** 20244291 **REVISION NUMBER:** XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [X] LOC OTHER:	N	N	GLO8084382-00	8/1/2023	8/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 500,000 $ 15,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	N	N	BAP8712525-00	8/1/2023	8/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX $ XXXXXXX
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $	N	N	CUP-2S65693A-23-NF	8/1/2023	8/1/2024	EACH OCCURRENCE AGGREGATE 	$ 10,000,000 $ 10,000,000 $ XXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	N	WC8703016-00	8/1/2023	8/1/2024	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

20244291

MUSTANG PUBLIC SCHOOLS
12400 SW 15TH ST
YUKON OK 73099

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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January 29th, 2024

MPS Softball Batting Facility

Mustang, Oklahoma

Thank you for the opportunity to provide pricing on the MHS Softball Batting Facility. Following is the scope based on documents dated 11.08.23 and addendum #1 dated 12.01.23.

General Items:

a) TCI has no Owner Furnished Contractor Installed costs included currently. All Furniture/Fixtures/Equipment is assumed as Owner Furnished Owner Installed.
b) No costs for Low Voltage are included and is assumed as Owner Furnished Owner Installed.
c) Utility costs for construction work and trailer is included as an allowance.
d) TCI has included costs for the building permit.
e) Contingency is to be considered a project contingency, available to the contractor for use with Mustang School Board Approval.
f) Unit prices listed, do not include TCI Fee.
g) CAD or REVIT files will be requested by TCI for use by our subcontractors in order to facilitate submittals from the trades at not cost. TCI will provide written release.
h) Sales Tax is not included. Owner will provide tax exempt forms to vendors and trades as requested.
i) No fire suppression is included.
j) Although TCI does not anticipate any material cost increases over the first of the year, if they occur, the project contingency will be used to adjust costs with Mustang School Board Approval.
k) JHA comments are not included in pricing, as building permits have not been issued.

Plan Specific General Items:

3A- Building Concrete:

A. Concrete foundations to include perimeter grade beams and spot footings with 4” of stone base and standard 4” slab on grade with vapor barrier. We assume footings will be earth formed.
B. Pest control pretreatment.
C. Pad for new HVAC ground mounted unit.

4A- Masonry:

A. Unit masonry block is included per the documents. Dowels from slab to masonry to be epoxied.

office: 7613 N. Classen Blvd. Oklahoma City, OK 73116 | web: timberlakeconstruction.com | phone: (405) 840-2521

6C- General Trades / Rough Carpentry

A. Installation of hollow metal frames, doors, and hardware.
B. Installation of toilet accessories.
C. Installation temporary partitions
D. Install Fire Extinguishers and Cabinets
E. Rough Blocking
F. Rental equipment, temporary heat, misc. site maintenance, storage equipment
G. Carpentry
H. Joint Sealants.
I. Access control panels in hard lid ceilings.

8A- Openings:

A. Hollow metal doors and frames per the documents.
B. Door hardware per the documents.

9A- Framing and Ceiling:

A. Gyp walls and ceiling with associated insulation
B. ¾" fire treated plywood decking.

9B- Artificial athletic flooring, Walk-Off Mat, Base:

A. Artificial athletic flooring. (No markings are included per the documents.)
B. Vinyl base in restrooms.
C. No moisture remediation has been included.

9E- Painting and Coatings:

A. Tape and Float of drywall systems.
B. General painting of walls, hollow metal door and frames.
C. Dryfall per the documents.

10A- Specialties:

A. Toilet Accessories.
B. Fire Ext and Cab.

10B- Signage: Allowance

A. Includes code compliant interior ADA signage with plastic plaque signs for each room per the documents.
B. Smaller 4' x 8' project sign.
C. No Building Plaque.

12A – Batting Cage Netting:

A. Batting cage netting per notes on A111 & site visit to *Piching Worx.*

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13A – Metal Building:

A. Metal Building complete with all components including insulation, steel, anchor bolts, perlins, standing seam roof, gutters and down spouts, trim and accessories for a complete weather tight system.
B. Delegated design.
C. Traditional insulation method over the purlin. (See attached.)
D. Liner panel profile. (See attached.)
E. Standing seam roof panel. (See attached.)
F. Standard color chart. (See attached.)
G. Traditional Roofing form will be modified for metal building application.

22A – Plumbing:

B. Plumbing fixtures and equipment.
C. Domestic water piping system.
D. Sanitary sewer, waste, and vent systems per the documents will be tied on to existing system.
E. Plumbing insulation.

23A – HVAC:

A. Ground mounted 15-T unit.
B. Exhaust fans.
C. Condensate piping.
D. Controls.
E. Test and Balance.

26A – Electrical:

A. Panels & gear, lighting, conduits and wiring for a complete electrical system.
B. Fire alarm system per the documents.
C. Communications, data, and other low voltage work by Owner and not included in this pricing.

31A – Earthwork

A. Preparation of subgrade. No import per the Geotechnical report to create the building pad and per email dated 08.16.23 from Standard Testing.
B. SWPPP.
C. We have included a construction entrance from south road to the construction site.
D. Unit price for soft soil removal: $42/CY
E. Unit price for rock removal: $50/CY

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32A – Site Paving

A. New sidewalks per the documents.

32A – Utilities

A. No fire line.
B. No storm sewer.
C. Sanitary Sewer to run to the west and tie into the City of Mustang system.
D. Domestic water to tie into existing 12” main.
E. New fire hydrant.

Notes:

A. TCI may use the existing parking lot for trailer and temp fence off a portion of the parking lot for laydown area. The temp fence is to be removed by 08.01.24 in advance of football season for parking.

Allowances:

A. Sod for disturbed areas.
B. Third party testing.
C. Soft soil.
D. Temp utilities for trailer and building including flush meter for temp water.

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TIMBERLAKE CONSTRUCTION CO., INC.

MHS Softball Batting Facility	12.27.23
Bid Package and Description	**100% CD's**
Bid Package #3A - Concrete	$123,472.00
Bid Package #4A - Masonry	$32,030.00
Bid Package #6C - General Trades	$15,350.00
Bid Package #8A - Openings (HM Dr's & Frames)	$31,340.00
Bid Package #9A - Framing and Ceilings	$8,200.00
Bid Package #9C - Artifical Turf and Vinyl Base	$49,321.00
Bid Package #9E - Painting and Coatings	$16,000.00
Bid Package #10A - TA, Fire Ext & Cabinets	$1,390.00
Bid Package #10B - Signage--Allowance	$3,000.00
Bid Package #12A - Batting Cage Netting	$19,810.20
Bid Package #13A - Metal Building	$272,949.00
Bid Package #13B Metal Building Erection	in 13A
Bid Package #21A - Fire Suppression	N/A
Bid Package #22A - Plumbing	Inc in 23A
Bid Package #23A - HVAC	$227,457.64
Bid Package #26A - Electrical	$86,750.00
Bid Package #31A - Earthwork	$59,000.00
Bid Package #32A - Site Paving	$32,500.00
Bid Package #33A - Utilities	$108,000.00
Sod--Allowance	$18,000.00
Final Clean	$3,750.00
Permits, Inspection fees,	$5,000.00
Third Party Testing Allowance	$10,000.00
Soft Soil Allowance	$25,000.00
Temp Utilities Allowance	$8,000.00
Subtotal	$1,156,319.84
General Conditions	$206,888.00
General Liability	$20,448.12
Builders Risk	$6,918.28
Bond	$12,745.68
Preconstruction	$0.00
5% FEE	$70,166.00
Project Contingency	$70,000.00
Construction Total	**$1,543,485.91**

Timberlake Construction Co., Inc.

Current Specifications

Number	Description	Revision	Issued Date	Received Date	Set
00 - Procurement and Contracting Requirements					
00 11 13	INVITATION FOR BIDS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 20 00	CONTRACT DOCUMENTS AND FORMS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 21 13	INSTRUCTIONS TO BIDDERS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 30 00	PERFORMANCE BOND	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 35 00	STATUTORY BOND	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 37 50	DEFECT BOND	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 41 00	BID PROPOSAL FORM	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 43 29	ROOFING QUALIFICATION STATEMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 70 00	AIA Document A201 - 2017	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
00 80 00	SUPPLEMENTARY GENERAL CONDITIONS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
000110	Table of Contents	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 - General Requirements					
01 10 00	SUMMARY	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 30 00	ADMINISTRATIVE REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 32 16	CONSTRUCTION PROGRESS SCHEDULE	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 35 53	SECURITY PROCEDURES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 40 00	QUALITY REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 41 00	REGULATORY REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 42 16	DEFINITIONS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 50 00	TEMPORARY FACILITIES AND CONTROLS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 52 00	STUDENT AND SITE SAFETY PROGRAMS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 52 13	FIELD OFFICES AND SHEDS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 57 13	TEMPORARY EROSION AND SEDIMENT CONTROL	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 60 00	PRODUCT REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 70 00	EXECUTION AND CLOSEOUT REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 71 23	CONTRACTOR CONSTRUCTION STAKING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 78 00	CLOSEOUT SUBMITTALS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
01 79 00	DEMONSTRATION AND TRAINING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
1 - Unknown					
1 102.0	Security and Vault Equipment	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
02 - Existing Conditions					
02 41 19	SELECTIVE STRUCTURE DEMOLITION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
03 - Concrete					
03 30 00	CAST-IN-PLACE CONCRETE	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
03 35 11	CONCRETE FLOOR FINISHES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
04 - Masonry					
04 20 00	UNIT MASONRY	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
06 - Wood, Plastics, and Composites					
06 10 00	ROUGH CARPENTRY	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
07 - Thermal and Moisture Protection					
07 21 00	THERMAL INSULATION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
07 90 05	JOINT SEALERS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
08 - Openings					
08 11 13	HOLLOW METAL DOORS AND FRAMES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
08 31 00	ACCESS DOORS AND PANELS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
087100	DOOR HARDWARE	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
09 - Finishes					
09 21 16	GYPSUM BOARD ASSEMBLIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
09 65 00	RESILIENT FLOORING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
09 77 30	GLASS FIBER REINFORCED PLASTIC PANELS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
09 90 00	PAINTING AND COATING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
10 - Specialties					
10 14 00	SIGNAGE	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
10 28 00	TOILET, BATH, AND LAUNDRY ACCESSORIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
10 44 00	FIRE PROTECTION SPECIALTIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
13 - Special Construction					
13 34 19	Metal Building Systems	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 - Plumbing					
22 11 19	DOMESTIC WATER PIPING SPECIALTIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 0500	COMMON WORK RESULTS FOR PLUMBING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 0523	GENERAL-DUTY VALVES FOR PLUMBING PIPING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 0529	HANGERS AND SUPPORTS FOR PLUMBING PIPING AND EQUIPMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 0719	PLUMBING PIPING INSULATION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 1116	DOMESTIC WATER PIPING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 1316	SANITARY WASTE AND VENT PIPING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 1319	SANITARY WASTE PIPING SPECIALTIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 3300	ELECTRIC, DOMESTIC-WATER HEATERS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
22 4716	PRESSURE WATER COOLERS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
220553	IDENTIFICATION FOR PLUMBING PIPING AND EQUIPMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
224213	COMMERCIAL PLUMBING FIXTURES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 - Heating, Ventilating, and Air Conditioning (HVAC)					
23 0001	TEMPORARY USE OF MECHANICAL EQUIPMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 05 29	HANGERS AND SUPPORTS FOR HVAC PIPING AND EQUIPMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 07 19	HVAC PIPING INSULATION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 11 23	FACILITY NATURAL-GAS PIPING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 0593	TESTING, ADJUSTING, AND BALANCING FOR HVAC	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 0713	DUCT INSULATION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 3113	METAL DUCTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 3300	AIR DUCT ACCESSORIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 3423	HVAC POWER VENTILATORS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 3713	DIFFUSERS, REGISTERS, AND GRILLES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
23 9000	LOUVERS AND VENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
230000	BASIC MECHANICAL REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
230010	COMMON WORK RESULTS FOR MECHANICAL	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
230900	INSTRUMENTATION AND CONTROL FOR HVAC	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
232113	HYDRONIC PIPING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
237413	PACKAGED, OUTDOOR, CENTRAL-STATION AIR-HANDLING UNITS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 - Electrical					
26 0500	BASIC ELECTRICAL REQUIREMENTS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0501	ELECTRICAL TEMPORARY FACILITIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0502	ELECRICAL DEMOLITION	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0504	CLEANING, INSPECTION, AND TESTING OF ELECTRICAL EQUIPMENT	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0519	LOW-VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0533	ELECTRICAL RACEWAYS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0534	ELECTRICAL BOXES AND FITTINGS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0553	IDENTIFICATION FOR ELECTRICAL SYSTEMS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 0573	SHORT CIRCUIT/COORDINATION AND ARC-FLASH STUDY	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 2416	PANELBOARDS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 2702	EQUIPMENT WIRING SYSTEMS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 2726	WIRING DEVICES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 4313	SURGE PROTECTIVE DEVICES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 5115	LOW VOLTAGE LIGHTING CONTROL	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
26 5119	LED INTERIOR LIGHTING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
28 - Electronic Safety and Security					
28 3111	DIGITAL, ADDRESSABLE FIRE-ALARM SYSTEM	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
31 - Earthwork					

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
31 10 00	SITE CLEARING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
31 20 00	Earth Moving	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
31 23 20	TRENCHING AND BACKFILLING FOR UTILITIES	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
31 25 00	EROSION CONTROL	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
31 31 16	TERMITE CONTROL	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
32 - Exterior Improvements					
32 13 14	CONCRETE SIDEWALKS, CURB AND GUTTERS	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
32 18 13	SYNTHETIC GRASS SURFACING	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
33 - Utilities					
33 41 01	WATER DISTRIBUTION SYSTEM	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
33 41 02	GAS DISTRIBUTION SYSTEM	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
33 41 03	SANITARY SEWERAGE SYSTEM	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs
34 - Transportation					
34 0000	Geotechnical Report	0	11/08/23	11/08/23	100 MHS Softball Batting Facility Specs

TIMBERLAKE CONSTRUCTION

Timberlake Construction Co., Inc.

Exhibit F

Job #: 23-20 Mustang Softball Field

Current Drawings

Drawing No.	Drawing Title	Revision	Drawing Date	Received Date	Set
Architectural					
A101	SITE PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A111	FLOOR PLAN AND FINISH PLAN	1	12/04/2023	12/04/2023	Addendum #1 (12/04/23)
A121	REFLECTED CEILING AND ROOF PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A201	EXTERIOR AND INTERIOR ELEVATIONS	1	12/04/2023	12/04/2023	Addendum #1 (12/04/23)
A301	BUILDING SECTIONS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A311	WALL SECTIONS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A501	ENLARGED DETAILS/SECTION DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A502	ENLARGED DETAILS / SECTION DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
A601	SCHEDULES, DOOR & WALL TYPES, SIGNAGE, TYP ADA	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
Civil					
C-1	Topographic Survey Map	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-2	Overall Site Plan	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-3	Site Plan	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-4	Grading Plan	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-5	Site Utility Plan	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
c-5.1	Site Utility Plan Detail	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-5.2	Sanitary Sewer Plan & Profile	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-5.3	Water Line Plan & Profile	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-6	Erosion Control Plan	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
C-6.1	Erosion Details	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
Electrical					
E000	ELECTRICAL LEGEND	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E100	ELECTRICAL SITE PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E200	ELECTRICAL LIGHTING PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E210	ELECTRICAL LIGHTING DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E300	ELECTRICAL POWER PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E310	ELECTRICAL POWER DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E400	ELECTRICAL SYSTEMS PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E410	ELECTRICAL SYSTEMS DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
E500	ELECTRICAL RISER DIAGRAM	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
General					
G001	COVER	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
G101	CODE REVIEW	0	11/08/2023	11/08/2023	100% CD's (11/08/23)

TIMBERLAKE CONSTRUCTION

Timberlake Construction Co., Inc.

Exhibit G

Job #: 23-20 Mustang Softball Field
421 W Dowden
Mustang, Oklahoma

Drawing No.	Drawing Title	Revision	Drawing Date	Received Date	Set
Mechanical					
M100	MECHANICAL LEGEND & ABBREVIATIONS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M200	MECHANICAL FLOOR PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M201	MECHANICAL ROOF PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M300	UNDERFLOOR PLUMBING PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M301	ABOVE FLOOR PLUMBING PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M400	ENLARGED PLUMBING PLANS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M500	MECHANICAL SCHEDULES	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M600	MECHANICAL DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M601	MECHANICAL DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
M700	MECHANICAL CONTROLS AND SEQUENCES	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
Structural					
S100	GENERAL NOTES	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
S101	GENERAL NOTES	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
S102	TYPICAL FOUNDATION DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
S103	TYPICAL CMU DETAILS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
S104	SPECIAL INSPECTIONS	0	11/08/2023	11/08/2023	100% CD's (11/08/23)
S201	FOUNDATION PLAN	0	11/08/2023	11/08/2023	100% CD's (11/08/23)

AIA® Document A133® – 2019 Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the Fifteenth day of January in the year Two Thousand Twenty Four , is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Twenty Seventh day of December in the year Two Thousand Twenty Three (the "Agreement")
(In words, indicate day, month, and year.)

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

Safety Corridor
909 S. Mustang Rd, Mustang, OK 73064

THE OWNER:
(Name, legal status, and address)

Mustang Public Schools
12400 SW 15th St.
Yukon, OK 73099

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Timberlake Construction Co., IncCasey Logue
7613 N. Classen, Oklahoma City, OK 73116

TABLE OF ARTICLES

A.1 GUARANTEED MAXIMUM PRICE

A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Six Hundred Fourteen Thousand One Hundred Sixty Three Dollars and Thirty Five Cents ($

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614,163.35), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement. Allowances and Contingencies will be used with District approval. Any remaining balances will be returned at end of the project.
(Provide itemized statement below or reference an attachment.)

See attached Breakout of Construction Cost Summary Dated 12-27-23

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates
§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
No Alternates	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ A.1.1.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
Soft Soil Removal / Replacement	CY	$70.00

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ A.2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of execution of this Amendment.

[X] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

May 1, 2024

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion
§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

Init.
/
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[X] Not later than One Hundred Nine (109) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Exhibit C	MPS Elementary Security Corridor	01-29-24	4

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Exhibit E

Section	Title	Date	Pages

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Exhibit F

Number	Title	Date

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

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Item	Price
See Exhibit C	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

Timberlake Narrative Dated 01-29-24

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

See Exhibit D

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

None

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
Mustang Public Schools School Board	Casey Logue VP of Operations
(Printed name and title)	*(Printed name and title)*

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Additions and Deletions Report for

AIA® Document A133® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:30:00 ET on 01/29/2024.

PAGE 1

This Amendment dated the Fifteenth day of January in the year Two Thousand Twenty Four , is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Twenty Seventh day of December in the year Two Thousand Twenty Three (the "Agreement")

...

Safety Corridor
909 S. Mustang Rd, Mustang, OK 73064

...

Mustang Public Schools
12400 SW 15th St.
Yukon, OK 73099

...

Timberlake Construction Co., IncCasey Logue
7613 N. Classen, Oklahoma City, OK 73116

...

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Six Hundred Fourteen Thousand One Hundred Sixty Three Dollars and Thirty Five Cents ($ 614,163.35), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement. Allowances and Contingencies will be used with District approval. Any remaining balances will be returned at end of the project.

PAGE 2

See attached Breakout of Construction Cost Summary Dated 12-27-23

...

No Alternates

...

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Soft Soil Removal / Replacement	CY	$70.00

...

[X] Established as follows:

...

May 1, 2024

PAGE 3

[X] Not later than One Hundred Nine (109) calendar days from the date of commencement of the Work.

...

Exhibit C	MPS Elementary Security Corridor	01-29-24	4

...

Exhibit E

...

Exhibit F

PAGE 4

See Exhibit C

...

Timberlake Narrative Dated 01-29-24

...

See Exhibit D

...

None

...

Mustang Public Schools School Board

Casey Logue VP of Operations

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:30:00 ET on 01/29/2024 under Order No. 4104245422 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019 Exhibit A, Guaranteed Maximum Price Amendment, other than those additions and deletions shown in the associated Additions and Deletions Report.

Cory Lege
(Signed)

V.P. of Operations
(Title)

01-29-2024
(Dated)

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CERTIFICATE OF LIABILITY INSURANCE

8/1/2024

DATE (MM/DD/YYYY) 1/26/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Lockton Companies
444 W. 47th Street, Suite 900
Kansas City MO 64112-1906
(816) 960-9000

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Zurich American Insurance Company	16535
INSURER B : Travelers Property Casualty Company of America	25674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
1072562
TIMBERLAKE CONSTRUCTION CO., INC.
PO BOX 18297
OKLAHOMA CITY OK 73154

COVERAGES * **CERTIFICATE NUMBER:** 20244291 **REVISION NUMBER:** XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [X] LOC OTHER:	N	N	GLO8084382-00	8/1/2023	8/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 500,000 $ 15,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	N	N	BAP8712525-00	8/1/2023	8/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ XXXXXXX $ XXXXXXX $ XXXXXXX $ XXXXXXX
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $	N	N	CUP-2S65693A-23-NF	8/1/2023	8/1/2024	EACH OCCURRENCE AGGREGATE 	$ 10,000,000 $ 10,000,000 $ XXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	N	WC8703016-00	8/1/2023	8/1/2024	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

20244291

MUSTANG PUBLIC SCHOOLS
12400 SW 15TH ST
YUKON OK 73099

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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TIMBERLAKE CONSTRUCTION

January 29th, 2024

MPS Elementary Security Corridor

Mustang, Oklahoma

Thank you for the opportunity to provide pricing on the MPS Elementary Security Corridor. Following is the scope based on documents dated 11.08.23 and addendum #1 dated 12.01.23.

General Items:

a) TCI has no Owner Furnished Contractor Installed costs included currently. All Furniture/Fixtures/Equipment is assumed as Owner Furnished Owner Installed.
b) No costs for Low Voltage are included and is assumed as Owner Furnished Owner Installed.
c) Temp Utility costs are not included for this remodel. Assume TCI can use owner electrical, water.
d) TCI assumes the building permit cost is included by the owner.
e) Contingency is to be considered a project contingency, available to the contractor for use with Mustang School Board Approval.
f) Unit prices listed, do not include TCI Fee.
g) CAD or REVIT files will be requested by TCI for use by our subcontractors in order to facilitate submittals from the trades at not cost. TCI will provide written release.
h) BR Insurance is not included since it has been our experience that this is must less expensive for the owner to buy on an existing building.
i) Sales Tax is not included. Owner will provide tax exempt forms to vendors and trades as requested.
j) Although TCI does not anticipate any material cost increases over the first of the year, if they occur, the project allowance will be used to adjust costs with Mustang School Board Approval.
k) JHA comments are not included in pricing, as building permits have not been issued.

Plan Specific General Items:

2A- Demolition:

A. Sidewalk, utility, walls, flooring, roof demolition.
B. Cut new opening to classroom building to the north.
C. Interior demolition to the interior of both cafeteria and classroom buildings to facilitate new construction.
D. Existing carpet is not guaranteed to be able to be salvaged.

3A- Building Concrete:

A. Concrete foundations to include perimeter grade beams and spot footings with 4” of stone base and standard 4” slab on grade with vapor barrier. We assume footings will be earth formed.
B. Pest control pretreatment.

office: 7613 N. Classen Blvd. Oklahoma City, OK 73116 | web: timberlakeconstruction.com | phone: (405) 840-2521

4A- Masonry:

A. Brick Unit masonry is included per the documents. Mockup will be provided to get as close as possible with current brick supplies. An exact match may not be possible.
B. Penetration from new corridor into classroom building to the north.

5A- Structural Steel:

A. Structural and misc. steel per the drawings.
B. Penetration from new corridor into classroom building to the north.
C. Steel handrails.

6C- General Trades / Rough Carpentry

A. Installation of hollow metal frames, wood doors, and hardware.
B. Installation of toilet accessories.
C. Installation temporary partitions
D. Install Fire Extinguisher and Cabinet.
E. Rough Blocking
F. Rental equipment, temporary heat, misc. site maintenance, storage equipment.
G. Carpentry.
H. Access control panels in hard lid ceilings.
I. Splash blocks.

7A- Roofing and Sheet Metal

A. Cover board, insulation, mod bit roofing system.
B. Sheet metal flashing and trim.
C. Patch hole at new condenser.
D. Existing canopy tie-in fascia flashing.

7B- Joint Sealants and Waterproofing

A. Joint Sealants.
B. Spray waterproofing at exterior sheathing.

8A- Openings:

A. Hollow metal doors and frames per the documents.
B. Flush wood doors.
C. Door hardware per the documents.

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8C- Aluminum Glass and Glazing:

A. Aluminum doors and frames.
B. Door hardware per the documents.
C. Door lites in wood doors.

9A- Framing and Ceiling:

A. Metal studs, insulation, sheathing, sheetrock for walls and ceilings.
B. Acoustical ceilings and tie-in to existing conditions.
C. Expansion joints.
D. Corner guards.

9B- Resilient Tile, Carpet Tile and Vinyl Base:

A. Resilient Tile, carpet tile and vinyl base.
B. No moisture remediation has been included.
C. Excessive floor prep for existing floors in not included.

9E- Painting and Coatings:

A. Tape and Float of drywall systems.
B. General painting of drywall walls and ceilings, hollow metal door and frames.

10A- Specialties:

A. Fire Ext and Cab.

10B- Signage: Allowance

A. Includes code compliant interior ADA signage with plastic plaque signs for each room per the documents.
B. Project Sign.
C. No plaque.

21A – Fire suppression:

A. Extension of the existing service from the classroom building into the corridor per the documents.
B. It has not been verified, that there is sprinkler service in that area of the building.

office: 7613 N. Classen Blvd. Oklahoma City, OK 73116 | web: timberlakeconstruction.com | phone: (405) 840-2521

TIMBERLAKE CONSTRUCTION

22A – Plumbing: included in 23A

23A – HVAC:

A. New mini-split unit and condenser.
B. Controls.
C. Test and Balance.
D. Condensate piping system.
E. Dry well.

26A – Electrical:

A. Panels & gear, lighting, conduits and wiring for a complete electrical system.
B. Fire alarm system extension per the documents.
C. Communications, data, and other low voltage work by Owner and not included in this pricing.

31A – Earthwork

A. Preparation of subgrade. No import per the Geotechnical report to create the building pad and per email dated 08.16.23 from Standard Testing.
B. SWPPP.
C. Unit Price for soft soil removal/replacement: $70/CY.

32A – Site Paving

A. New trickle channel, flumes, sidewalks per the documents.

Notes:

A. TCI may use the existing parking lot for conex placement and trade parking as designated by MPS.

Allowances:

A. Sod for disturbed areas.
B. Third party testing.
C. Soft soil.
D. Unforseen conditions.

office: 7613 N. Classen Blvd. Oklahoma City, OK 73116 | web: timberlakeconstruction.com | phone: (405) 840-2521

TIMBERLAKE CONSTRUCTION

TIMBERLAKE CONSTRUCTION CO., INC.

Mustang Elementary Security Corridor	**01.29.24**
Bid Package and Description	**100% CD**
Bid Package #2A - Demolition	$21,835.00
Bid Package #3A - Concrete	$53,421.00
Bid Package #4A - Masonry	$28,518.00
Bid Package #5A - Structural Steel--F&I	$44,000.00
Bid Package #6C - General Trades	$13,350.00
Bid Package #7A - Roofing & Sheet Metal	$45,559.00
Bid Package #7B - Joint Sealants & Waterproofing	$9,400.00
Bid Package #8A - Openings (HM, Wood Doors, HDwr)	$24,896.00
Bid Package #8C - Aluminum Glass and Glazing	$21,300.00
Bid Package #9A - Drywall	$32,000.00
Bid Package #9C - Flooring	$7,870.00
Bid Package #9E - Painting	$5,000.00
Bid Package #10A - Specialties FE--Allowance	$609.00
Bid Package #10B - Signage--Allowance	$3,000.00
Bid Package #21A - Fire Suppression	$8,090.00
Bid Package #22A - Plumbing	N/A
Bid Package #23A - HVAC	$23,170.00
Bid Package #26A - Electrical	$26,150.00
Bid Package #31A - Earthwork	$29,250.00
Bid Package #32A - Site Paving	$25,800.00
Sod--Allowance	$8,000.00
Final Clean	$1,500.00
Permits, SWPP, FM	$1,500.00
Testing--Allowance	$4,000.00
Temp Utilities	By Owner
Unforseen conditions--Allowance	$7,500.00
Soft Soil--Allowance	$7,500.00
Subtotal	$453,218.00
General Conditions	$94,695.00
General Liability	$8,218.70
Builders Risk	By Owner
Bond	$4,976.26
Preconstruction	$0.00
5% FEE	$28,055.40
Project Contingency	$25,000.00
Construction Total	**$614,163.35**

Timberlake Construction Co., Inc.

Current Specifications

Number	Description	Revision	Issued Date	Received Date	Set
00 - Procurement and Contracting Requirements					
00 01 07	SEALS PAGE	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 11 13	INVITATION FOR BIDS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 20 00	CONTRACT DOCUMENTS AND FORMS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 21 13	INSTRUCTIONS TO BIDDERS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 30 00	PERFORMANCE BOND	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 35 00	STATUTORY BOND	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 37 50	DEFECT BOND	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 41 00	BID PROPOSAL FORM	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 43 29	ROOFING QUALIFICATION STATEMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 70 00	AIA Document A201 - 2017	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
00 80 00	SUPPLEMENTARY GENERAL CONDITIONS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
000110	Table of Contents	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 - General Requirements					
01 10 00	SUMMARY	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 30 00	ADMINISTRATIVE REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 32 16	CONSTRUCTION PROGRESS SCHEDULE	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 35 53	SECURITY PROCEDURES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 40 00	QUALITY REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 41 00	REGULATORY REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 42 16	DEFINITIONS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 50 00	TEMPORARY FACILITIES AND CONTROLS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 52 00	STUDENT AND SITE SAFETY PROGRAM	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 52 13	FIELD OFFICES AND SHEDS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 57 13	TEMPORARY EROSION AND SEDIMENT CONTROL	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 60 00	PRODUCT REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 70 00	EXECUTION AND CLOSEOUT REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 71 23	CONTRACTOR CONSTRUCTION STAKING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 78 00	CLOSEOUT SUBMITTALS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
01 79 00	Demonstration and Training	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
02 - Existing Conditions					
02 41 00	DEMOLITION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
02 41 19	SELECTIVE STRUCTURAL DEMOLITION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs

TIMBERLAKE CONSTRUCTION

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
03 - Concrete					
03 30 00	CAST-IN-PLACE CONCRETE	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
04 - Masonry					
04 20 00	UNIT MASONRY	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
05 - Metals					
05 12 00	STRUCTURAL STEEL FRAMING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
05 31 00	STEEL DECKING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
05 40 00	COLD-FORMED METAL FRAMING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
05 50 00	METAL FABRICATIONS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
05 70 00	HANDRAILS AND GUARDRAILS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
06 - Wood, Plastics, and Composites					
06 10 00	ROUGH CARPENTRY	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 - Thermal and Moisture Protection					
07 05 33	FIRE AND SMOKE ASSEMBLY IDENTIFICATION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 21 00	THERMAL INSULATION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 26 50	FLUID-APPLIED WEATHER BARRIERS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 52 00	MOD BIT ROOFING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 62 00	SHEET METAL FLASHING AND TRIM	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 71 00	ROOF SPECIALTIES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 84 00	Firestopping	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 90 05	JOINT SEALERS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
07 95 15	FIRE-RATED EXPANSION JOINT COVER ASSEMBLIES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
08 - Openings					
08 11 13	HOLLOW METAL DOORS AND FRAMES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
08 14 16	FLUSH WOOD DOORS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
08 43 13	ALUMINUM-FRAMED STOREFRONTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
08 71 00	Door Hardware	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
08 80 00	Glazing	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
09 - Finishes					
09 21 16	GYPSUM BOARD ASSEMBLIES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
09 51 00	ACOUSTICAL CEILINGS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
09 65 00	RESILIENT FLOORING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
09 68 50	CARPET TILE	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
09 90 00	PAINTING AND COATING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
10 - Specialties					
10 14 00	SIGNAGE	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
10 44 00	FIRE PROTECTION SPECIALTIES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
21 - Fire Suppression					
21 0500	COMMON WORK RESULTS FOR FIRE-SUPPRESSION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
21 1313	WET-PIPE SPRINKLER SYSTEMS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
22 - Plumbing					
22 0500	COMMON WORK RESULTS FOR PLUMBING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
22 0529	HANGERS AND SUPPORTS FOR PLUMBING PIPING AND EQUIPMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
22 0719	PLUMBING PIPING INSULATION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
220553	IDENTIFICATION FOR PLUMBING PIPING AND EQUIPMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 - Heating, Ventilating, and Air Conditioning (HVAC)					
23 05 29	HANGERS AND SUPPORTS FOR HVAC PIPING AND EQUIPMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 05 53	IDENTIFICATION FOR HVAC PIPING AND EQUIPMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 07 19	HVAC PIPING INSULATION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 0593	TESTING, ADJUSTING, AND BALANCING FOR HVAC	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 0713	DUCT INSULATION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 3113	METAL DUCTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 3300	Air Duct Accessories	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 3713	DIFFUSERS, REGISTERS, AND GRILLES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
23 8127	MINI-SPLIT AIR CONDITIONERS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
230000	BASIC MECHANICAL REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
230010	COMMON WORK RESULTS FOR MECHANICAL	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
230523	GENERAL-DUTY VALVES FOR HVAC PIPING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
230900	INSTRUMENTATION AND CONTROL FOR HVAC	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
232113	HYDRONIC PIPING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
232300	REFRIGERANT PIPING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 - Electrical					
26 0500	BASIC ELECTRICAL REQUIREMENTS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0501	ELECTRICAL TEMPORARY FACILITIES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0502	ELECTRICAL DEMOLITION	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0504	CLEANING, INSPECTION, AND TESTING OF ELECTRIAL EQUIPMENT	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0519	LOW-VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0533	ELECTRICAL RACEWAYS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0534	ELECTRICAL BOXES AND FITTINGS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 0553	IDENTIFICATION FOR ELECTRICAL SYSTEMS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 2702	EQUIPMENT WIRING SYSTEMS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 2726	WIRING DEVICES	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 5115	Low Voltage Lighting Control	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
26 5119	LED INTERIOR LIGHTING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs

Timberlake Construction Co., Inc.

Number	Description	Revision	Issued Date	Received Date	Set
28 - Electronic Safety and Security					
28 3111	DIGITAL, ADDRESSABLE FIRE-ALARM SYSTEM	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
31 - Earthwork					
31 10 00	SITE CLEARING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
31 20 00	EARTH MOVING	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
31 25 00	EROSION CONTROL	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
31 31 16	TERMITE CONTROL	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
32 - Exterior Improvements					
32 13 14	CONCRETE SIDEWALKS, CURB AND GUTTERS	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs
34 - Transportation					
34 000	Geotechnical Report	0	11/08/23	11/08/23	MHS Elementary Security Corridor 100% Specs

Exhibit F

Job #: 23-21 Mustang Elem Security Corridor

Timberlake Construction Co., Inc.

Current Drawings

Drawing No.	Drawing Title	Revision	Drawing Date	Received Date	Set
Architectural					
A101	SITE PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A111	FLOOR PLAN, ROOF PLAN, RCP	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A131	FINISH & ENLARGED FLOOR PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A301	BUILDING SECTIONS & ELEVATIONS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A311	WALL SECTIONS & DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A501	DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A602	DOOR SCHEDULE, TYPES & DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
A607	FINISH IMAGES	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
D101	DEMOLITION	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
D102	DEMO PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
Civil					
C-1	Topographical Survey Map	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
C-2	SITE DEMOLITION PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
C-3	SITE PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
C-3.1	SITE CONSTRUCTION DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
C-4	GRADING PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
C-5	EROSION CONTROL PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
Electrical					
E000	ELECTRICAL LEGEND	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
E100	ELECTRICAL DEMOLITION PLAN	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
E200	ELECTRICAL PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor

Timberlake Construction Co., Inc.

Drawing No.	Drawing Title	Revision	Drawing Date	Received Date	Set
					100% CD (11/08/23)
E210	Electrical Details	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
General					
G0001	Cover	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
G101	Code Review	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
Mechanical					
M000	MECHANICAL LEGEND & ABBREVIATIONS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
M200	PLUMBING PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
M300	MECHANICAL PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
M400	MECHANICAL SCHEDULES & DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
M500	FIRE SPRINKLER PLANS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
Structural					
S100	GENERAL NOTES	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S101	GENERAL NOTES	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S102	TYPICAL FOUNDATION DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S103	TYPICAL STEEL DETAILS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S104	SPECIAL INSPECTIONS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S200	CORRIDOR FOUNDATION PLAN & SECTIONS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)
S300	CORRIDOR ROOF FRAMING PLAN & SECTIONS	0	11/08/2023	11/08/2023	MPS Elementary Security Corridor 100% CD (11/08/23)

AIA® Document A133® – 2019 Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the day of in the year , is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the day of in the year (the "Agreement")
(In words, indicate day, month, and year.)

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

MPS Elementary #9
4800 S. Sara Rd.
Oklahoma City, OK 73064

THE OWNER:
(Name, legal status, and address)

Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

CADE Construction
701 W. Sheridan Ave., Suite 108
Oklahoma City, OK 73102

TABLE OF ARTICLES

A.1 GUARANTEED MAXIMUM PRICE

A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed four million one hundred thirty-nine thousand nine hundred nineteen and ninety-nine

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
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User Notes: (1716087415)

hundredths($4,139,919.99), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.
(Provide itemized statement below or reference an attachment.)

See Attachment A – Budget Summary Sheet

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates
§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	N/A

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A	N/A	N/A

§ A.1.1.6 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
N/A	N/A	N/A

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ A.2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of execution of this Amendment.

[X] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

1/1/2024

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

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§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: 7/31/2025

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	N/A

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A	N/A	N/A	N/A

§ A.3.1.2 The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Specifications titled "Mustang Public Schools Elementary #9 – Grading Package and Site Utilities Package.

Section	Title	Date	Pages
N/A	N/A	N/A	N/A

§ A.3.1.3 The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Drawings titled "Mustang Elementary School #9 Early Grading Package and Site Utilities Package".

Number	Title	Date
N/A	N/A	N/A

§ A.3.1.4 The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
N/A	N/A	N/A

Other identifying information:

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§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price
N/A	N/A

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption and clarification.)

This Second GMP Amendment is based off the bid results from Bid Package #2 (Site Utilities). Once Bid Package #3 is bid out (Remaining Scopes of Work), then we will issue a final Amendment to encompass the entire scope of the Project..

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

N/A

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:
(List name, discipline, address, and other information.)

N/A

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

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
(Printed name and title)	Austin Reid, Managing Partner *(Printed name and title)*

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Additions and Deletions Report for
AIA® Document A133® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:01:41 ET on 02/05/2024.

PAGE 1

MPS Elementary #9
4800 S. Sara Rd.
Oklahoma City, OK 73064

...

Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

...

CADE Construction
701 W. Sheridan Ave., Suite 108
Oklahoma City, OK 73102

...

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed ~~($—~~four million one hundred thirty-nine thousand nine hundred nineteen and ninety-nine hundredths($4,139,919.99), subject to additions and deductions by Change Order as provided in the Contract Documents.

PAGE 2

See Attachment A – Budget Summary Sheet

...

N/A	N/A	

...

N/A	N/A	N/A

...

N/A	N/A	N/A

...

[X] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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[—[X] By the following date: 7/31/2025

...

N/A N/A

...

N/A N/A N/A N/A

...

Specifications titled "Mustang Public Schools Elementary #9 – Grading Package and Site Utilities Package.

...

N/A N/A N/A N/A

...

Drawings titled "Mustang Elementary School #9 Early Grading Package and Site Utilities Package".

...

N/A N/A N/A

...

N/A N/A N/A

N/A N/A

...

This Second GMP Amendment is based off the bid results from Bid Package #2 (Site Utilities). Once Bid Package #3 is bid out (Remaining Scopes of Work), then we will issue a final Amendment to encompass the entire scope of the Project..

...

N/A

...

N/A

...

Austin Reid, Managing Partner

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:01:41 ET on 02/05/2024 under Order No. 2114492471 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019 Exhibit A, Guaranteed Maximum Price Amendment, other than those additions and deletions shown in the associated Additions and Deletions Report.

Austin Riel

(Signed)

Managing Partner

(Title)

2/5/24

(Dated)

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Attachment A

CADE CONSTRUCTION	MPS Elementary #09		
Date: 1/29/2024			
	Description	Bid Package #1 GMP Amendment	Bid Package #2 GMP Amendment
03A	Building & Tilt-up Concrete - Bid Package #3	$ -	$ -
03B	Site Paving - Bid Package #3	$ -	$ -
03C	Polished Concrete Flooring - Bid Package #3	$ -	$ -
04A	Masonry - Bid Package #3	$ -	$ -
05A	Steel Material & Erection -Bid Package #3	$ -	$ -
06A	Architectural Millwork -Bid Package #3	$ -	$ -
07A	Joint Sealants, EJ Assemblies, & Water Repellents - Bid Package #3	$ -	$ -
07B	Metal & Composite Wall Panels - Bid Package #3	$ -	$ -
07C	Membrane Roofing & Soffit Panels - Bid Package #3	$ -	$ -
P08A	Doors/Frames/Hardware (Material) - Bid Package #3	$ -	$ -
08A	Doors/Frames/Hardware (Labor) - Bid Package #3	$ -	$ -
08B	Aluminum Entrances, Storefronts, & Glazing Systems - Bid Package #3	$ -	$ -
08C	Overhead Coiling Doors - Bid Package #3	$ -	$ -
09A	Gypsum Board Assemblies & Ceiling Systems - Bid Package #3	$ -	$ -
09B	Floorings & Tiling - Bid Package #3	$ -	$ -
09C	Painting - Bid Package #3	$ -	$ -
P10A	Specialties (Material) - Bid Package #3	$ -	$ -
10A	Specialties (Labor) - Bid Package #3	$ -	$ -
10B	Signage - Bid Package #3	$ -	$ -
10C	Flagpoles - Bid Package #3	$ -	$ -
10D	Walkway Coverings - Bid Package #3	$ -	$ -
11A	Food Service Equipment - Bid Package #3	$ -	$ -
11B	Gymnasium Equipment - Bid Package #3	$ -	$ -
12A	Window Shades - Bid Package #3	$ -	$ -
21A	Fire Suppression - Bid Package #3	$ -	$ -
22A	Plumbing - Bid Package #3	$ -	$ -
23A	HVAC - Bid Package #3	$ -	$ -
26A	Electrical - Bid Package #3	$ -	$ -
31A	Earthwork - **266 & CO**	$ 500,000.00	$ -
ALLOW	Earthwork Allowance	$ -	$ -
32A	Landscaping & Irrigation - Bid Package #3	$ -	$ -
32B	Fence & Gates - Bid Package #3	$ -	$ -
33A	Site Utilities - **Bear Creek Construction**	$ -	$ 963,848.00
	REMAINING JOB SCOPES:		
	Playground Equipment		
	All Furniture		
	Buglar Alarm		
	Telecommunications		
	Security Cameras & Access Control		
	Residential Appliances in Life Skills room		
	Contingency (10%)	$50,000.00	$48,192.40
	Subtotal	**$550,000.00**	**$1,012,040.40**
	Staff Costs	$1,274,624.00	$ -
	General Conditions	$951,400.00	$ -
	Subtotal	**$2,226,024.00**	**$0.00**
	Bonds	$40,968.43	$867.46
	Insurance (General Liability & Builders Risk)	$102,760.24	$10,120.40
	Subtotal	**$143,728.67**	**$10,987.87**
	CM Fee (5%)	$145,987.63	$51,151.41
	Total Construction Costs	**$3,065,740.31**	**$1,074,179.68**

ConsensusDocs® 200

STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND CONSTRUCTOR (Lump Sum)

TABLE OF ARTICLES

1. AGREEMENT
2. GENERAL PROVISIONS
3. CONSTRUCTOR'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. TIME
7. PRICE
8. CHANGES
9. PAYMENT
10. INDEMNITY, INSURANCE, AND BONDS
11. SUSPENSION, NOTICE TO CURE, AND TERMINATION
12. DISPUTE MITIGATION AND RESOLUTION
13. MISCELLANEOUS
14. CONTRACT DOCUMENTS

ARTICLE 1 AGREEMENT

This Agreement is made this 12th day of February in the year 2024,

by and between the

OWNER,
Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

and the

CONSTRUCTOR,
RGroup, Inc. dba United Turf and Track
PO Box 565
Arcadia, OK 73007

Tax identification number (TIN) 45-2609105
Contractor License No., if applicable

for construction and services in connection with the following

PROJECT Mustang High School Football Stadium Turf Replacement and Baseball Turf Project

Design Professional is RGroup, Inc. dba United Turf and Track.

ARTICLE 2 GENERAL PROVISIONS

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CONTENT SECURE ID: 91CF26F8-E5FC

2.1 PARTIES' RELATIONSHIP Each Party agrees to act on the basis of mutual trust, good faith, and fair dealing, and perform in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Neither Constructor nor any of its agents or employees shall act on behalf of or in the name of Owner.

2.2 ETHICS Each shall: (a) avoid conflicts of interest; and (b) promptly disclose to the other Party any conflicts. Each Party warrants it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers, employees, Subcontractors, Subsubcontractors, Suppliers, or Others to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Contractor, through its Design Professional, shall provide all topographical survey and geotechnical/civil engineering design services necessary for the completion of the Work excluding, however, (a) design services delegated to Constructor in accordance with §3.15, and (b) services within the construction means, methods, techniques, sequences, and procedures employed by Constructor, its Subcontractors, and Subsubcontractors in connection with their construction operations.

2.3.1 Owner shall provide Constructor the right to use the design documents in accordance to the Contract Documents. Owner shall indemnify and hold harmless Constructor against any suits or claims of infringement of any copyrights or licenses arising out of the use of the design documents for the Project.

2.4 DEFINITIONS

2.4.1 "Agreement" means this ConsensusDocs 200 Standard Agreement and General Conditions Between Owner and Constructor (Lump Sum), as modified, and exhibits and attachments made part of this agreement upon its execution.

2.4.1.1 The following exhibits are part of this Agreement: N/A

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by the Parties after execution of this Agreement, indicating a change in the scope of the Work, Contract Price, or Contract Time, including substitutions proposed by Constructor and accepted by Owner.

2.4.4 The "Contract Documents" consist of (a) this Agreement; (b) documents listed in §14.1ARTICLE 14 as existing contract documents; (c) drawings, specifications, addenda issued and acknowledged before execution of this Agreement; (d) information furnished by Owner pursuant to §3.13.4; and (e) Change Orders, Interim Directives, and amendments issued in accordance with this Agreement.

2.4.5 "Contract Price" is the amount indicated in §7.1 and represents full compensation for performance by the Constructor of the Work in conformance with the Contract Documents.

2.4.6 "Contract Time" is the period between the Date of Commencement and the total time authorized to achieve Final Completion in §6.1.1.

2.4.7 "Constructor" is the person or entity identified in ARTICLE 1. References to General Contractor or Contractor in the Contract Documents may be a reference to Constructor.

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2.4.8 "Cost of the Work" means the costs and discounts specified in §8.3.4.

2.4.9 "Date of Commencement" is as set forth in §6.1.

2.4.10 "Day" means a calendar day.

2.4.11 "Defective Work" is any portion of the Work that does not conform to the requirements of the Contract Documents.

2.4.12 "Design Professional" means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.4.13 "Final Completion" occurs on the date when Constructor's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by the Parties.

2.4.14 "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.4.15 "Law" means federal, state, or local law, ordinance, code, rule, and regulations applicable to the Work with which Constructor must comply that are enacted as of the Agreement date.

2.4.16 "Interim Directive" is a written order containing Work instructions directed by Owner pursuant to §8.2 and that is signed by Owner after execution of this Agreement and before Substantial Completion. An Interim Directive may or may not cause adjustment to Contract Price or Contract Time.

2.4.17 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any of them or for whose acts any of them may be liable.

2.4.18 "Overhead" means (a) payroll costs, burden, and other compensation of Constructor's employees in Constructor's principal and branch offices; (b) general and administrative expenses of Constructor's principal and branch offices including charges against Constructor for delinquent payments; and (c) Constructor's capital expenses, including interest on capital used for the Work.

2.4.19 "Owner" is the person or entity identified in ARTICLE 1.

2.4.20 The "Parties" are collectively Owner and Constructor.

2.4.21 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Constructor is to perform Work under this Agreement. It may also include construction by Owner or Others.

2.4.22 The "Schedule of the Work" is the document prepared by Constructor that specifies the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.



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2.4.23 A "Subcontractor" is a person or entity retained by Constructor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.4.24 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unapproved disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Constructor's control. This date shall be confirmed by a certificate of Substantial Completion signed by the Parties.

2.4.25 A "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor, another subsubcontractor, or Supplier to perform a portion of the Work or to supply material or equipment.

2.4.26 A "Supplier" is a person or entity retained by Constructor to provide material or equipment for the Work.

2.4.27 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.28 "Work" means the construction and services necessary or incidental to fulfill Constructor's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.29 "Worksite" means the area of the Project location identified in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 CONSTRUCTOR'S RESPONSIBILITIES

Constructor shall use its diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. Such Work includes furnishing construction administration and management services.

3.1 GENERAL RESPONSIBILITIES

3.1.1 Constructor shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with the Contract Documents and shall include any Work reasonably inferable from the Contract Documents.

3.1.2 Constructor represents that it is an independent contractor and that it is familiar with the type of work required by this Agreement.

3.1.3 Unless the Contract Documents instruct otherwise, Constructor shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized. When following construction means, methods, techniques, sequences, or procedures instructed by the Contract Documents, Constructor is not liable to Owner for damages resulting from compliance with such instructions unless (a) Constructor recognized and

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CONTENT SECURE ID: 91CF26F8-E5FC

(b) failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in such requirements.

3.1.4 Constructor shall perform Work only within locations allowed by the Contract Documents, Law, and applicable permits.

3.2 COOPERATION WITH WORK OF OWNER AND OTHERS

3.2.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.2.2 If Owner elects to perform work at the Worksite directly or by Others, the Parties shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Constructor and to assist with the coordination of activities and the review of construction schedules and operations. In accordance with §6.3, Contract Price and Contract Time may be equitably adjusted for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

3.2.3 With regard to the work of Owner and Others, Constructor shall: (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective; (b) afford Owner and Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) coordinate Constructor's Work with theirs.

3.2.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Constructor shall give Owner prompt written notification of any defects Constructor discovers in their work which will prevent the proper execution of the Work. Constructor's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Constructor does not notify Owner of defects interfering with the performance of the Work, Constructor acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Constructor of defects, Owner shall promptly issue an Interim Directive informing Constructor what action, if any, Constructor shall take with regard to the defects.

3.3 CONTRACT DOCUMENT REVIEW

3.3.1 Before commencing the Work, Constructor shall examine and compare the drawings and specifications with information furnished in the Contract Documents, relevant field measurements made by Constructor, and any visible conditions at the Worksite affecting the Work.

3.3.2 Should Constructor discover any errors, omissions, or inconsistencies in the Contract Documents, Constructor shall promptly report them to Owner. It is recognized, however, that Constructor is not acting in the capacity of a licensed design professional, and that Constructor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with a Law, building code, or regulation. Following receipt of written notice from Constructor of errors, omissions, or inconsistencies, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the errors, omissions, or inconsistencies.

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CONTENT SECURE ID: 91CF26F8-E5FC

3.3.3 In accordance with this Agreement, Constructor may be entitled to adjustments of the Contract Price or Contract Time because of clarifications or instructions arising out of Constructor's reports described in this §3.3.

3.3.4 Nothing in §3.3 shall relieve Constructor of responsibility for its own errors, inconsistencies, or omissions.

3.4 CONSTRUCTION PERSONNEL AND SUPERVISION

3.4.1 Constructor shall provide competent supervision for the performance of the Work. Before commencing the Work, Constructor shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager so Owner may review their qualifications. If, for reasonable cause, Owner refuses to approve an individual, or withdraws its approval after once giving it, Constructor shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

3.4.2 Constructor shall be responsible to Owner for acts or omissions of a person or entity performing on behalf of Constructor or any of its Subcontractors and Suppliers.

3.4.3 Constructor shall permit only qualified persons to perform the Work. Constructor shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned Work, Constructor shall immediately reassign the person upon receipt of Owner's Interim Directive to do so.

3.4.4 CONSTRUCTOR'S REPRESENTATIVE Constructor's authorized representative is Jerrod Simmons, President of United Turf and Track. Constructor's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Constructor changes its representative or the representative's authority, Constructor shall immediately notify Owner in writing.

3.5 WORKMANSHIP The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.

3.6 MATERIALS FURNISHED BY OWNER OR OTHERS If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Constructor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Constructor shall be the responsibility of Constructor and may be deducted from any amounts due or to become due Constructor. Any defects discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.7 TESTS AND INSPECTIONS

3.7.1 Constructor shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. Constructor shall give proper notice to all required parties of such tests, approvals, and

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inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in §3.7.3, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents, which shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Constructor and promptly delivered to Owner.

3.7.2 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Constructor shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.7.3 If the procedures described in the two subsections immediately above indicate that portions of the Work fail to comply with the Contract Documents, Constructor shall be responsible for costs of correction and retesting.

3.8 WARRANTY

3.8.1 Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At Owner's request, Constructor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Constructor further warrants that the Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by Owner or others, or abuse. Constructor's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.

3.8.2 Constructor shall correct installation defects on Owner-furnished and Constructor-installed materials and equipment under the warranty period provided in §3.9. Except as provided above and to the extent products, equipment, systems, or materials incorporated into the Work are furnished by Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

3.8.3 Constructor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Constructor's liability for such warranties shall be limited to the one-year correction period as provided in the section below. After that period, Constructor shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 Before Substantial Completion and within one year after the date of Substantial Completion of the Work, if any Defective Work is found, Owner shall promptly notify Constructor in writing. Unless Owner provides written acceptance of the condition, Constructor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner

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discovers and does not promptly notify Constructor or give Constructor an opportunity to test or correct Defective Work as reasonably requested by Constructor, Owner waives Constructor's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of the Work is substantially complete. Correction periods shall not be extended by corrective work performed by Constructor.

3.9.3 If Constructor fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Constructor. If payments then or thereafter due Constructor are not sufficient to cover such amounts, Constructor shall pay the difference to Owner.

3.9.4 Constructor's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Constructor and allow Constructor an opportunity to correct the Work if Constructor elects to do so. If Constructor elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Constructor does not elect to correct the Work, Owner may have the Work corrected by itself or others, and, if Owner intends to seek recovery of those costs from Constructor, Owner shall promptly provide Constructor with an accounting of the actual correction costs.

3.9.5 If Constructor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Constructor shall be responsible for the cost of correcting such damage.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Constructor's other obligations under the Contract Documents.

3.9.7 Before final payment, at Owner's option and with Constructor's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case, the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.10 CORRECTION OF COVERED WORK

3.10.1 Upon issuance of an Interim Directive, Work that has been covered without a requirement that it be inspected before being covered shall be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents and provided Owner had not previously instructed Constructor in writing to leave the Work uncovered, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Constructor shall pay the costs of uncovering and replacement.



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3.10.2 If any Work is covered contrary to requirements in the Contract Documents, Owner may issue an Interim Directive to uncover the Work for Owner's observation and recover the Work all at Constructor's expense and with no Contract Time adjustment.

3.11 SAFETY

3.11.1 SAFETY PROGRAMS Constructor holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities nor to comply with the Law. Constructor shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored onsite or offsite for use in the Work; and (c) property located at the Worksite and adjacent to work areas.

3.11.2 CONSTRUCTOR'S SAFETY REPRESENTATIVE Constructor shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Constructor in writing to Owner, Constructor's project superintendent shall serve as its safety representative. Constructor shall report promptly in writing to Owner all recordable accidents and injuries occurring at the Worksite. When Constructor is required to file an accident report with a public authority, Constructor shall furnish a copy of the report to Owner.

3.11.3 Constructor shall provide Owner with copies of all notices required of Constructor by Law. Constructor's safety program shall comply with the requirements of authorities having jurisdiction.

3.11.4 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Constructor's safety program, may require, by Interim Directive, Constructor to stop performance of the Work, take corrective measures satisfactory to Owner, or both. If Constructor does not adopt corrective measures, Owner may perform them and deduct their cost from the Contract Price. Constructor agrees to make no claim for damages, for an increase in the Contract Price or Contract Time based on Constructor's compliance with Owner's reasonable request.

3.11.5 Except as provided below, Constructor shall promptly remedy damage or loss which arises from the Work to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, or anyone for whose acts Constructor may be liable. Constructor is not required to remedy such damage or loss that: (a) is under the protection of property insurance, when such insurance is required to be maintained by Owner, or (b) is attributable to acts or omissions of Owner or anyone for whose acts Owner may be liable.

3.12 EMERGENCIES

3.12.1 In an emergency affecting the safety of persons or property, Constructor shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price or Contract Time resulting from the actions of Constructor in an emergency situation shall be determined as provided in ARTICLE 8.

3.13 HAZARDOUS MATERIALS

3.13.1 Constructor shall not be obligated to commence Work until any Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate governmental agency.



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3.13.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, Constructor shall be entitled to immediately stop Work in the affected area. Constructor shall promptly report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.13.3 Constructor shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.13.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.13.5 If Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Constructor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time in accordance with this Agreement.

3.13.6 To the extent permitted by §6.6 and to the extent not caused by the negligent or intentionally wrongful acts or omissions of Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall defend, indemnify, and hold harmless Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.13.7 MATERIALS BROUGHT TO THE WORKSITE

3.13.7.1 Whether obtained by Constructor, Subcontractors, Owner, or Others, Constructor is responsible to make Safety Data Sheets (SDS) pertaining to materials or substances used or consumed in the performance of the Work, available to Owner, Subcontractors, and Others.

3.13.7.2 Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor and used or consumed in the performance of the Work. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Constructor if such materials or substances are required by the Contract Documents.

3.13.7.3 To the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, its agents, officers, directors, and employees, Constructor shall defend, indemnify and hold harmless Owner, its agents, officers, directors, and employees, from and against any and all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses arising out of or relating to the delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor.

3.13.8 §3.13 in its entirety shall survive the completion of the Work or Agreement termination.

3.14 SUBMITTALS

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3.14.1 Constructor shall submit to Owner and Design Professional all shop drawings, samples, product data, and similar submittals required by the Contract Documents for review, approval, or other appropriate action. Submittals shall be submitted in electronic form if required by §4.6.1. Constructor shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. Constructor shall provide a submittal schedule within 30 Days of commencing the Work. At no additional cost, Constructor shall prepare and deliver its submittals in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of Owner, Others, or both. Constructor submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless a Change Order or Interim Directive specifically authorizes such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Owner. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Constructor. If the Contract Documents do not contain submittal requirements pertaining to the Work, Constructor agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by Owner.

3.14.2 Owner shall be responsible for review, approval, or other appropriate action of submittals with reasonable promptness to avoid causing delay.

3.14.3 Constructor shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 8 are followed. Approval does not relieve Constructor from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings.

3.14.4 Record copies of the following, incorporating field changes and selections made during construction, shall be accessible at the Worksite and available to Owner upon request: drawings, specifications, addenda, Change Orders and other modifications, and required submittals including product data, samples, and shop drawings.

3.14.5 Constructor shall prepare and submit to Owner:

- ☐ Final marked-up as-built drawings;
- ☐ Updated electronic data, in accordance with §4.6.1; or
- ☐ Other documentation required by the Contract Documents that specifies how various elements of the Work were actually constructed or installed.

3.15 DESIGN DELEGATION If the Contract Documents specify that Constructor is responsible for the design of a particular system or component to be incorporated into the Project, then Owner shall provide all required performance and design criteria. Constructor shall not be responsible for the adequacy of such performance and design criteria. Constructor shall not be required to provide design services in violation of the Law.

Constructor shall procure design services and certifications necessary to satisfactorily complete the Work from a licensed design professional, as required by Law.

The signature and seal of Constructor's design professional shall appear on all drawings, calculations, specifications, certifications, shop drawings, and other submittals related to the Work designed or certified

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by Constructor's design professional. Constructor through its design professional or its Subcontractor's design professional shall conform its delegated design to the performance and design criteria provided. Constructor shall require that its design professional's services, certifications, and approvals meet the applicable standard of care. Constructor shall review the performance and design criteria and make any requests for clarification or objection in writing in a timely fashion and in a manner consistent with §3.3 Owner through Design Professional shall review the design submitted by Constructor for conformance with the established performance and design criteria and make a written determination of conformance.

3.15.1 DESIGN COORDINATION Contractor through Design Professional shall coordinate the services of all design consultants for the Project and promptly report any known errors or omissions of any delegated design. However, such review does not assume an affirmative responsibility to detect errors or omissions in delegated design services. Coordination shall include Owner's requesting input from design professionals performing delegated design services and Constructor's facilitating responses to such requests.

3.16 WORKSITE CONDITIONS

3.16.1 WORKSITE VISIT Constructor acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

3.16.2 CONCEALED OR UNKNOWN WORKSITE CONDITIONS If a condition encountered at the Worksite is (a) subsurface or other physical condition materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical condition materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Constructor shall stop affected Work after the concealed or unknown condition is first observed and give prompt written notice of the condition to Owner and Design Professional. Owner shall investigate and then issue an Interim Directive specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Constructor is to proceed. Constructor shall not be required to perform any Work relating to the condition without the written mutual agreement of the Parties. Any change in Contract Price or Contract Time as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in ARTICLE 8.

3.17 PERMITS AND TAXES

3.17.1 Constructor shall give public authorities all notices required by Law and, except for permits and fees that are the responsibility of Owner, shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Constructor shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.17.2 Constructor shall pay applicable taxes for the Work provided by Constructor, if required. Constructor shall be reimbursed by the Owner all applicable taxes if tax exemption documents are not provided to the Constructor.

3.17.3 If, in accordance with Owner's direction, Constructor claims an exemption for taxes, Owner shall indemnify and hold Constructor harmless from any liability, penalty, interest, fine, tax assessment, reasonable attorneys' fees, or other expense or cost incurred by Constructor as a result of any such claim.

3.18 CUTTING, FITTING, AND PATCHING

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3.18.1 Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.18.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

3.19 CLEAN UP

3.19.1 Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

3.19.2 If Constructor fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and shall deduct the reasonable costs from any amounts due or to become due to Constructor in the next payment period.

3.20 ACCESS TO WORK Constructor shall facilitate the access of Owner, Design Professional, and Others to Work in progress.

3.21 COMPLIANCE WITH THE LAW Constructor shall comply with the Law at its own cost. Constructor shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Constructor, its employees, subcontractors, suppliers, and agents for failure to comply with the Law, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if prior approval by appropriate authorities and Owner is received.

3.21.1 The Contract Price or Contract Time shall be equitably adjusted by Change Order for additional costs or time needed resulting from any change in Law, including increased taxes, enacted after the date of this Agreement.

3.22 CONFIDENTIALITY Constructor shall treat as confidential and not disclose to third-persons, nor use for its own benefit ("Treat as Confidential"), any of Owner's confidential information, know-how, discoveries, production methods, and the like disclosed to Constructor or which Constructor may acquire in performing the Work. To the extent necessary to perform the Work, Constructor's confidentiality obligations do not apply to disclosures to Subcontractors, Subsubcontractors, and Suppliers. Owner shall Treat as Confidential information all of Constructor's estimating systems and historical and parameter cost data disclosed to Owner in performing the Work. Each Party shall specify and mark confidential items as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

4.2 FINANCIAL INFORMATION Before commencing the Work and thereafter, at the written request of Constructor, Owner shall provide Constructor with evidence of Project financing. Evidence of such

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financing shall be a condition precedent to Constructor's commencing or continuing the Work. Constructor shall be notified before any material change in Project financing.

4.3 WORKSITE INFORMATION To the extent Owner has obtained, or is required to obtain in the Contract Documents, then Owner shall provide Constructor the following:

4.3.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;

4.3.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law;

4.3.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and

4.3.4 any other information or services requested in writing by Constructor which are required for Constructor's performance of the Work and under Owner's control.

4.4 BUILDING PERMIT, FEES, AND APPROVALS Except for those permits and fees related to the Work which are the responsibility of Constructor, Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

4.5 MECHANIC'S AND CONSTRUCTION LIEN INFORMATION Within seven (7) Days after receiving Constructor's written request, Owner shall provide Constructor with the information necessary to give notice of or enforce mechanic's lien rights and, where applicable, stop notices. This information shall include Owner's real property interests in the Worksite and the record legal title.

4.6 CONTRACT DOCUMENTS Unless otherwise specified, Owner shall provide no hard copies of the Contract Documents to Constructor without cost.

4.6.1 ELECTRONIC DOCUMENTS If Owner requires that Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form, before any such exchange, Owner, Design Professional, and Constructor shall agree on and follow a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate addenda, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, each Party shall bear its own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.7 OWNER'S REPRESENTATIVE Owner's Representative is Robert Foreman. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in matters requiring Owner's approval insofar as such matters relate to design decisions or other decisions that will not increase the Contract Price. Any and all matters that will cause an increase in the Contract Price (see Article 8 – Changes) must be approved by the Board of Education in advance of the change being implemented. If Owner changes its Representative or its Representative's authority, Owner shall immediately notify Constructor in writing.

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4.8 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Constructor, which approval shall not be unreasonably withheld.

4.9 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Constructor and Others with regard to respective responsibilities for cleanup at the Worksite, Owner may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.10 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Constructor, Owner shall either (a) promptly remedy the damage or loss (and assume affected warranty responsibilities), (b) accept the damage or loss, or (c) issue an Interim Directive or Change Order to remedy the damage or loss. If Constructor incurs costs or is delayed due to such loss or damage, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under this Agreement.

ARTICLE 5 SUBCONTRACTS

5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.1.1 Promptly after executing this Agreement, Constructor shall provide Owner and, if directed, Design Professional with a written list of the proposed Subcontractors and significant Suppliers. If Owner has a reasonable objection to any proposed Subcontractor or Supplier, Owner shall notify Constructor in writing. Failure to promptly object shall constitute acceptance.

5.1.2 If Owner has reasonably and promptly objected, Constructor shall not contract with the proposed Subcontractor or Supplier, and Constructor shall propose another acceptable Subcontractor or Supplier to Owner. An appropriate Change Order shall reflect any increase or decrease in the Contract Price or Contract Time because of the substitution.

5.2 BINDING OF SUBCONTRACTORS AND SUPPLIERS Constructor agrees to bind every Subcontractor and Supplier (and require each Subcontractor to so bind its subcontractors and significant suppliers) to the Contract Document's applicable provisions to that portion of the Work.

5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

If this Agreement is terminated, each subcontract and supply agreement shall be assigned by Constructor to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to §11.3 or §11.4; and (b) Owner accepts such assignment after termination by notifying Constructor and Subcontractor or Constructor and Supplier in writing, and assumes all rights and obligations of Constructor pursuant to each subcontract or supply agreement.

5.3.1 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

5.3.2 Constructor shall include a provision in its Subcontract and Supplier agreements that Subcontractor and Supplier is obligated to accept contingent assignment.

ARTICLE 6 TIME



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6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below:

Work for the Football Stadium Turf Replacement must begin on 5/13/2024. Work for the Baseball Field can begin on/or after 5/13/2024.

6.1.1 SUBSTANTIAL COMPLETION Substantial Completion of the Football Stadium Turf Replacement shall be achieved by 6/14/ 2024. Substancial Completion of the Baseball Field shall be achieved by 9/30/2024. The deadline for Substantial Completion is subject to adjustments as provided for in the Contract Documents.

6.1.2 Time is of the essence with regard to the obligations of the Contract Documents.

6.1.3 Unless instructed by Owner in writing, Constructor shall not knowingly commence the Work before the effective date of Constructor's required insurance.

6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting its first application for payment, Constructor shall submit to Owner, and if directed, to Design Professional, a Schedule of the Work showing the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner. Except as otherwise directed by Owner, Constructor shall comply with the approved Schedule of the Work. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work. Constructor shall update the Schedule of the Work monthly or as mutually agreed by the Parties.

6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. Owner may require Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. If Constructor consequently incurs costs or is delayed, or both, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Constructor, Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of Constructor include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Constructor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. Constructor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8.

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6.3.2 In addition, if Constructor incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, Constructor shall be entitled to an equitable adjustment in the Contract Price subject to §6.6.

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Constructor shall provide prompt written notice to Owner of the cause of such delays after Constructor first recognizes the delay. The Parties each agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in §6.3, Constructor shall give Owner written notice of the claim in accordance with §8.4. If Constructor causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to §6.6. Owner shall process any such claim against Constructor in accordance with ARTICLE 8.

6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION Liquidated damages based on Substantial Completion date ☐ shall/ ☒ shall not apply.

6.5.1.1 Owner will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Constructor shall pay Owner No dollars ($0) as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date. These liquidated damages are in lieu of all liability for all extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining the Substantial Completion date.

6.5.2 FINAL COMPLETION Liquidated damages based on the Final Completion date ☒ shall/ ☐ shall not apply.

6.5.3 Owner will suffer damages which are difficult to determine and accurately specify if the Final Completion date, as may be amended by subsequent Change Order, is not attained. Constructor shall pay Owner Two Thousand & NO/100 dollars ($2,000.00) as liquidated damages and not as a penalty for each Day that Final Completion extends beyond the Final Completion date. These liquidated damages are in lieu of all liability for any extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining Final Completion date.

6.5.4 Other applicable liquidated damages shall be included as Agreement exhibit.

6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in §6.5 and excluding losses covered and proceeds paid by insurance required by the Contract Documents, the Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages, including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. Constructor agrees to waive damages, including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are excluded from this mutual waiver: [_____].

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6.6.1 The Parties shall each require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 PRICE

7.1 LUMP SUM Lump sum is the Contract Price of One Million Seven Hundred Fifty One Thousand dollars and NO/100 ($1,751,000.00) subject to adjustment as provided in this Agreement. Lump sum details below.

$560,000.00	-	Football Stadium Turf Replacement
$1,191,000.00	-	Baseball Stadium Construction and Turf
$1,751,000.00	-	Lump Sum Total

7.2 ALLOWANCES

7.2.1 All allowances stated in the Contract Documents shall be included in the Contract Price. While Owner may direct the amounts of, and the particular Suppliers or Subcontractors to supply specific allowance items, if Constructor reasonably objects to a Supplier or Subcontractor, it shall not be required to contract with them. Owner shall select allowance items in a timely manner so as not to delay the Work.

7.2.2 Allowances shall include the costs of materials, supplies, and equipment delivered to the Worksite, less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. Constructor's Overhead and profit for the allowances is included in the Contract Price, not in the allowances. If incurred costs are greater or less than the allowances, a Party may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

ARTICLE 8 CHANGES

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order and Interim Directive.

8.1 CHANGE ORDER

8.1.1 Constructor may request or Owner may order changes in the Work that will result in an increase to the Contract Price. All such changes in the Work that result in an increase to the Contract Price shall be formalized in a Change Order to be presented to the Mustang Board of Education (the "Board") at a public meeting.

8.1.2 Constructor may request or Owner may order changes in the Work that will result in a decrease to the Contract Price. All such changes in the Work that result in a decrease to the Contract Price will be approved by the Owner's Representative.

8.1.3 Constructor may request or Owner may order changes in the timing or sequencing of the Work that will result in a change to the Contract Time. All such changes in the Work that affect the Contract Time will be approved by the Owner's Representative.

8.1.4 NO OBLIGATION TO PERFORM Constructor shall not be obligated to perform changes in the Work without a Change Order, or may choose to perform changes at the Constructor's sole expense..

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8.2 DETERMINATION OF COST

An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

8.2.1 unit prices set forth in this Agreement or as subsequently agreed;

8.2.2 a mutually accepted, itemized lump sum; or

8.2.3 COST OF THE WORK Cost of the Work as defined by this §8.3.4 plus 15 % for Overhead and profit. "Cost of the Work" shall include the following costs reasonably incurred to perform a change in the Work:

8.2.3.1 Labor wages directly employed by Constructor performing the Work;

8.2.3.2 Salaries of Constructor's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office as mutually agreed by the Parties in writing;

8.2.3.3 Cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Constructor's standard personnel policy, insofar as such costs are paid to employees of Constructor who are included in the Cost of the Work in §8.3.4.1 and §8.3.4.2;

8.2.3.4 Reasonable transportation, travel, and hotel expenses of Constructor's personnel incurred in connection with the Work;

8.2.3.5 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling;

8.2.3.6 Payments made by Constructor to Subcontractors for performed Work;

8.2.3.7 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value of such items used, but not consumed that remain the property of Constructor;

8.2.3.8 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Constructor or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Constructor or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

8.2.3.9 Cost of the premiums for all insurance and surety bonds which Constructor is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the cost of the Work;

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8.2.3.10 Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Constructor is liable;

8.2.3.11 Permits, fees, licenses, tests, and royalties;

8.2.3.12 Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work, provided that such did not arise from Constructor's negligence.

8.2.3.13 Water, power, and fuel costs necessary for the changed Work;

8.2.3.14 Cost of removal of all nonhazardous substances, debris, and waste materials;

8.2.3.15 Costs incurred due to an emergency affecting the safety of persons or property;

8.2.3.16 Legal, mediation, and arbitration fees and costs, other than those arising from disputes between the Parties, reasonably and properly needed in Constructor's performance of Work; and

8.2.3.17 Costs directly incurred to perform a change in the Work which are reasonably inferable from the Contract Documents for the changed Work.

8.2.3.18 DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Constructor, all cash discounts shall accrue to Constructor. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.2.3.19 COST REPORTING Constructor shall maintain complete and current records that comply with generally accepted accounting principles and calculate the Cost of Work. Owner shall be afforded access to Constructor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to requested payment for Cost of the Work. Constructor shall preserve all such records for a period of three years after the final payment or longer where required by Law;

8.2.3.20 COST AND SCHEDULE ESTIMATES Cost of the Work pursuant to §8.3.4 is determined net of savings from the change. Constructor's Overhead and profit shall be added to any net increase in Cost of the Work. Overhead and profit shall be applied to any net decrease. Constructor shall maintain a documented, itemized accounting evidencing expenses and savings.

8.2.3.21 If unit prices are set forth in the Contract Documents or the Parties subsequently agree, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to either Party, such unit prices shall be equitably adjusted.

8.3 CHANGES NOTICE Except as provided in §6.3.2 and §6.4 for any claim for an increase in the Contract Price or the Contract Time, Constructor shall give Owner written notice of the claim within fourteen (14) Days after the occurrence giving rise to the claim or within fourteen (14) Days after Constructor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, Constructor shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21)



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Days after giving notice, unless the Parties mutually agree upon a longer period of time. Owner shall respond in writing denying or approving Constructor's claim no later than fourteen (14) Days after receipt of Constructor's claim. Owner's failure to so respond shall be deemed a denial of the claim. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order.

8.4 INCIDENTAL CHANGES Owner may direct Constructor to perform incidental changes in the Work, upon concurrence with Constructor that such changes do not involve adjustments in the Contract Price or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing an Interim Directive.

ARTICLE 9 PAYMENT

9.1 SCHEDULE OF VALUES Within twenty-one (21) Days from the date of execution of this Agreement, Constructor shall prepare and submit to Owner and, if directed, Design Professional, a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the Contract Price.

9.2 PROGRESS PAYMENTS

9.2.1 APPLICATIONS Constructor shall submit to Owner, and if directed, Design Professional a monthly application for payment no later than the 25th Day of the calendar month for the preceding calendar month. Constructor's applications for payment shall be itemized and supported by Constructor's schedule of values based on a percentage of completion and shall include any other substantiating data as required by this Agreement. Applications for payment shall include payment requests on account of properly authorized Change Orders or Interim Directives. Owner shall pay the amount due on a payment application, no later than fifteen (15) Days after accepting such application. Owner may deduct from any progress payment amounts that may be retained pursuant to §9.2.4.

9.2.2 STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Constructor of bills of sale and proof of required insurance, or such other documentation satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the Worksite.

9.2.3 LIEN WAIVERS AND LIENS

9.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If required by Owner as a prerequisite for payment, Constructor shall provide a partial lien and claim waiver in the amount of the application for payment and affidavits from its Subcontractors and Suppliers for the completed Work. Such waivers shall be conditional upon payment. Constructor shall not be required to sign an unconditional waiver of lien or claim, before receiving payment or in an amount in excess of what it has been paid.

9.2.3.2 REMOVING LIENS If Owner has made payments in the time required by this ARTICLE 9, Constructor shall, within thirty (30) Days after filing, remove any liens filed against the premises or public improvement fund by any party or parties performing labor or services or supplying materials in connection with the Work. If Constructor fails to take such action on a lien, Owner may cause the lien to be removed at Constructor's expense, including bond costs and



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reasonable attorneys' fees. This subsection shall not apply if there is a dispute pursuant to ARTICLE 12 relating to the subject matter of the lien.

9.2.4 RETAINAGE From each progress payment made before Substantial Completion, Owner may retain Five percent (5%) of the amount otherwise due after deduction of any amounts as provided in §9.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

9.2.4.1 Owner may, in its sole discretion, reduce the amount to be retained at any time;

9.2.4.2 Owner may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which Owner has accepted. In lieu of retainage, Constructor may furnish a retention bond or other security interest acceptable to Owner, to be held by Owner.

9.3 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Constructor is responsible under this Agreement:

9.3.1 Constructor's repeated failure to perform the Work as required by the Contract Documents;

9.3.2 Except as accepted by the insurer providing Builder's Risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by Constructor to Owner or to others to whom Owner may be liable;

9.3.3 Constructor's failure to properly pay either Subcontractors or Suppliers following receipt of payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Constructor in accordance with this Agreement;

9.3.4 rejected or Defective Work not corrected in a timely fashion;

9.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed within the Contract Time;

9.3.6 reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work; and

9.3.7 uninsured third-party claims involving Constructor, or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Constructor furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Constructor, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Constructor in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.



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9.4 ACCEPTANCE OF WORK Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

9.5 PAYMENT DELAY If for any reason not the fault of Constructor, Constructor does not receive a progress payment from Owner within seven (7) Days after the time such payment is due, then Constructor, upon giving seven (7) Days' written notice to Owner, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to Constructor has been received, including interest for late payment. If Constructor incurs costs or is delayed resulting from shutdown, delay, and start-up, Constructor may seek an equitable adjustment in the Contract Price or Contract Time under ARTICLE 8.

9.6 SUBSTANTIAL COMPLETION

9.6.1 Constructor shall notify Owner and, if directed, Design Professional, when it considers Substantial Completion of the Work or a designated portion to have been achieved. Owner, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by Owner without excessive interference in completing any remaining unfinished Work. If Owner determines that the Work or designated portion has not reached Substantial Completion, Owner shall promptly compile a list of items to be completed or corrected so Owner may occupy or use the Work or designated portion for its intended use. Constructor shall promptly complete all items on the list.

9.6.2 When Substantial Completion of the Work or a designated portion is achieved, Constructor shall prepare a certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work. In the absence of a clear delineation of responsibilities, Owner shall assume all responsibilities for items such as security, maintenance, utilities, insurance, and damage to the Work. The certificate of Substantial Completion shall also list any items to be completed or corrected and establish the time for their completion or correction. The certificate of Substantial Completion shall be submitted by Constructor to Owner and, if directed, to Design Professional for written acceptance of responsibilities assigned in the certificate of Substantial Completion.

9.6.3 Unless otherwise provided in the certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

9.6.4 Upon Owner's written acceptance of the certificate of Substantial Completion, Owner shall pay to Constructor the remaining retainage held by Owner for the Work described in the certificate of Substantial Completion, less a sum equal to one hundred fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion. Uncompleted items shall be completed by Constructor in a mutually agreed upon timeframe. Owner shall pay Constructor monthly the amount retained for unfinished items as each item is completed.

9.7 PARTIAL OCCUPANCY OR USE

9.7.1 Owner may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work.



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9.8 FINAL COMPLETION AND FINAL PAYMENT

9.8.1 Upon notification from Constructor that the Work is complete and ready for final inspection and acceptance, Owner with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

9.8.2 When Final Completion has been achieved, Constructor shall prepare for Owner's written acceptance a final application for payment stating that to the best of Constructor's knowledge, and based on Owner's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

9.8.3 Final payment of the balance of the Contract Price shall be made to Constructor within twenty (20) Days after Constructor has submitted a complete and accurate application for final payment, including submissions required under §9.8.4, and a certificate of Final Completion has been executed by the Parties.

9.8.4 Final payment is due upon Constructor's submission to Owner of the following:

9.8.4.1 An affidavit declaring any indebtedness connected with the Work to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber Owner's property;

9.8.4.2 As-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

9.8.4.3 Release of any liens, conditioned on final payment being received;

9.8.4.4 Consent of any surety; and

9.8.4.5 Any outstanding known and unreported accidents or injuries experienced by Constructor or its Subcontractors at the Worksite.

9.8.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Constructor, Owner shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Constructor shall submit to Owner, and if directed, Design Professional, the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by these final payment provisions.

9.8.6 OWNER'S CLAIMS RESERVATION Owner's claims not reserved in writing with final payment are waived except for claims relating to liens or similar encumbrances, warranties, Defective Work, and latent defects.

9.8.7 CONSTRUCTOR ACCEPTANCE OF FINAL PAYMENT Unless Constructor provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

9.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the statutory rate at the place of the Project.

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ARTICLE 10 INDEMNITY, INSURANCE, AND BONDS

10.1 INDEMNITY

10.1.1 To the fullest extent permitted by law, Constructor shall indemnify and hold harmless Owner, Owner's officers, directors, members, consultants, agents, and employees, Design Professional, and Others (the Indemnitees) from all claims for bodily injury and property damage, other than to the Work itself and other property insured, including reasonable attorneys' fees, costs and expenses, that may arise from the performance of the Work, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, Subcontractors, Suppliers, Subsubcontractors, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Constructor shall be entitled to reimbursement of any defense costs paid above Constructor's percentage of liability for the underlying claim to the extent provided for by §10.1.2.

10.1.2 To the fullest extent permitted by law, Owner shall indemnify and hold harmless Constructor, its officers, directors, members, consultants, agents, and employees, Subcontractors, Suppliers, or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by Owner, Design Professional, or Others, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of Owner, Design Professional, or Others. Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for by §10.1.1.

10.1.3 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Constructor, anyone directly or indirectly employed by Constructor or anyone for whose acts Constructor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Constructor under workers' compensation acts, disability benefit acts, or other employment benefit acts.

10.2 INSURANCE

10.2.1 Before starting the Work and as a condition precedent to payment, Constructor shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. Constructor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Constructor's Employers' Liability, Business Automobile Liability, and CGL policies shall be written with at least the following limits of liability:

10.2.1.1 Employers' Liability Insurance

(a) $1,000,000.00 bodily injury by accident per accident.
(b) $1,000,000.00 bodily injury by disease policy limit.
(c) $1,000,000.00[_____] bodily injury by disease per employee.

10.2.1.2 Business Automobile Liability Insurance $1,000,000.00 per accident.

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10.2.1.3 Commercial General Liability Insurance

(a) $1,000,000.00 per occurrence.
(b) $2,000,000.00 general aggregate.
(c) $2,000,000.00 products/completed operations aggregate.
(d) $1,000,000.00 personal and advertising injury limit.

10.2.2 Employers' Liability, Business Automobile Liability, and CGL coverage required under §10.2.1 may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies, but should equal no less than $5,000,000.00 per occurrence.

10.2.3 Constructor shall maintain in effect all insurance coverage required under §10.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Constructor fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Constructor, or terminate this Agreement.

10.2.4 To the extent commercially available to Constructor from its current insurance company, insurance policies required under §10.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancellation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Constructor shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §10.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be canceled, Constructor shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

10.3 PROPERTY INSURANCE

10.3.1 Unless otherwise directed in writing by Owner, before starting the Work, Owner shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss. This insurance shall also: (a) name Constructor, Subcontractors, Subsubcontractors, Suppliers, and Design Professional as insureds; (b) be written in such form as to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:

10.3.1.1 the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of the Contractor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused;

10.3.1.2 damage resulting from defective design, workmanship, or material;

10.3.1.3 coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant, or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

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10.3.1.4 equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

10.3.1.5 testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

10.3.1.6 physical loss resulting from Terrorism.

10.3.2 The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Constructor has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Constructor shall provide a copy of the property policy or policies obtained in compliance with §10.3.1

10.3.3 If Owner elects to purchase the property insurance required by this Agreement, including all of the same coverages and deductibles for the same duration specified in §10.3.1, then Owner shall give written notice to Constructor and Design Professional before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with §10.3.1. Owner may then provide insurance to protect its interests and the interests of Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by Owner in a Change Order. If Owner gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, Owner shall be responsible for costs reasonably attributed to such failure.

10.3.4 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, subsubcontractors, and design professionals for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance.

10.3.5 To the extent proceeds are paid from Constructor's CGL policy specified in §10.2.1 or four million dollars ($4,000,000.00), whichever is more, Constructor shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including reasonable attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Constructor, Subcontractor, Supplier, Subsubcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

10.3.6 RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to section 10.3.1 until the Date of Final Completion.

~~10.3.7 POLLUTION LIABILITY INSURANCE Constructor ☐is/ ☐is not required to maintain pollution liability insurance. Unless indicated affirmatively, the obligation to procure such insurance is not triggered.~~



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10.3.7.1 ~~If applicable: in the following amounts: [ ] per occurrence, and shall apply for [ ] year(s) after Final Completion. The policy shall cover Constructor's liability during construction, removal, storage, encapsulation, transport, and disposal of hazardous waste and contaminated soil, and asbestos abatement. The policy shall include coverage for on-site and off-site bodily injury and loss of damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials, or other irritants, contaminants, or pollutants into or upon the land, the atmosphere or any water body, whether it be gradual or sudden and accidental. The policy shall not have exclusions for mold or asbestos.~~

10.4 ADDITIONAL GENERAL LIABILITY COVERAGE Owner ☒shall/ ☐~~shall not~~ require Constructor to purchase and maintain additional liability coverage. If required, Constructor shall provide:

10.4.1 ☒ Additional Insured. Owner shall be named as an additional insured on Constructor's CGL specified for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Constructor, or those acting on Constructor's behalf, in the performance of Constructor's Work for Owner at the Worksite. The insurance (both primary and excess) of Constructor and its Subcontractors shall be primary and non-contributory to any insurance available to the Additional Insureds.

10.4.2 ☒ OCP. Constructor shall provide an Owners and Contractors Protective Liability Certificate with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.

10.5 Prior to final payment on either the Football Turf project or the Baseball Turf project, Constructor will provide to Owner the Turf Warranty and Insurance Certification as detailed in the Bid Specifications.

Any documented additional cost in the form of a surcharge associated with procuring the additional general liability coverage in accordance with this subsection shall be paid by Owner directly or the costs may be reimbursed by Owner to Constructor by increasing the Contract Price to correspond to the actual cost required to purchase and maintain the coverage. Before commencing the Work, Constructor shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that Owner has been named as an additional insured, as applicable.

10.6 ROYALTIES, PATENTS, AND COPYRIGHTS Constructor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Constructor and incorporated in the Work. Constructor shall defend, indemnify, and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to defend, indemnify, and hold Constructor harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner or Design Professional.

10.7 BONDS Performance and Payments bonds ☒ are/ ☐~~are not~~ required. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without reasonable cause. The penal sum of the bonds shall each be one hundred percent (100%) of the original Contract Price. Constructor shall endeavor to keep its surety advised of changes potentially impacting the Contract Time and Contract Price, though

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Constructor shall require that its surety waive any requirement to be notified of any alteration or extension of time.

10.8 PROFESSIONAL LIABILITY INSURANCE To the extent Constructor is required to procure design services in accordance with §3.15, Constructor shall require its design professional to obtain professional liability insurance for claims arising from the negligent performance of design services under this Agreement, with a company reasonably satisfactory to Owner, including coverage for all professional liability caused by any consultants to Constructor's design professional, written for not less than [_____] dollars ($[_____]) per claim and in the aggregate with the deductible not to exceed [_____] dollars ($[_____]).The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by Constructor's design professional for this Project. Coverage shall be continued in effect for [_____] ([_____]) year(s) following Substantial Completion. Constructor's design professional shall pay the self-insured retention and deductible. The combined total deductible and self-insured retention maximum shall be [_____] dollars ($[_____]).

ARTICLE 11 SUSPENSION, NOTICE TO CURE, AND TERMINATION

11.1 SUSPENSION BY OWNER FOR CONVENIENCE

11.1.1 OWNER SUSPENSION Should Owner order Constructor in writing to suspend, delay, or interrupt the performance of the Work for the convenience of Owner and not due to any act or omission of Constructor or any person or entity for whose acts or omissions Constructor may be liable, then Constructor shall immediately suspend, delay, or interrupt that portion of the Work for the time period ordered by Owner.

11.1.2 Any action taken by Owner that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.

11.2 NOTICE TO CURE A DEFAULT If Constructor persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work, or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards a Law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Constructor may be deemed in default.

11.2.1 After receiving Owner's written notice, if Constructor fails within seven (7) Days after receipt of written notice from Owner to commence and continue satisfactory correction of such default with diligence and promptness, then Owner shall give Constructor a second notice to correct the default within three (3) Business Days after receipt. The second notice to Constructor, and if applicable, the surety, may include, that Owner intends to terminate this Agreement for default absent appropriate corrective action.

11.2.2 If Constructor fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable means; (c) withhold payment due to Constructor; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Constructor the costs and expenses, including reasonable Overhead, profit, and reasonable attorneys' fees.

11.2.3 In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of such default without first giving written notice to Constructor, but shall give Constructor prompt written notice.

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11.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

11.3.1 TERMINATION BY OWNER FOR DEFAULT Upon expiration of the second notice period to cure pursuant to §11.2 and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §11.2. If Owner's costs arising out of Constructor's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid Contract Price, Constructor shall be liable to Owner for such excess costs. If Owner's costs are less than the unpaid Contract Price, Owner shall pay the difference to Constructor. If Owner exercises its rights under this section, upon the request of Constructor, Owner shall furnish to Constructor a detailed accounting of the costs incurred by Owner.

11.3.2 USE OF CONSTRUCTOR'S MATERIALS, SUPPLIES, AND EQUIPMENT If Owner or Others perform work under §11.3, Owner shall have the right to take and use any materials and supplies for which Owner has paid and located at the Worksite for the purpose of completing any remaining Work. Owner and others performing work under §11.3 shall also have the right to use construction tools and equipment located on the Worksite and belonging to Constructor or Subsubcontractors for the purpose of completing the remaining Work, but only after Constructor's written consent. If Owner uses Constructor's construction tools and equipment in accordance with this subsection, then Owner shall indemnify and hold harmless Constructor and applicable Subcontractors and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with Owner's use of Constructor's or applicable subcontractor's construction tools and equipment. Immediately upon completion of the Work, any remaining materials, supplies, or equipment not consumed or incorporated in the Work shall be returned to Constructor in substantially the same condition as when they were taken, reasonable wear and tear excepted.

11.3.3 If Constructor files a petition under the Bankruptcy Code, this Agreement shall terminate if: (a) Constructor or Constructor's trustee rejects the Agreement; (b) a default occurred and Constructor is unable to give adequate assurance of required performance; or (c) Constructor is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

11.3.4 Owner shall make reasonable efforts to mitigate damages arising from Constructor default, and shall promptly invoice Constructor for all amounts due pursuant to §11.2 and §11.3.

11.4 TERMINATION BY OWNER FOR CONVENIENCE

11.4.1 Upon Constructor's receipt of Owner's written notice from Owner, Owner may, without cause, terminate this Agreement. Constructor shall immediately stop the Work, follow Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.

11.4.2 If Owner terminates this Agreement for convenience, Constructor shall be paid: (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred resulting from termination, but not including Overhead or profit on Work not performed; (c) reasonable attorneys' fees and costs related to termination; and (d) a premium as follows: [_____].

11.4.3 If Owner terminates this Agreement, Constructor shall:

11.4.3.1 execute and deliver to Owner all papers and take all action required to assign, transfer, and vest in Owner the rights of Constructor to all materials, supplies, and equipment



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for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders, and commitments which have been made in accordance with the Contract Documents;

11.4.3.2 exert reasonable effort to reduce to a minimum Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination;

11.4.3.3 cancel any subcontracts, orders, and commitments as Owner directs; and

11.4.3.4 sell at prices approved by Owner any materials, supplies, and equipment as Owner directs, with all proceeds paid or credited to Owner.

11.5 CONSTRUCTOR'S RIGHT TO TERMINATE

11.5.1 Seven (7) Days' after Owner's receipt of written notice from Constructor, Constructor may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of Constructor for any of the following reasons:

(a) under court order or order of other governmental authorities having jurisdiction;
(b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Constructor, materials are not available; or
(c) suspension by Owner for convenience pursuant to §11.1.

11.5.2 In addition, upon seven (7) Days' written notice to Owner and an opportunity to cure within three (3) Days, Constructor may terminate this Agreement if Owner:

11.5.2.1 fails to furnish reasonable evidence pursuant to §4.2 that sufficient funds are available and committed for Project financing; or

11.5.2.2 assigns this Agreement over Constructor's reasonable objection; or

11.5.2.3 fails to pay Constructor in accordance with this Agreement and Constructor has stopped Work in compliance with §9.5; or

11.5.2.4 otherwise materially breaches this Agreement.

11.5.3 Upon termination by Constructor in accordance with §11.5.2, Constructor is entitled to recover from Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work, including all demobilization costs plus reasonable Overhead and profit on Work not performed.

11.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

ARTICLE 12 DISPUTE MITIGATION AND RESOLUTION

12.1 WORK CONTINUANCE AND PAYMENT Constructor shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution procedure. If Constructor continues to perform, Owner shall continue to make payments in accordance with this Agreement.

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12.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

12.3 ~~MITIGATION If the Parties select one of the dispute mitigation procedures below, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in §12.5. The Parties agree that the dispute mitigation procedure shall be:~~

~~☐ Project Neutral ("Neutral"); or~~
~~☐ Dispute Review Board ("DRB").~~

~~12.2.1 MITIGATION PROCEDURES As soon as practicable after the execution of this Agreement, the Neutral or DRB shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of responsibilities, including requirements for nonbinding findings. Costs and expenses of Neutral or DRB shall be shared equally by the Parties. A Neutral or DRB shall be available to either Party, upon request, throughout the course of the Project, and shall make regular visits to the Project so as to maintain an up-to-date understanding of the Project progress and issues and to enable the Neutral or DRB to address matters in dispute between the Parties promptly and knowledgeably.~~

~~12.2.2 If the matter remains unresolved following the issuance of the nonbinding findings or such findings are not made within five (5) Business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in §12.5.~~

~~12.2.3 If the Parties execute a DRB Addendum, then the dispute mitigation procedures and time requirements in §12.3.1 and §12.3.2 shall be governed by that DRB Addendum.~~

12.3 MEDIATION If direct discussions pursuant to §12.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under §12.3, the Parties shall endeavor to resolve the matter by mediation. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties. The Parties choose mediation through:

☒ the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), and administered by AAA.
☐ the current Mediation Guidelines of JAMS and administered by JAMS.
☐ the current rules and administration by [_____].

If no box is checked the default is AAA rules and administration.

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12.4 BINDING DISPUTE RESOLUTION If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

12.4.1 ARBITRATION

☐ The Parties choose binding arbitration for any claim or dispute arising out of or relating to this Agreement. **EACH PARTY WAIVES THEIR RIGHT TO BE HEARD IN A COURT OF LAW**, with or without a jury. Arbitration does not involve a judge or jury. Instead, an arbitrator with the power to award damages and other appropriate relief will decide claims and disputes. An arbitrator's award shall be final and binding upon the Parties, and judgment may be entered upon it in any court having jurisdiction.

12.4.1.1 Neither Party may commence arbitration if the claim or cause of action would be barred by the applicable statute of limitations, statute of repose, or both had the claim or cause of action been filed in a state or federal court. Receipt of a demand for arbitration by the person or entity administering the arbitration shall constitute the commencement of legal proceedings for the purposes of determining whether a claim or cause of action is barred by the applicable statute of limitations. If, however, a state or federal court exercising jurisdiction over a timely filed claim or cause of action orders that the claim or cause of action be submitted to arbitration, the arbitration proceeding shall be deemed commenced as of the date the court action was filed, provided that the Party asserting the claim or cause of action files its demand for arbitration with the person or entity administering the arbitration within thirty (30) Days after the entry of such order.

12.4.1.2 The arbitration shall use the following rules:

☐ the current AAA Construction Industry Arbitration Rules and AAA administration. AAA Construction Fast Track Rules shall apply to all two-party cases when neither Party's disclosed claim or counterclaim exceeds $250,000. If arbitration is selected but no rules are selected, then this subsection shall apply by default;
☐ the current JAMS Engineering and Construction Arbitration Rules and Procedures and administered by JAMS; or
☐ the current arbitration rules of [_____] and administered by [_____].

12.4.2 LITIGATION

☒ Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

If not indicated, then litigation is the default and not arbitration.

12.4.3 COSTS The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

12.4.4 VENUE The Project location shall serve as the venue.

12.5 MULTIPARTY PROCEEDING All parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding, if possible. Appropriate provisions shall be included in all other



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contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

12.6 LIEN RIGHTS Nothing in this article shall limit any rights or remedies not expressly waived by Constructor that Constructor may have under lien laws.

ARTICLE 13 MISCELLANEOUS

13.1 EXTENT OF AGREEMENT Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

13.2 ASSIGNMENT Except as to the assignment of proceeds, the Parties shall not assign their interest in this Agreement without the written consent of the other. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Constructor or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Constructor than this Agreement. If such assignment occurs, Constructor shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

13.3 GOVERNING LAW The law in effect at the location of the Project shall govern this Agreement.

13.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

13.5 NOTICE Unless changed in writing, a Party's address indicated in Article 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service.

13.6 NO WAIVER OF PERFORMANCE Either Party's failure to insist upon any performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right.

13.7 TITLES The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.

13.8 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

ARTICLE 14 CONTRACT DOCUMENTS

14.1 EXISTING CONTRACT DOCUMENTS

14.1.1 The Contract Documents in existence at the time of execution of this Agreement are as follows:

ConsensusDocs® 200 - Standard Agreement and General Conditions Between Owner and Constructor - © 2007, 2011, 2016, 2023.
THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 91CF26F8-E5FC

(a) Drawings: N/A
(b) Specifications: Stone Base Construction and Turf Specs per AstroTurf for Football and Baseball Turf Systems
(c) Addenda: N/A
(d) Owner Provided Information: RFP Document
(e) Other: N/A

14.2 INTERPRETATION OF CONTRACT DOCUMENTS

14.2.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, Constructor shall perform the Work as though fully described on both.

14.2.2 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Constructor shall immediately submit the matter to Owner for clarification. Subject to an equitable adjustment in Contract Time or Contract Price pursuant to ARTICLE 8, or a dispute mitigation and resolution, Owner's clarifications are final and binding.

14.2.3 Where figures are given, they shall be preferred to scaled dimensions.

14.2.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

14.3 ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) this Agreement; (c) subject to §14.2.2 the drawings (large scale governing over small scale), specifications, and addenda issued and acknowledged before Agreement execution or signed by both Parties; (d) information furnished by Owner pursuant to §3.13.4 or designated as a Contract Document in §14.1(e) other Contract Documents listed in this Agreement. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control.

OWNER: Mustang Public Schools

BY: _____ NAME: _____ TITLE: _____

WITNESS: _____ NAME: _____ TITLE: _____

CONSTRUCTOR: RGroup, Inc. dba United Turf and Track

BY: _____ NAME: Mike Grady TITLE: CFO

WITNESS: _____ NAME: Kayla Johnson TITLE: Treasurer

END OF DOCUMENT.

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CONTENT SECURE ID: 91CF26F9-E6FC

ConsensusDocs® 200.1

AMENDMENT NO. 1
POTENTIALLY TIME AND PRICE-IMPACTED MATERIALS

For Use with ConsensusDocs 200, Standard Agreement and General Conditions Between Owner and Constructor (Lump Sum Price)

This Amendment No. 1 made this 12th day of February in the year 2024 is made contemporaneous with

and modifies the Agreement dated 2/12/24 between

OWNER,
Mustang Public Schools
909 S. Mustang Rd.
Mustang, OK 73064

and

CONTRACTOR,
RGroup, Inc. dba United Turf and Track
PO Box 565
Arcadia, OK 73007

for the following

PROJECT,
Mustang High School Football Stadium Turf Replacement and Baseball Turf Project

Terms used in this Amendment, unless otherwise defined, shall have the same meaning as defined in the Agreement.

1. POTENTIALLY TIME AND PRICE-IMPACTED MATERIAL As of the date of this Amendment, certain markets providing essential materials to the Project are experiencing or are expected to experience significant, industry-wide economic fluctuation during the performance of this Agreement that may impact price, availability and delivery time frames ("Potentially Time and Price-Impacted Material"). This Amendment provides for a fair allocation of the risk of such market conditions between the Owner and the Contractor and shall only apply to the Potentially Time and Price-Impacted Material(s) listed in Schedule A to this Amendment.

2. BASELINE PRICE AND TIME Owner and Contractor shall agree upon a method for establishing the market price as of the date of this Amendment ("Baseline Price") and the method for calculating an adjustment in the pricing for a Potentially Time and Price-Impacted Material listed in Schedule A to this Amendment.

2.1. Compensation for any Potentially Time and Price-Impacted Material shall not be duplicated in any contingency amounts established under the terms of the Agreement.

3. ADJUSTMENT IN BASELINE PRICE If during the course of the Project a Potentially Time and Price-Impacted Material item experiences an increase or decrease in its Baseline Price, either Party may notify

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CONTENT SECURE ID: 45520146-12C5

the other in writing within thirty (30) Days from the date the basis for an equitable adjustment to the Contract Price, pursuant to article 8 of the Agreement, arises and shall provide appropriate documentation substantiating such adjustment. An adjustment in the pricing for a Potentially Time and Price-Impacted Material shall not include any amount for overhead and profit.

3.1. In the event of a decrease in a Baseline Price, the Contract Price shall be equitably adjusted to reflect such decrease, subject to section 3.3 of this Amendment, but only for those Potentially Time and Price-Impacted Materials delivered on or after the date on which written notice of the adjustment in Baseline Price is given.

3.2. In the event of an increase in a Baseline Price, the Contract Price shall be equitably adjusted to reflect such increase, subject to section 3.3 of this Amendment, but only for those Potentially Time and Price-Impacted Materials delivered on or after the date on which written notice of the adjustment in Baseline Price is given.

3.3. The Contract Price shall not be adjusted by more than (10%) percent of the original Contract Price for the aggregate of the increases or decreases in Baseline Prices for Potentially Time and Price-Impacted Materials.

3.4. No adjustment shall be made for any quantities of Potentially Time and Price-Impacted Materials scheduled for delivery under the terms of the Agreement prior to the date on which written notice of the adjustment in Baseline Price is given, unless the failure to deliver such quantities before that date is beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers.

3.5. Payment, if any, for an adjustment shall be made in accordance with the terms of the Agreement.

4. TIME-IMPACT AND AVAILABILITY If the Contractor is delayed at any time in the commencement or progress of the Work due to a delay in the delivery of, or unavailability of, a Potentially Time and Price-Impacted Material, beyond the control of and without the fault of the Contractor, its Subcontractors and Material Suppliers, the Contractor shall be entitled to an equitable extension of the Contract Time and an equitable adjustment of the Contract Price in accordance with section 6.3 of the Agreement. The Owner and Contractor shall undertake reasonable steps to mitigate the effect of such delays.

Notwithstanding any other provision to the contrary, the Contractor shall not be liable to the Owner for any expenses, losses or damages arising from a delay in the delivery of a Potentially Time and Price-Impacted Material item not the fault of the Contractor, its Subcontractors and Material Suppliers.

OWNER: Mustang Public Schools

By _____

CONTRACTOR: RGroup, Inc. dba United Turf and Track

By: _____

END OF DOCUMENT.

SCHEDULE A TO CONSENSUSDOCS 200.1—AMENDMENT NO. 1

POTENTIALLY TIME AND PRICE-IMPACTED MATERIALS

Potentially Time and Price-Impacted Materials should be identified and described with specificity. The methods for establishing the Baseline Price for a Potentially Time and Price-Impacted Material should be based upon an objective standard and include: 1) established market or catalog prices; 2) actual material costs; 3) material costs indices; or, 4) such other mutually agreed upon method. Pricing based on material costs indices must identify the index category or subcategory that most accurately reflects the Potentially Time and Price-Impacted Material specified.

1. Potentially Time and Price-Impacted Material: Synthetic Turf Materials

   Baseline Price: $TBD/TBD (unit)

   Pricing Method: Market rate at time of installation

2. Potentially Time and Price-Impacted Material: Stone/Aggregate Materials and Concrete Materials

   Baseline Price: $TBD/TBD (unit)

   Pricing Method: Market rate at time of installation

Schedule "A"

February 12, 2024

Resignations				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Andersen	Meaghan		MBI/F/S Teacher	05/17/2024
Brace	Megan		PVE/Media Asst/Crossing Guard	02/02/2024
Choate	Angela		MERC/STEM Facilitator	05/17/2024
Copenhaver	Connie		MCE/Teacher	01/16/2024
Costin	Yolanda		PVE/Paraprofessional	02/02/2024
Davis	Shelley		TE/MBI/Health Aide	01/22/2024
Ediger	Angela		Merc/Business Manager	02/02/2024
Franklin	Jeremiah		MHS/Sped Paraprofessional	02/06/2024
Godoy Blanco	Iliana		TE/CN	01/26/2024
King	Larry		District/General Maintenance	01/26/2024
Long	Alec		Merc/Technology Support Specialist	02/02/2024
Malone	Darcie		RE/Sped Paraprofessional	01/30/2024
Martini	Andrea		RE/Teacher	05/17/2024
Nunez	Eginia		MHS/CN	01/10/2024
Ordoz Villa	Michelle		CN/MMS	01/19/2024
Palmer	Emily		LE/Sped Teacher	05/17/2024
Petty	Karla		MHS/Sped Paraprofessional	02/15/2024
Ramos-Gonzalez	Anais		MCE/Custodial	02/06/2024
Rankin	Taylor		TE/Sped Paraprofessional	11/30/2023
Sapkota	Jessica		RE/CN	01/25/2024
Stevens	Rick		Transporation/Bus Aide	02/02/2024
Walker	Kimberly		MHS/CN Manager	02/16/2024
Whitehead	Courtney		MCE/Paraprofessional	12/19/2023
Terminations				
Mapes	Angela		MHS/CN	01/31/2024
Retirement				
Last Name	**First Name**		**Site/Assignment**	**Effective**
Rudek	Betty		Admin/District Physical Therapist	05/16/2024
Stover	Betty		PVE/Teacher	05/17/2024
Employment				
Last Name	**First Name**	**Replacing/New Position**	**Site/Assignment**	**Effective**
Bennett	Amanda	Kristen Taylor	MHS/CN	01/22/2024
Bristow	Jacy	Darci Malone	RE/Sped Paraprofessional	01/31/2024
Chavez	Victor	Max McKinney	Transporation/Bus Driver	01/04/2024
Colls	Sarah	Kaylee McMinn	LE/Sped Paraprofessional	01/17/2024
Costiloe	Anna	Iliana Blanco Godoy	TE/CN	01/29/2024
Duran	Jaymes	Larry King	Operations/General Maintenance	02/19/2024
Fonseca	Jennifer	Marla Klassen	RE/CN	01/29/2024
Franklin	Kelsey	Silver Harris	MHI/CN	01/29/2024
Gomez	Karen	Lizbet Cook	MMS/CN	01/12/2024
Haines	Allyson	Tracy Anthony	CE/Teacher	01/22/2024
Harvey	Brittney	New Position	District/COTA	01/03/2024

Johnson	Cacie	Haley Pinon	LE/Paraprofessional	01/19/2024
McDowell	Mark	Shirley McDaniel	Transportation/Sped Bus Assistant	02/05/2024
McGuire	Chase	Michael Higgins	Operations/General Maintenance	02/19/2024
Ochoa	Taressa	Ezikiel Ojeda	PVE/Noon Supervisor	02/05/2024
Rodriguez	Irma	Connie Copenhaver	MCE/Teacher	01/19/2024
Sanderson	Nina	Shelley Davis	TE/Health Aide	01/24/2024
Scott	Nanette	Courtney Whitehead	MCE/F/S Sped Paraprofessional	01/23/2024
Shay	Benjamin	New Position	Transporation/Bus Driver/Sub	01/19/2024
Shelton	Carissa	New Position	MEC/Sped M/M Pre-K Teacher	02/05/2024
Spidle	Crystal	Michelle OrdazVilla	MMS/CN	02/01/2024
Trowbridge	Kelcy	Tralanea Frings	MHI/Health Aide	01/22/2024
Witten	Blaike	Nikki Elder	MHS/Sped Paraprofessional	01/16/2024
Reassignments				
Last Name	**First Name**	**From: Site/Assignment**	**To: Site/Assignment**	**Effective**
Anthony	Tracy	CE/Teacher	CE/Sped Teacher	01/22/2024
Clanton	Lisa	PVE/Sped Paraprofessional	PVE/Sped Paraprofessional 1 on 1	2024
Harvey	Brittney	MBI/OT Assistant	CRI/COTA	2024
Head	Chasity	Merc/Receptionist	Merc/Assistant Superintendent Admin Asst	06/01/2024
Isham	Jill	CRI/Nurse Aide	MEC/Campus Admin Assistant	02/19/2024
Jordan	Andra	RE/Paraprofessional 7 HR	RE/Paraprofessional 7.5 HR	01/31/2024
Klassen	Marla	RE/CN 6.5	RE/CN 7.0	01/25/2024
Neel	James	Transporation/Bus Driver	CN/Full time Asst	01/08/2024
Sugg	Sherri	RE/Paraprofessional 7 HR	RE/Paraprofessional 7.5 HR	01/31/2024
Sutton	Marcelina	CE/Teacher	TE/Sped Teacher F/S	01/04/2024
Additional Duty/Supplemental/Stipend				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Cunningham	Chris	Assistant Middle School Track Coach	MMS	2023/2024
Vandeventer	Alana	Robotics Sponsor	ME	2024
Edwards	Elijah	Assistant HS Track Coach	MHS	2024
Thompson	Darius	Assistant HS Track Coach	MHS	2024
Ward	David	Homebound/based instructor	District	2024
Bass	Danielle	Homebound/based instructor	District	2024

Schedule "B"

February 12, 2024

Last Name	First Name	Assignment	Site	Effective
Bronco Club 2024 SY				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Pitchford	Jazmyn	Paraprofessional	CE	2024
Williams	Bobbie	Teacher	PVE	2024
Pigg	Natalie	Teacher Assistant	PVE	2024
Benham	Rachel	Paraprofessional	RE	2024
Bristow	Jacy	Teacher Assistant	RE	2024
Peralta	Ayden	Student Assistant	RE	2024
Meek	Hope	Teacher	TE	2024
Moody	Sarah	Teacher	VE	2024
Brown	Tori	Paraprofessional	VE	2024
Brownlow	Ella	Student Assistant	MBI	2024
Griffin	Emma	Teacher	CRI	2024
Assistant Superintendents Recommended for Re-Hire 2024-2025 SY				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Edwards	Stacy	Assistant Superintendent of Elementary Education	Merc	2024-2025
Pittenger	Dr. Jason	Assistant Superintendent of Operations	Merc	2024-2025
McKinney	Ryan	Assistant Superintendent of Secondary Education	Merc	2024-20205
Chief Financial Officer Recommended for Re-Hire 2024-2025 SY				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Landes	Jeff	Chief Financial Officer	Merc	2024-2025
Last Name	**First Name**	**Executive Administrators Recommended for Re-Hire 2024-2025 SY**	**Site**	**Effective**
Schrick	Geromy	Executive Director of Technology	Merc	2024-2025
Tobler	Chris	Executive Director of Human Resources	Merc	2024-2025
Wilson	Dr. Karen	Executive Director of Student Services	Ssc	2024-2025
Wilson	Kirk	Executive Director of Communications	Merc	2024-2025
Chief Operations Officer Recommended for Re-Hire 2024-2025 SY				
Green	Alan	Chief Operations Officer	Merc	2024-2025
Director Administrators Recommended for Re-Hire 2024-2025 SY				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Foreman	Robeert	Director of Athletics	Merc	2024-2025
Raiber	Dr. Michael	Director of Fine Arts	Merc	2024-2025
Cummings	Shanda	Director of High School Curriculum	Merc	2024-2025
Eidson	Misty	Director of Elementary Curriculum and Instruction	Merc	2024-2025
Glinsmann	Dr. Robbyn	Director of Secondary Curriculum and Instruction	Merc	2024-2025
Hill	Amy	Director od Federal Programs	Merc	2024-2025
Barrick	Michael	Director of Behavioral Support Services	Merc	2024-2025
Wiggins	Heather	Director of Student Assistance Programs	Merc	2024-2025
Brown	Margaret	Director of Student Information	Merc	2024-2025
Ryan	Donnie	Director of Transporation	Merc	2024-2025
Rainwater	Kay	Director of Child Nutrition	Merc	2024-2025
Green	Kristina	Director of Bronco Club and Communityh Education	Merc	2024-2025
Waldrop	Samantha	Director of the Performing Arts Center	Merc	2024-2025
Raymond	Cady	Director of Technical Services	Merc	2024-2025
Newell	Jennifer	Director of Safety and Security	Merc	2024-2025
Meeks	Colin	Director of Construction	Merc	2024-2025
Assistant Director Administrators Recommended for Re-Hire 2024-2025 SY				
Last Name	**First Name**	**Assignment**	**Site**	**Effective**
Guziec	Andrea	Assistant Director of Athletics	Merc	2024-2025
Oliver	Greg	Assistant Director of Athletics	Merc	2024-2025
Tipton	Terry	Assistant Director of Transporation	Merc	2024-2025
Novotny	Kim	Assistant Director of Child Nutrition	Merc	2024-2025

Schedule "C"

February 12th, 2024

GUEST TEACHER			
Last Name	**First Name**	**Site/Assignments**	**Effective**
Anderson	Karissa	District	02/05/2024
Blakey	Johnny	District	01/10/2024
Bristow	Jacy	District	01/08/2024
Brown	Tori	District	01/05/2024
Chrisman	Caidance	District	01/05/2024
Costin	Yolanda	District	02/05/2024
Cox	Jarrett	District	01/10/2024
Craig	Valerie	District	01/09/2024
Dunn	Sadie	District	01/25/2024
Galindo	Sara	District	01/10/2024
Gramer	Katharine	District	01/31/2024
Hardin	Reagan	District	01/30/2024
Higgins	Chaireka	District	01/30/2024
Ingram	Grayson	District	01/05/2024
Ives	Jordyn	District	02/06/24
Kinder	Mikaela	District	01/17/24
Langhammer	Karen	District	01/05/24
Lemons	Jan	District	01/05/24
Martinez	Yolanda	District	01/30/2024
Palacio	Sareena	District	01/22/2024
Reyes	Nicole	District	01/30/2024
Rodgers	Bryce	District	01/31/2024
Satterlee	Alicia	District	01/25/2024
Saunders	Kara	District	01/08/2024
Shelley	Caitlyn	District	01/22/2024
Smith	David	District	01/17/2024
Sparkman	Brooklyn	District	01/25/2024
Sponburg	Kenneth	District	02/06/2024
Spoonemore	Amber	District	01/10/2024
Truelove	Matthew	District	01/25/2024
Zodrow	Adam	District	01/17/2024
Wagner	Brandi	District	01/22/2024
White	Dana	District	01/09/2024
Wright	Taylor	District	01/23/2024