



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 18th day of April in the year 2025,

BETWEEN the Owner:

(Name, legal status, address, and other information)

Hallsville R-IV School District
421 E. Highway 124
Hallsville, Missouri 65255

and the Construction Manager:

(Name, legal status, address, and other information)

S.M. Wilson & Co.
2185 Hampton Avenue
St. Louis, Missouri 63139

for the following Project:

(Name, location, and detailed description)

2025 Bond Program
Hallsville School District, Hallsville MO

The Architect:

(Name, legal status, address, and other information)

Klingner & Associates, P.C.
3622 Endeavor Avenue, Suite 117
Columbia, Missouri 65201

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.)

New multi-purpose baseball field, new parking lot and new 1st grade classroom addition. New security entries at the High School, Intermediate and Middle School. Also as determined by Owner, renovations at existing baseball concessions stand and renovations at Intermediate playground as funds are available.

§ 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.)

To be determined at a later date

§ 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.)

Init.

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Currently anticipated at \$5,136,229, subject to change given the current economic climate and the Owner's desire to maximize value.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:
To be determined
- .2 Construction commencement date:
To be determined
- .3 Substantial Completion date or dates:
To be determined
- .4 Other milestone dates:
To be determined

§ 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.)

To be determined

§ 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.)

Not Applicable

§ 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.)

Not Applicable

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Dr. Tyler Walker
Superintendent of Schools
Hallsville R-IV School District
411 E. Highway 124
Hallsville, Missouri 65255
Phone: 573-696-5512
Email: twalker@hallsville.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.)

To be determined

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Klingner & Associates PC

.2 Civil Engineer:

Klingner & Associates PC

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Not Applicable

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Matthew Bridges, P.E.
Klingner & Associates, P.C.
3622 Endeavor Avenue, Suite 117
Columbia, Missouri 65201
Phone: 573-355-5988
Email: mbridges@klingner.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Patrick Aylesworth
S.M. Wilson & Co.
2185 Hampton Avenue
St. Louis, Missouri 63139
Phone: 314-645-9595
Email: patrick.aylesworth@smwilson.com

§ 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.)

Not Applicable

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

In compliance with all applicable laws and requirements including without limitation the requirements set forth in RSMo. 67-5050.

§ 1.1.15 Other Initial Information on which this Agreement is based:

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Not Applicable

§ 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 The Construction Manager shall not change its authorized representative or any key personnel unless they have similar qualifications and experience as the original personnel and who are satisfactory to Owner in its reasonable discretion. 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 and in compliance with all applicable laws, codes, regulations, ordinances and requirements including without limitation the requirements set forth in RSMo. 67-5050. 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. All references in this Agreement to A201-2017 shall mean as modified by the Owner and Construction Manager. 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 writing, 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, who is Patrick Aylesworth. The Construction Manager also designates the following as its key personnel: Rebecca Reifel, Project Manager, and Richard Graves, Project Superintendent. The Construction Manager shall not change its authorized representative or any key personnel unless it

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notifies Owner and provides replacements who have similar qualifications and experience and who are satisfactory to Owner in its reasonable discretion.

§ 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 reasonably 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 actually 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 As requested by the Owner, 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.

(Paragraph deleted)

§ 3.1.3.2 Design Reviews: The Construction Manager shall make recommendations to the Owner and Architect with respect to proposed site use and improvements, the use of the selection of materials, Project systems and equipment and other aspects of the physical construction of the Project; and make recommendations or comparisons on various construction methods, the availability of materials and labor, time requirements for procuring long-lead items, installation and construction, including costs and construction time associated with alternative designs or materials, the Budget and constructability. The review of proposed building systems, materials and equipment for appropriateness as contemplated by this Section will be accomplished by Construction Manager from the perspective of a construction manager for the Project. In no event shall Construction Manager be deemed to be performing, and or be required to perform, any design or engineering in connection with the Project.

§ 3.1.3.3 Recommendations Regarding Investigations: The Construction Manager shall recommend to the Owner which investigations, surveys, tests, analyses and reports should be obtained as necessary to document existing conditions for the proper execution of the Work. It is understood and agreed that as the nature of this Agreement is "at risk" Construction Manager is required to do such investigations as are necessary in order to account for costs related to subsurface conditions and include such costs in the Guaranteed Maximum Price proposal.

§ 3.1.3.4 Permitting: The Construction Manager shall assist the Owner in obtaining the necessary approvals for the Project, and shall obtain all necessary permits and licenses for the construction of the Project.

§ 3.1.3.5 Variance Assistance: The Construction Manager shall assist the Owner and Architect, when requested, by providing information for the preparation and submission of applications or other documents necessary for the issuance of any variances or approvals required in connection with the design or construction of the Project from any local, state, or federal governmental authorities having jurisdiction over the Project.

§ 3.1.3.6 Construction Documents Complete: The Construction Manager shall review the Drawings and Specifications for the Project and shall notify the Owner and the Architect if the Construction Manager believes the responsibilities of the Construction Manager are not properly identified or assigned, or if the Drawings and Specifications contain any areas of conflict and/or overlap in the Work to be performed by the Construction Manager and/or the various subcontractors on the Project. Construction Manager is not qualified to perform, and shall not be required to perform, an architectural, engineering or other design review or to perform or provide any architectural, engineering or other professional services satisfying the standards of a design professional. Nothing within the Contract Documents shall be construed as requiring Construction Manager to furnish, provide or perform architectural services, professional engineering services, land surveying services or any other services of the type which would require Construction Manager to obtain and maintain a professional registration in the state where the work is performed. In ascertaining whether the scope of work set forth in the Construction Documents is suitable for the purposes of bidding and construction as provided in section 3.1.3.2 of the Agreement, Construction Manager will make that determination in its role as construction manager and will not perform a design review of the type performed by an architect, professional engineer or other licensed design professional.

§ 3.1.3.7 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

§ 3.1.4.1 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 meet and discuss the schedule with the Owner and Architect. 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.

§ 3.1.4.2 Owner acknowledges that Construction Manager’s schedule for completion includes two annual breaks, during which neither Construction Manager’s employees, nor those of its Subcontractors, will be performing Work; such breaks include the period from the Saturday prior to Thanksgiving to the Sunday after Thanksgiving, and the period from Christmas Eve through New Year’s Day.

§ 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. The Contract Sum includes up to three estimates by the Construction Manager of the Cost of Work. If the Architect or Construction Manager suggest 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 [Intentionally deleted.]

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 Owner has provided requirements for subcontractor procurement in section 1.1.14 and 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.

§ 3.1.12.1 Work Divisions: The Construction Manager shall make recommendations to the Owner and the Architect regarding the division of Work to facilitate the bidding and awarding of Subcontracts and the orderly progress of Work, allowing for an orderly construction sequence. Construction Manager shall make recommendations to the Owner and the Architect regarding the assignment of responsibilities for safety precautions and programs, temporary project facilities, equipment materials and services for the common use of subcontractors.

§ 3.1.12.2 Coordinated Bid Sets: The Construction Manager shall prepare bid packages and shall review and participate in the preparation and development of the Design and Construction Documents, bid packages, Drawings and Specifications to ensure that the responsibilities of the various subcontractors are properly identified and coordinated. The Construction Manager shall coordinate the divisions of Work and the sequencing and contents of the various bid packages and subcontracts.

§ 3.1.12.3 Bidding and Negotiations. The Construction Manager shall advertise as required by RSMo. 67-5050 obtain bids from qualified subcontractors and from qualified suppliers of materials or equipment and, after analyzing bids, shall deliver them to the Owner. Bid opening shall occur as required by RSMo. 67-5050. The Owner and the Construction Manager jointly shall review bids in a manner that does not disclose the contents of the bid during the selection process as required by RSMo. 67-5050 and determine which bids will be accepted. The Construction Manager will contract directly with subcontractors, material and equipment suppliers, and service vendors.

§ 3.1.12.4 Bidder's List: The Construction Manager shall prepare a list of potential bidders for each equipment and construction procurement package and submit this list to the Owner for review and final bidder selection. If Owner agrees to same, the Construction Manager may seek to perform portions of the work itself if it submits its sealed bid for those portions of the work in the same manner as all other trade contractors or subcontractors. If the Construction Manager submitted bids or proposals, the Owner shall determine if the Construction Manager's bid or proposal offers the best value for the Owner.

§ 3.1.12.5 Bidding Phase: The Construction Manager shall review the 100% Construction Documents and provide review comments to the Architect and Owner. After such 100% Construction Document review corrections recommended by the Construction Manager have been made by the Architect, the Construction Manager shall issue the corrected Construction Documents during the bidding process; provided, however, that the Construction Manager's obligations under this Section 3.1.12 are dependent upon the proper and timely performance of Architect and Owner acting in coordination with Construction Manager.

§ 3.1.12.6 Bidding Assistance: The Construction Manager shall provide assistance to bidders during the bidding period of this Project. Services shall include forwarding design related questions to the Architect and distributing responses to bidders, answering bidder's construction-related questions, and distributing addenda prepared by the Architect.

§ 3.1.12.7 Pre-Bid Conference: The Construction Manager shall organize and participate in pre-bidding conferences to benefit the Project. Owner and Architect shall attend and participate in all such conferences as requested by Construction Manager.

§ 3.1.12.8 Bid Evaluation: The Construction Manager shall prepare an evaluation of vendor and contractor proposals or bids for the Owner’s review and approval. The evaluation shall be conducted in a manner that does not disclose the contents of the bid or proposal to a person not employed by the Owner, the Construction Manager, the Architect or any engineer involved with the project.

§ 3.1.12.9 Post –Bid Conference: For each bid package or procurement item, the Construction Manager shall conduct a Post-Bid Conference with the apparent low bidder and the next low bidder, if necessary, to ascertain if the bids received were complete, to review bonding capability, and to determine if any bidding discrepancies exist. Construction Manager may conduct such conferences by telephone. The conferences shall be conducted in a manner that does not disclose the contents of the bid or proposal to a person not employed by the Owner, the Construction Manager, the Architect or any engineer involved with the project.

§ 3.1.12.10 Recommendations. The Construction Manager shall discuss options and make recommendations to the Owner after each Post-Bid Conference, and award a contract to the selected bidder approved by Owner. If the Construction Manager reviews, evaluates, and recommends to the Owner a bid or proposal from a trade contractor or subcontractor (other than Construction Manager) but the Owner requires another bid or proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, or guaranteed maximum cost for the additional cost and risk that the Construction Manager may incur because of the Owner’s requirements that another bid or proposal be accepted. After all bids have been evaluated and clarified, the award of all subcontracts shall be made public.

§ 3.1.12.11 Contract Administration Services: Using its standard subcontract form, the Construction Manager shall prepare contracts necessary for each bid package or procurement item. This includes any other public works requirements.

§ 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.)

Not Applicable

§ 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 reasonable 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 Construction Manager's Contingency amount must be included as a line item in the Guaranteed Maximum Price Proposal. After the Guaranteed Maximum Price (including the Construction Manager Contingency line item) is established and approved by Owner, the Construction Manager's Contingency shall be available to the Construction Manager to pay for (a) unanticipated actual costs caused by changes in local market, labor or material conditions, (b) actual costs caused by the default or bankruptcy of a subcontractor that cannot be recovered from applicable insurance or bonds, and (c) other unanticipated costs incurred by the Construction Manager and not recoverable or reimbursable pursuant to other provisions of this agreement. Construction Manager shall advise Owner when Construction Manager uses such contingency and provide to Owner all additional information Owner reasonably requests regarding use of such Contingency. The Construction Manager shall use the contingency funds to pay such costs and expenses without reimbursement from the Owner. Upon Final Completion, if any funds remain in the Construction Manager's Contingency, the fund shall be closed, and remaining amounts of such Contingency shall be apportioned in accordance with Paragraph 6.2.

§ 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. In the event that the Architect is required to revise the Drawings and Specifications, then upon prior notice and subject to Construction Manager's approval as to the amount (which approval will not be unreasonably withhold, conditioned or delayed), the cost of doing so shall be split 50-50 between the Architect and Construction Manager.

§ 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.

§ 3.3.2.6 The Construction Manager shall review and coordinate the safety programs developed by each of the Subcontractors and shall have overall responsibility for safety. The Construction Manager shall assure that all Subcontractors initiate and maintain appropriate safety precautions and programs in connection with the Work, and shall monitor the individual safety programs of each Subcontractor on the Project site. The Construction Manager and its Subcontractors shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (1) all employees performing any of the Work, and all 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 the care, custody or control of the Construction Manager or any of the Subcontractors performing Work on the Project and (3) other property at the Site or reasonably proximate thereto. The Construction Manager or its Subcontractors shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss, and shall require all persons performing Work on the Project to comply with any policies and rules of the Construction Manager relating to access or behavior at the Project Site. Owner agrees to cooperate with Construction Manager in connection with Construction Manager's implementation of reasonable safety precautions and programs hereunder, and Construction Manager shall not be responsible for loss, injury or damage to the extent that such loss, injury or damage is caused by the failure of Owner or its employees, to abide by such safety precautions or programs maintained by Construction Manager hereunder.

§ 3.3.2.7 In conjunction with the Architect, the Construction Manager shall establish procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals. The Architect shall review and approve all submittals within a reasonable time, so as not to delay the Work or the Project in any way. The Construction Manager shall review all shop drawings, product data, samples and other submittals from the subcontractors. The Construction Manager shall coordinate submittals with information contained in related documents and transmit to the Architect those which have been approved by the Construction Manager. The Construction Manager's actions shall be taken with reasonable promptness. The Construction Manager shall monitor the submittal of all shop drawings (and provide overall coordination of the transmittal process for Shop Drawings and other submittals). The Construction Manager shall not be responsible for any delay to the construction schedule caused by Owner's or Architect's failure to review and approve any such Shop Drawing or submittals with reasonable promptness or the failure of the Architect to incorporate the Owner's comments in the review.

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 will provide information regarding the Owner's budget similar to what would be available under the Sunshine Law but Owner will in no event be required to incur any time or expense creating any reports or other information that does not already exist at the time of the report. 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 after first reviewing in its capacity as Construction Manager 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. The Owner shall be responsible for removing any hazardous material, unless removal is specifically identified within the scope of the applicable Guaranteed Maximum Price Amendment or otherwise set forth in the Contract Documents.

§ 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, which representative is identified in Paragraph 1.1.8 of this Agreement. 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. Notwithstanding the foregoing, it is understood and agreed that only Owner's Board of Education have the authority to approve any change in price or delay in schedule.

§ 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 the Agreement between Owner and Architect. 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.

§ 4.4 Compliance With Safety Requirements. Owner acknowledges that a construction site contains inherent dangers generally not present in public areas. Accordingly, if Owner, or any of Owner's employees, ("Owner Personnel") enter into or on any area or site in which Contractor is, or has been, performing Work ("Work Site"), such Owner Personnel shall strictly abide by all site safety requirements of Contractor governing the site.

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.)

A Pre-Construction Fee of \$10,000.00. Further, if the Project is terminated for any reason, the Owner does not owe Construction Manager any of the Pre-Construction Fee.

Any services, including extensive cost estimating or value engineering, not contemplated as within the Construction Manager's standard preconstruction services, shall entitle Construction Manager to additional compensation at the amount agreed upon by the parties not to exceed the rates stated in Construction Manager's standard Rate Sheet and only if approved by Owner in advance.

§ 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.)

Reference Exhibit C

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.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

Init.

§ 5.2.2 Payments are due and payable within thirty (30) calendar days from presentation of the Construction Manager's invoice. Amounts unpaid forty (40) days after the invoice date shall bear interest at the prime rate plus three percent (3%) as defined in the Wall Street Journal at the time of non-payment.
(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 in accordance with Contract requirements 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 Fee.)

Three percent (3%) of the Cost of the Work.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Five percent (5%) of the Cost of the Work for the change.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

10% Overhead and Profit

§ 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

(Paragraphs deleted)

Intentionally Deleted.

§ 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.)

§ 6.1.8 Allowances, if any:

§ 6.1.8.1 Unless stated otherwise in the Guaranteed Maximum Price Amendment ("*GMP Amendment*"), an allowance for winter costs and/or hot-weather conditions in the amount of **\$ To Be Determined** is or will be included in the GMP (as defined below). Winter costs and/or hot-weather conditions will be tracked, itemized and billed monthly. Winter costs include, but are not limited to: temporary gas or power for heat; heater rentals and labor to set up and maintain them; concrete blanket rentals and labor to cover and uncover ground and concrete; materials and labor to cover and uncover other work to protect the Work from the elements; snow removal; ground-thawing equipment and labor; removal and replacement of frozen or wet soil; material and labor for erecting and removing temporary walls or plastic barriers to protect the Work from the elements; additional supervision required for coordination of weather protection measures; and, concrete additives such as hot water and accelerators. Hot-weather conditions costs include concrete retardants and ice for concrete.

§ 6.1.8.2 There are **To Be Determined** weather-delay days incorporated into the Construction Manager's schedule. Any additional days lost because of inclement weather may be the basis for a time extension upon mutual agreement.

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price ("*GMP*") set forth in the GMP 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.

The GMP includes, or shall include, the alternates or value engineering items to be listed in an exhibit to the GMP Amendment. All value engineering items accepted by Owner shall be approved by Architect and incorporated by addendum or contract change order into the Drawings and/or Specifications. Any unforeseen costs resulting from value engineering ideas offered by the Construction Manager reasonably and in good faith shall be reimbursed to Construction Manager through a change order provided the additional costs shall not exceed the savings realized from the value engineering items.

At the completion of the Work, if the sum of the Cost of the Work and the Construction Manager's Fee are less than the GMP, 30% of such savings shall be paid to Construction Manager and 70% of such savings shall be credited to 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. For extra Work performed on any hourly basis, Construction Manager shall be compensated at the rates stated in Exhibit A for its personnel.

§ 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.

Unless otherwise agreed by Owner, for any changes to the Work Owner directs Construction Manager to perform on a time-and-materials basis, the subcontractor actually performing the Work on such change shall be paid its actual out-of-pocket costs, plus a markup of 10% to compensate such subcontractor for its profit and overhead. If the subcontractor performing such change work does not have a contract directly with Construction Manager, then the subcontractor in line contractually between Construction Manager and the subcontractor actually performing the change work shall receive 5% of the actual costs of such change, to compensate such intermediate-tier subcontractor for its overhead and profit; if more than one level of subcontractor exists contractually between Construction Manager and the subcontractor performing the change work, then all such intermediate-tier subcontractors shall divide pro-rata the 5% markup. Construction Manager's markup on change work shall be governed by Paragraph 6.1.3 if Construction Manager's Fee is a percentage of the Cost of the Work; if Construction Manager's Fee is a fixed lump sum under Paragraph 6.1.2, then Construction Manager shall be entitled to a markup of 5% of the Cost of the Work on such change, as its overhead and Fee on such change.

§ 6.3.6 Construction Manager's Fee shall not be reduced for minor deductive change orders. Minor to be defined as changes cumulatively less than 5% of the total Guaranteed Maximum Price.

§ 6.4 NOTICE TO OWNER

FAILURE OF CONSTRUCTION MANAGER TO PAY THOSE PERSONS SUPPLYING MATERIALS OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE

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User Notes:

(728394356)

PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT, YOU MAY ASK THIS CONSTRUCTION MANAGER FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIALS OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Paid to Construction Manager

§ 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. The parties shall endeavor to identify any such costs prior to executing the Guaranteed Maximum Price Amendment. No amounts are due or payable by Owner unless included in the Guaranteed Maximum Price Amendment. The items listed in 6.2-6.7 below do not apply if not set forth in said Amendment.

§ 7.1.3 Costs shall be at rates not higher than those designated in this Agreement, or 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, including staffing and support costs of Project administration and construction operations staff assigned to the Project, regardless of the principal location of such personnel, at the rates set forth in the Rate Sheet attached to this Agreement, for that portion of their time attributable to the Work..

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§ 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 its Subcontractors of every tier 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 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 local market rental rate 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.

(Paragraphs deleted)

Such amounts include: (1) Construction Manager's insurance program, including general liability and other coverage, at the rate of one and fifteen hundredths percent (1.15%) of the Contract Sum; (2) premiums for Builder's Risk insurance and deductibles, if the Contract Documents require Construction Manager to provide either or both of them; and (3) costs of the Construction Manager's subcontractor default insurance program, at the rate of one and twenty-five hundredths percent (1.25%) of the total of all subcontracts for labor and/or materials. Owner reserves the right to utilize and Owner Contract Insurance Program (OCIP). If Owner elects to utilize an OCIP, it will notify Construction Manager and following the parties' receipt of premium amount from the OCIP provided, the amount in item (1) would be reduced consistent with such coverage and premium amount.

§ 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, but only to the extent such amounts are properly assessed against a public works project.

§ 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 knew or 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, 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 or the negligence or failure of any subcontractor or supplier.

§ 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 and to the extent not covered by the items referenced in Section 7.6.1.

§ 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 if, and to the extent approved in advance in writing by the Owner.

§ 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 Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged 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. Such costs include those incurred by Construction Manager in correcting warranty items at any time during the warranty period.

§ 7.7.4 Business -related taxes incurred by the Construction Manager as a result of performing Work on the Project directly related to the Project and not related to the general income or business license fees or taxes incurred by Construction Manager, provided Construction Manager represents to Owner that there has been no increase in charges for water or sewer connections as the result of the sale of the city sewer system to a private firm.

§ 7.7.5 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's Board of Education, 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 Paid to Construction Manager

§ 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;
- .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 written approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Home office 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 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; and
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

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; ; or (3) Owner has authorized a payment upfront or in cash earlier than it would otherwise be due hereunder ;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. 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.

§ 9.3 Notwithstanding any of the foregoing, Construction Manager acknowledges and agrees that it must adhere to the requirements of RSMo. 67.5050 in its procurement and selection of Subcontractors and that in the event of any conflict between the provisions of this Article and RSMo. 67.5050, the statute shall prevail. Further, this Article is subject to Article 3.

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 reasonably satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded reasonable access to a location reasonably convenient to Owner, 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. 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. The Owner shall ensure all such records it or its accountants obtain from Construction Manager are maintained confidentially, subject to Owner's obligations under the Missouri Sunshine 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.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th 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 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 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, lien waivers, 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. No documentation requirements of any third parties, including any project lender, shall be binding upon Construction Manager.

§ 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:

§ 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, less retainage of five percent (5%). The Construction Manager's Fee shall be 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; and
- .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.

(Paragraph deleted)

§ 11.1.8 Retainage

For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the

(Paragraphs deleted)

amount of five percent (5%) as retainage from the payment otherwise due.

§ 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.

- .1 When the Work is 50% complete, the Owner, at its sole and absolute option, may eliminate further subcontractor retainage for the remainder of the Work.

- .2 Upon the request of the Construction Manager, the Owner shall release retainage allocable to a specific subcontractor after such subcontractor properly completes its subcontract work.
- .3 Upon Substantial Completion of the Work, all retainage shall be released to Construction Manager, less an amount equal to one hundred fifty percent (150%) of the value of any remaining incomplete Work.

§ 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. If Owner disputes any portion of an Application for Payment, Owner shall pay to Construction Manager the portion of such Application not in dispute.

§ 11.1.13 RESERVED

§ 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, including completion and correction of all punch list items, 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 all closeout documentation required under the Contract Documents, lien waivers and releases of claims from Construction Manager and all subcontractors or suppliers providing more than \$3000 of services, equipment or supplies, warranties, certified payrolls and affidavits of compliance with prevailing wage law have been submitted; and
- .4 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 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 or otherwise advise Owner of Construction Manager's disagreement with the Architect's decision 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 20 days after the issuance of the Architect’s final Certificate for Payment.

§ 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 or there is elsewhere in the contract an agreement as to the allocation of savings between the parties, 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.)

As provided in Section 5.2

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.)

In any dispute arising under or in connection with this Agreement, the prevailing party shall be entitled to recover its reasonable attorney’s fees, in addition to any other damages recoverable, from the non-prevailing party.

§ 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
- Litigation in a court of competent jurisdiction in Boone County, Missouri.
- 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 properly 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 5.1.1.

§ 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 properly 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 5.1.1.

§ 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, upon 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.

§ 13.1.7 There shall be no amounts due or owing for lost profits.

§ 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'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;
- .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.

§ 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, concurrent with 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.)

Owner shall pay Construction Manager its Fee on work performed to date, not to exceed the amount the Construction Manager would have otherwise received under Section 13.1.5 above,

§ 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. In the event of any suspension of the Work by the Owner, the Construction Manager shall reduce the size of its Project site staff, to the extent necessary to protect and maintain the Work, promptly upon notice of such suspension, and shall continue such reduction for the remainder of the suspension period until directed otherwise by the Owner. Upon the termination of the suspension, the Construction Manager shall increase its Project site staffing, as directed by the Owner, as soon as practicable. The Construction Manager shall be entitled to compensation based on agreed upon costs incurred in the Construction Manager's Project site staff related to the suspension.

§ 13.4 In no event shall Owner or Construction Manager be liable for consequential or incidental damages arising out of or related to this Agreement. Further, notwithstanding any provision to the contrary in the Agreement, if Owner terminates for cause or default by Construction Manager pursuant to Section 14.2 of the AIA 201 General Conditions, there shall be no termination costs payable to Construction Manager except to the extent permitted by said Section 14.2.

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 as well as the insurance required by the Insurance Requirements exhibit attached hereto for the duration of the Preconstruction Services performed under this Agreement.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than Two Million Dollars (\$2,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury and property damage.

- .1 Products and Completed Operations insurance shall be maintained for a minimum period of at least two year(s) after either 90 days following Substantial Completion or final payment, whichever is earlier.
- .2 The Contractual Liability Insurance shall include coverage of the obligations in Section 3.18.1 of A201-2017.
- .3 The policy shall be endorsed to have the general aggregate apply to this project only.

§ 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 Dollars (\$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 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 One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) each employee, and One Million Dollars (\$1,000,000.00) 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 Dollars (\$1,000,000.00) per claim and One Million Dollars (\$1,000,000.00) in the aggregate.

(Table deleted)

(Paragraphs deleted)

§ 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 policies 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, and the Construction Manager shall provide the insurance described above in 14.3.1, in the Insurance Requirements Exhibit, and elsewhere in the Contract Documents.

§ 14.3.2.1 Owner shall procure, maintain until Final Completion of the Work, and pay for Builder's Risk Insurance covering the full replacement value of all Work in place, as well as all materials and other items used in the Work or stored at the Project site for use in the Work.

§ 14.3.2.2 Performance Bond and Payment Bond. The Construction Manager shall provide payment and/or performance bonds from a surety and in a form acceptable to Owner, covering Construction Manager's obligations for all or any part of the Work. The cost thereof shall be included in the Cost of the Work at an amount equal to one percent (1%) of the GMP.

§ 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.)

§ 14.5 Other provisions:

- A. Not less than the prevailing hourly rate of wages specified under Sections 290.210-290.340 (Mo. Rev. Stat.) and set out in the Wage Determination # (in effect at time of execution of GMP amendment) for Boone County, MO and attached to the GMP Amendment shall be paid to all workers performing Work under this Contract.
- B. The Construction Manager shall forfeit as provided under Section 290.250 (Mo. Rev. Stat.) as a penalty to the District on whose behalf this Contract is made, One Hundred Dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof, that such worker is paid less than the stipulated rates for any work done under said Contract by Construction Manager or any of its subcontractors, Construction Manager and all subcontractors shall be required to submit certified weekly payroll sheets with their monthly invoices, showing compliance with Missouri prevailing wage law at the conclusion of the Project prior to final payment. Accurate records pertaining to wages paid all workers employed on the Project shall be kept within the State of Missouri by Construction Manager and each subcontractor for a period of one (1) year following final completion.
- C. The Construction Manager shall furnish both a payment bond which meets all statutory requirements for public works projects (Section 107.170 Mo. Rev. Stat.) and a performance bond in the full amount of the cost of the Work and such performance bond shall meet any and all requirements set forth in the Construction Documents. Construction Manager's bonds shall include such provisions as will guarantee faithful performance of the prevailing hourly wage clauses under this Contract. Bonds shall be delivered no later than the 10th day after the GMP is established.
- D. Before employment of any employee or retention of any independent contractor, subcontractor or supplier who is an individual for work on this Project, the Construction Manager shall conduct criminal background checks through all appropriate state agencies and any other background checks as may be standard for entities providing services to public schools, including without limitation, a thorough review of the list of registered sex offenders as provided by the County Sheriff's Department, and any such individual who does not pass such background check as determined by the Owner in its sole discretion shall not be permitted to enter the premises where the Project is located or any other school district property or to work on the Project, Construction Manager shall include all of these requirements in its contracts with its subcontractors and suppliers.
- E. This is a tax-exempt project and Owner has provided Construction Manager a Missouri State Tax Exemption Certificate. Contract shall make all material purchases for this particular project with the Tax Exemption Certification and therefore will not incur Missouri State Sales Tax. The Owner will not reimburse the Construction Manager for sales tax under any circumstance.
- F. Pursuant to Missouri Revised Statute 285.530, all business entities awarded any contract in excess of five thousand dollars (\$5,000.00) with a Missouri public school district must, as a condition to the award of any such contract, be enrolled in and participate in a federal work authorization program with respect to the employees working in connection with the contracted services to be provided, to the Owner (to the extent allowed by E-Verify). Accordingly, the Construction Manager shall affirm that it is enrolled in such a

federal work authorization program and shall provide a sworn affidavit to that effect, which affidavit shall also state that the Construction Manager does not knowingly employ and person who is an unauthorized alien in connection with the services provided to the Owner. The documentation required is attached hereto as Schedule 2. The Construction Manager shall also provide such other documentation as is requested by the Owner to confirm the foregoing.

- G. The Construction Manager shall comply with RSMo. 292.675 and provide a ten-hour OSHA construction safety program for on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees are required to complete the program within 60 days of beginning work on such project. Construction Manager shall forfeit as a penalty to Owner, \$2,500 plus \$100 for each employee employed by Construction Manager or its subcontractors for each calendar day or portion thereof that any such employee is employed without the required training.
- H. Construction Manager shall comply with RSMo. 161.371 and shall establish and implement a random drug and alcohol testing program which shall be administered by a laboratory duly certified by the U.S. Department of Health and Human Services or similar agency approved by the State of Missouri. Such program will require notification to the employer and employee of the results of any positive drug or alcohol test, the Construction Manager shall immediately take appropriate action with respect to such employee in order to protect the safety of the students, and the Owner shall be notified of the action taken to protect the safety of the students as a result of such positive test result. All costs for the program of screening and testing workers for alcohol and controlled substances, as well as all costs for administration of such drug and alcohol testing program, shall be paid by Construction Manager as a part of the Cost of the Work and not Owner.
- I. Notwithstanding the fact that this Agreement is executed as of the date set forth herein, the parties recognize that portions of the services required hereunder may have already been performed prior to such date, all of which services shall be governed by the terms and conditions of this Agreement. Construction Manager shall not be entitled to any compensation for such prior activities and services except as expressly provided for herein. Without limiting any of the foregoing, all of the Construction Manager's liabilities and obligations to the Owner shall apply to all pre-execution services performed by the Construction Manager, notwithstanding the fact that such services may have been performed prior to the date of this Agreement pursuant to prior negotiations, representations, agreements and understandings or otherwise.
- J. It is the policy of the Owner that weapons (concealed or otherwise), smoking, alcohol, drugs, profanity, amplified sounds and inappropriate behavior are not allowed on any of its job sites. The Construction Manager shall comply and shall cause all of its subcontractors to comply with this policy. Violation of this policy may result in immediate dismissal of the individual and/or the Construction Manager committing the violation. In addition, the safety of the public as well as Owner's students, faculty, administrators and staff is of utmost priority. Any individual and/or Construction Manager with disregard for such safety will be immediately dismissed from the job site.
- K. Construction Manager and all subcontractors and suppliers shall comply with the provisions of the "Missouri Domestic Products Act" and all other applicable Buy American requirements.
- L. Every transient employer as defined in Section 285.230 RSMo. must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) the notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) proof of coverage for workers compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers compensation; and (3) the notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall be liable for a penalty of \$500 per day until the notices required by this section are posted as required by that statute.
- M. Construction Manager agrees to comply with the Equal Employment Opportunity Act and shall not unlawfully discriminate against or harass any employee or applicant for employment because of race, religion, color, national origin, sex, gender, age or disability, or any other protected status or activity.

- N. Construction Manager shall comply with the terms of RSMo. 34.600 and shall provide the Anti-Discrimination Against Israel Certification attached hereto.

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. Owner and Construction Manager agree that this Agreement has been fully and freely negotiated by both parties hereto, and, accordingly, shall not be construed against either party as the drafter hereof.

§ 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 Exhibit A, Fee/General Conditions Matrix
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds
- .4 Exhibit C, S. M. Wilson & Co. Rate Sheet
- .5 AIA Document A201™–2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

- .6 Other Exhibits:
(Check all boxes that apply.)

[X] Guaranteed Maximum Price Amendment (when executed)
(Paragraphs deleted)

[] Supplementary and other Conditions of the Contract:

- .7 Other documents, if any, listed below:
E-verify Documentation
Prevailing Wage Order
Anti-Discrimination Against Israel Certification

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

HALLSVILLE R-IV SCHOOL DISTRICT

S. M. WILSON & CO.

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

(Printed name and title)

Init.

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Additions and Deletions Report for AIA® Document A133® – 2019

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PAGE 1

AGREEMENT made as of the 18th day of April in the year 2025,
(In words, indicate day, month, and year.)

...

Hallsville R-IV School District
421 E. Highway 124
Hallsville, Missouri 65255

...

S.M. Wilson & Co.
2185 Hampton Avenue
St. Louis, Missouri 63139

...

(Name, location, and detailed description)
2025 Bond Program
Hallsville School District, Hallsville MO

...

Klingner & Associates, P.C.
3622 Endeavor Avenue, Suite 117
Columbia, Missouri 65201

PAGE 2

EXHIBIT A ~~GUARANTEED MAXIMUM PRICE AMENDMENT FEE/GENERAL CONDITIONS MATRIX~~

EXHIBIT B ~~INSURANCE AND BONDS~~

EXHIBIT C ~~S. M. WILSON & CO. RATE SHEET~~

FURTHER EXHIBITS AS SET FORTH IN SECTION 15.2

...

New multi-purpose baseball field, new parking lot and new 1st grade classroom addition. New security entries at the High School, Intermediate and Middle School. Also as determined by Owner, renovations at existing baseball concessions stand and renovations at Intermediate playground as funds are available.

...

To be determined at a later date
PAGE 3

Currently anticipated at \$5,136,229, subject to change given the current economic climate and the Owner's desire to maximize value.

...

To be determined

...

To be determined

...

To be determined

...

To be determined

...

To be determined

...

Not Applicable

...

Not Applicable

...

Dr. Tyler Walker
Superintendent of Schools
Hallsville R-IV School District
411 E. Highway 124
Hallsville, Missouri 65255
Phone: 573-696-5512
Email: twalker@hallsville.org

PAGE 4

To be determined

...

Klingner & Associates PC

...

Klingner & Associates PC

...

Not Applicable

...

Matthew Bridges, P.E.
Klingner & Associates, P.C.
3622 Endeavor Avenue, Suite 117
Columbia, Missouri 65201
Phone: 573-355-5988
Email: mbridges@klingner.com

...

Patrick Aylesworth
S.M. Wilson & Co.
2185 Hampton Avenue
St. Louis, Missouri 63139
Phone: 314-645-9595
Email: patrick.aylesworth@smwilson.com

...

Not Applicable

...

In compliance with all applicable laws and requirements including without limitation the requirements set forth in RSMo. 67-5050.

PAGE 5

Not Applicable

...

§ 1.3 The Construction Manager shall not change its authorized representative or any key personnel unless they have similar qualifications and experience as the original personnel and who are satisfactory to Owner in its reasonable discretion. Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

...

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~~ interests and in compliance with all applicable laws, codes, regulations, ordinances and requirements including without limitation the requirements set forth in RSMo. 67-5050. 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.

...

§ 2.3.2 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. All references in this Agreement to A201-2017 shall mean as modified

by the Owner and Construction Manager. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

...

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 writing, 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,~~ the Project, who is Patrick Aylesworth. The Construction Manager also designates the following as its key personnel: Rebecca Reifel, Project Manager, and Richard Graves, Project Superintendent. The Construction Manager shall not change its authorized representative or any key personnel unless it notifies Owner and provides replacements who have similar qualifications and experience and who are satisfactory to Owner in its reasonable discretion.

PAGE 6

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely reasonably 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 actually discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

...

§ 3.1.3.1 ~~The~~ As requested by the Owner, 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.~~

§ 3.1.3.2 Design Reviews: The Construction Manager shall make recommendations to the Owner and Architect with respect to proposed site use and improvements, the use of the selection of materials, Project systems and equipment and other aspects of the physical construction of the Project; and make recommendations or comparisons on various construction methods, the availability of materials and labor, time requirements for procuring long-lead items, installation and construction, including costs and construction time associated with alternative designs or materials, the Budget and constructability. The review of proposed building systems, materials and equipment for appropriateness as contemplated by this Section will be accomplished by Construction Manager from the perspective of a construction manager for the Project. In no event shall Construction Manager be deemed to be performing, and or be required to perform, any design or engineering in connection with the Project.

§ 3.1.3.3 ~~The Construction Manager shall assist the Owner and Architect in establishing written protocols for the development, use, transmission, reliance, and exchange of digital data, including building information models for the Project.~~ Recommendations Regarding Investigations: The Construction Manager shall recommend to the Owner which investigations, surveys, tests, analyses and reports should be obtained as necessary to document existing conditions for the proper execution of the Work. It is understood and agreed that as the nature of this Agreement is "at risk" Construction Manager is required to do such investigations as are necessary in order to account for costs related to subsurface conditions and include such costs in the Guaranteed Maximum Price proposal.

§ 3.1.3.4 Permitting: The Construction Manager shall assist the Owner in obtaining the necessary approvals for the Project, and shall obtain all necessary permits and licenses for the construction of the Project.

§ 3.1.3.5 Variance Assistance: The Construction Manager shall assist the Owner and Architect, when requested, by providing information for the preparation and submission of applications or other documents necessary for the issuance of any variances or approvals required in connection with the design or construction of the Project from any local, state, or federal governmental authorities having jurisdiction over the Project.

§ 3.1.3.6 Construction Documents Complete: The Construction Manager shall review the Drawings and Specifications for the Project and shall notify the Owner and the Architect if the Construction Manager believes the responsibilities of the Construction Manager are not properly identified or assigned, or if the Drawings and Specifications contain any areas of conflict and/or overlap in the Work to be performed by the Construction Manager and/or the various subcontractors on the Project. Construction Manager is not qualified to perform, and shall not be required to perform, an architectural, engineering or other design review or to perform or provide any architectural, engineering or other professional services satisfying the standards of a design professional. Nothing within the Contract Documents shall be construed as requiring Construction Manager to furnish, provide or perform architectural services, professional engineering services, land surveying services or any other services of the type which would require Construction Manager to obtain and maintain a professional registration in the state where the work is performed. In ascertaining whether the scope of work set forth in the Construction Documents is suitable for the purposes of bidding and construction as provided in section 3.1.3.2 of the Agreement, Construction Manager will make that determination in its role as construction manager and will not perform a design review of the type performed by an architect, professional engineer or other licensed design professional.

§ 3.1.3.7 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.

PAGE 7

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.

§ 3.1.4.1 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 meet and discuss the schedule with the Owner and Architect. 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.

§ 3.1.4.2 Owner acknowledges that Construction Manager's schedule for completion includes two annual breaks, during which neither Construction Manager's employees, nor those of its Subcontractors, will be performing Work; such breaks include the period from the Saturday prior to Thanksgiving to the Sunday after Thanksgiving, and the period from Christmas Eve through New Year's Day.

...

§ 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. The Contract Sum includes up to three estimates by the Construction Manager of the Cost of Work. If the Architect or

Construction Manager ~~suggests~~ suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

PAGE 8

§ 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.~~ [Intentionally deleted.]

...

§ 3.1.11.1 ~~If the Owner has provided requirements for subcontractor procurement in section 1.1.14, 1.1.14 and the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.~~

...

§ 3.1.12.1 Work Divisions: The Construction Manager shall make recommendations to the Owner and the Architect regarding the division of Work to facilitate the bidding and awarding of Subcontracts and the orderly progress of Work, allowing for an orderly construction sequence. Construction Manager shall make recommendations to the Owner and the Architect regarding the assignment of responsibilities for safety precautions and programs, temporary project facilities, equipment materials and services for the common use of subcontractors.

§ 3.1.12.2 Coordinated Bid Sets: The Construction Manager shall prepare bid packages and shall review and participate in the preparation and development of the Design and Construction Documents, bid packages, Drawings and Specifications to ensure that the responsibilities of the various subcontractors are properly identified and coordinated. The Construction Manager shall coordinate the divisions of Work and the sequencing and contents of the various bid packages and subcontracts.

§ 3.1.12.3 Bidding and Negotiations. The Construction Manager shall advertise as required by RSMo. 67-5050 obtain bids from qualified subcontractors and from qualified suppliers of materials or equipment and, after analyzing bids, shall deliver them to the Owner. Bid opening shall occur as required by RSMo. 67-5050. The Owner and the Construction Manager jointly shall review bids in a manner that does not disclose the contents of the bid during the selection process as required by RSMo. 67-5050 and determine which bids will be accepted. The Construction Manager will contract directly with subcontractors, material and equipment suppliers, and service vendors.

§ 3.1.12.4 Bidder's List: The Construction Manager shall prepare a list of potential bidders for each equipment and construction procurement package and submit this list to the Owner for review and final bidder selection. If Owner agrees to same, the Construction Manager may seek to perform portions of the work itself if it submits its sealed bid for those portions of the work in the same manner as all other trade contractors or subcontractors. If the Construction Manager submitted bids or proposals, the Owner shall determine if the Construction Manager's bid or proposal offers the best value for the Owner.

§ 3.1.12.5 Bidding Phase: The Construction Manager shall review the 100% Construction Documents and provide review comments to the Architect and Owner. After such 100% Construction Document review corrections recommended by the Construction Manager have been made by the Architect, the Construction Manager shall issue the corrected Construction Documents during the bidding process; provided, however, that the Construction Manager's obligations under this Section 3.1.12 are dependent upon the proper and timely performance of Architect and Owner acting in coordination with Construction Manager.

§ 3.1.12.6 Bidding Assistance: The Construction Manager shall provide assistance to bidders during the bidding period of this Project. Services shall include forwarding design related questions to the Architect and distributing responses to bidders, answering bidder's construction-related questions, and distributing addenda prepared by the Architect.

§ 3.1.12.7 Pre-Bid Conference: The Construction Manager shall organize and participate in pre-bidding conferences to benefit the Project. Owner and Architect shall attend and participate in all such conferences as requested by Construction Manager.

§ 3.1.12.8 Bid Evaluation: The Construction Manager shall prepare an evaluation of vendor and contractor proposals or bids for the Owner's review and approval. The evaluation shall be conducted in a manner that does not disclose the

contents of the bid or proposal to a person not employed by the Owner, the Construction Manager, the Architect or any engineer involved with the project.

§ 3.1.12.9 Post-Bid Conference: For each bid package or procurement item, the Construction Manager shall conduct a Post-Bid Conference with the apparent low bidder and the next low bidder, if necessary, to ascertain if the bids received were complete, to review bonding capability, and to determine if any bidding discrepancies exist.

Construction Manager may conduct such conferences by telephone. The conferences shall be conducted in a manner that does not disclose the contents of the bid or proposal to a person not employed by the Owner, the Construction Manager, the Architect or any engineer involved with the project.

§ 3.1.12.10 Recommendations. The Construction Manager shall discuss options and make recommendations to the Owner after each Post-Bid Conference, and award a contract to the selected bidder approved by Owner. If the Construction Manager reviews, evaluates, and recommends to the Owner a bid or proposal from a trade contractor or subcontractor (other than Construction Manager) but the Owner requires another bid or proposal to be accepted, the Owner shall compensate the Construction Manager by a change in price, time, or guaranteed maximum cost for the additional cost and risk that the Construction Manager may incur because of the Owner's requirements that another bid or proposal be accepted. After all bids have been evaluated and clarified, the award of all subcontracts shall be made public.

§ 3.1.12.11 Contract Administration Services: Using its standard subcontract form, the Construction Manager shall prepare contracts necessary for each bid package or procurement item. This includes any other public works requirements.

PAGE 9

Not Applicable

PAGE 10

.5 A reasonable date by which the Owner must accept the Guaranteed Maximum Price.

...

Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order. The Construction Manager's Contingency amount must be included as a line item in the Guaranteed Maximum Price Proposal. After the Guaranteed Maximum Price (including the Construction Manager Contingency line item) is established and approved by Owner, the Construction Manager's Contingency shall be available to the Construction Manager to pay for (a) unanticipated actual costs caused by changes in local market, labor or material conditions, (b) actual costs caused by the default or bankruptcy of a subcontractor that cannot be recovered from applicable insurance or bonds, and (c) other unanticipated costs incurred by the Construction Manager and not recoverable or reimbursable pursuant to other provisions of this agreement. Construction Manager shall advise Owner when Construction Manager uses such contingency and provide to Owner all additional information Owner reasonably requests regarding use of such Contingency. The Construction Manager shall use the contingency funds to pay such costs and expenses without reimbursement from the Owner. Upon Final Completion, if any funds remain in the Construction Manager's Contingency, the fund shall be closed, and remaining amounts of such Contingency shall be apportioned in accordance with Paragraph 6.2.

...

§ 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. In the event that the Architect is required to revise the Drawings and Specifications, then upon prior notice and subject to Construction Manager's approval as to the amount (which approval will not be unreasonably withhold, conditioned or delayed), the cost of doing so shall be split 50-50 between the Architect and Construction Manager.

PAGE 11

§ 3.3.2.6 The Construction Manager shall review and coordinate the safety programs developed by each of the

Subcontractors and shall have overall responsibility for safety. The Construction Manager shall assure that all Subcontractors initiate and maintain appropriate safety precautions and programs in connection with the Work, and shall monitor the individual safety programs of each Subcontractor on the Project site. The Construction Manager and its Subcontractors shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (1) all employees performing any of the Work, and all 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 the care, custody or control of the Construction Manager or any of the Subcontractors performing Work on the Project and (3) other property at the Site or reasonably proximate thereto. The Construction Manager or its Subcontractors shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss, and shall require all persons performing Work on the Project to comply with any policies and rules of the Construction Manager relating to access or behavior at the Project Site. Owner agrees to cooperate with Construction Manager in connection with Construction Manager's implementation of reasonable safety precautions and programs hereunder, and Construction Manager shall not be responsible for loss, injury or damage to the extent that such loss, injury or damage is caused by the failure of Owner or its employees, to abide by such safety precautions or programs maintained by Construction Manager hereunder.

§ 3.3.2.7 In conjunction with the Architect, the Construction Manager shall establish procedures for expediting the processing and approval of Shop Drawings, Product Data, Samples and other submittals. The Architect shall review and approve all submittals within a reasonable time, so as not to delay the Work or the Project in any way. The Construction Manager shall review all shop drawings, product data, samples and other submittals from the subcontractors. The Construction Manager shall coordinate submittals with information contained in related documents and transmit to the Architect those which have been approved by the Construction Manager. The Construction Manager's actions shall be taken with reasonable promptness. The Construction Manager shall monitor the submittal of all shop drawings (and provide overall coordination of the transmittal process for Shop Drawings and other submittals). The Construction Manager shall not be responsible for any delay to the construction schedule caused by Owner's or Architect's failure to review and approve any such Shop Drawing or submittals with reasonable promptness or the failure of the Architect to incorporate the Owner's comments in the review.

PAGE 12

§ 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.~~ will provide information regarding the Owner's budget similar to what would be available under the Sunshine Law but Owner will in no event be required to incur any time or expense creating any reports or other information that does not already exist at the time of the report. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

...

§ 4.1.4 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 after first reviewing in its capacity as Construction Manager 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. The Owner shall be responsible for removing any hazardous material, unless removal is specifically identified within the scope of the applicable Guaranteed Maximum Price Amendment or otherwise set forth in the Contract Documents.

PAGE 13

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the ~~Project.~~ Project, which representative is identified in Paragraph 1.1.8 of this Agreement. 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~~ 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. Notwithstanding the foregoing, it is understood and agreed that only Owner's Board of Education have the authority to approve any change in price or delay in schedule.

...

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 Agreement between Owner and Architect. The Owner shall provide the Construction Manager with a copy of the scope of services in ~~the executed~~ the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

§ 4.4 Compliance With Safety Requirements. Owner acknowledges that a construction site contains inherent dangers generally not present in public areas. Accordingly, if Owner, or any of Owner's employees, ("Owner Personnel") enter into or on any area or site in which Contractor is, or has been, performing Work ("Work Site"), such Owner Personnel shall strictly abide by all site safety requirements of Contractor governing the site.

...

A Pre-Construction Fee of \$10,000.00. Further, if the Project is terminated for any reason, the Owner does not owe Construction Manager any of the Pre-Construction Fee.

Any services, including extensive cost estimating or value engineering, not contemplated as within the Construction Manager's standard preconstruction services, shall entitle Construction Manager to additional compensation at the amount agreed upon by the parties not to exceed the rates stated in Construction Manager's standard Rate Sheet and only if approved by Owner in advance.

...

Reference Exhibit C

...

~~§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within (—) 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.~~

PAGE 14

§ 5.2.2 ~~Payments are due and payable upon~~ within thirty (30) calendar days from presentation of the Construction Manager's invoice. Amounts unpaid (—) forty (40) 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 prime rate plus three percent (3%) as defined in the Wall Street Journal at the time of non-payment.

...

%

...

§ 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 in accordance with Contract requirements 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.

...

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Three percent (3%) of the Cost of the Work.

...

Five percent (5%) of the Cost of the Work for the change.

...

10% Overhead and Profit

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ~~percent~~ 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.)
Intentionally Deleted.

...

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 6.1.8 Allowances, if any:

§ 6.1.8.1 Unless stated otherwise in the Guaranteed Maximum Price Amendment ("GMP Amendment"), an allowance for winter costs and/or hot-weather conditions in the amount of \$ To Be Determined is or will be included in the GMP (as defined below). Winter costs and/or hot-weather conditions will be tracked, itemized and billed monthly. Winter costs include, but are not limited to: temporary gas or power for heat; heater rentals and labor to set up and maintain them; concrete blanket rentals and labor to cover and uncover ground and concrete; materials and labor to cover and uncover other work to protect the Work from the elements; snow removal; ground-thawing equipment and labor; removal and replacement of frozen or wet soil; material and labor for erecting and removing temporary walls or plastic barriers to protect the Work from the elements; additional supervision required for coordination of weather protection measures; and, concrete additives such as hot water and accelerators. Hot-weather conditions costs include concrete retardants and ice for concrete.

§ 6.1.8.2 There are To Be Determined weather-delay days incorporated into the Construction Manager's schedule. Any additional days lost because of inclement weather may be the basis for a time extension upon mutual agreement.

...

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price ("GMP") set forth in the ~~Guaranteed Maximum Price~~ GMP 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~~ the Owner.

The GMP includes, or shall include, the alternates or value engineering items to be listed in an exhibit to the GMP Amendment. All value engineering items accepted by Owner shall be approved by Architect and incorporated by addendum or contract change order into the Drawings and/or Specifications. Any unforeseen costs resulting from

value engineering ideas offered by the Construction Manager reasonably and in good faith shall be reimbursed to Construction Manager through a change order provided the additional costs shall not exceed the savings realized from the value engineering items.

At the completion of the Work, if the sum of the Cost of the Work and the Construction Manager's Fee are less than the GMP, 30% of such savings shall be paid to Construction Manager and 70% of such savings shall be credited to Owner.

PAGE 15

Document A201-2017, General Conditions of the Contract for Construction. For extra Work performed on any hourly basis, Construction Manager shall be compensated at the rates stated in Exhibit A for its personnel.

...

Unless otherwise agreed by Owner, for any changes to the Work Owner directs Construction Manager to perform on a time-and-materials basis, the subcontractor actually performing the Work on such change shall be paid its actual out-of-pocket costs, plus a markup of 10% to compensate such subcontractor for its profit and overhead. If the subcontractor performing such change work does not have a contract directly with Construction Manager, then the subcontractor in line contractually between Construction Manager and the subcontractor actually performing the change work shall receive 5% of the actual costs of such change, to compensate such intermediate-tier subcontractor for its overhead and profit; if more than one level of subcontractor exists contractually between Construction Manager and the subcontractor performing the change work, then all such intermediate-tier subcontractors shall divide pro-rata the 5% markup. Construction Manager's markup on change work shall be governed by Paragraph 6.1.3 if Construction Manager's Fee is a percentage of the Cost of the Work; if Construction Manager's Fee is a fixed lump sum under Paragraph 6.1.2, then Construction Manager shall be entitled to a markup of 5% of the Cost of the Work on such change, as its overhead and Fee on such change.

§ 6.3.6 Construction Manager's Fee shall not be reduced for minor deductive change orders. Minor to be defined as changes cumulatively less than 5% of the total Guaranteed Maximum Price.

§ 6.4 NOTICE TO OWNER

FAILURE OF CONSTRUCTION MANAGER TO PAY THOSE PERSONS SUPPLYING MATERIALS OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT, YOU MAY ASK THIS CONSTRUCTION MANAGER FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIALS OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

§ 7.1 ~~Costs to Be Reimbursed~~ Costs to Be Paid to Construction Manager

PAGE 16

Manager shall obtain such approval in writing prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing the Guaranteed Maximum Price Amendment. No amounts are due or payable by Owner unless included in the Guaranteed Maximum Price Amendment. The items listed in 6.2-6.7 below do not apply if not set forth in said Amendment.

§ 7.1.3 Costs shall be at rates not higher than those designated in this Agreement, or the standard rates paid at the place of the Project, except with prior approval of the Owner.

...

§ 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: personnel, including staffing and support costs of Project administration

and construction operations staff assigned to the Project, regardless of the principal location of such personnel, at the rates set forth in the Rate Sheet attached to this Agreement, for that portion of their time attributable to the Work..
(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

.)

...

Payments made by the Construction Manager to its Subcontractors of every tier in accordance with the requirements of the subcontracts and this Agreement.

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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-local market rental rate of any comparable item.

...

§ 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. Such amounts include: (1) Construction Manager's insurance program, including general liability and other coverage, at the rate of one and fifteen hundredths percent (1.15%) of the Contract Sum; (2) premiums for Builder's Risk insurance and deductibles, if the Contract Documents require Construction Manager to provide either or both of them; and (3) costs of the Construction Manager's subcontractor default insurance program, at the rate of one and twenty-five hundredths percent (1.25%) of the total of all subcontracts for labor and/or materials. Owner reserves the right to utilize and Owner Contract Insurance Program (OCIP). If Owner elects to utilize an OCIP, it will notify Construction Manager and following the parties' receipt of premium amount from the OCIP provided, the amount in item (1) would be reduced consistent with such coverage and premium amount.~~

§ 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.~~
Construction Manager is liable, but only to the extent such amounts are properly assessed against a public works project.

...

§ 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 knew or 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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§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract ~~Documents.~~Documents or the negligence or failure of any subcontractor or supplier.

...

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, withheld and to the extent not covered by the items referenced in Section 7.6.1.

...

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval, the Work if, and to the extent approved in advance in writing by the Owner.

...

§ 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. Such costs include those incurred by Construction Manager in correcting warranty items at any time during the warranty period.

§ 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. **§ 7.7.4** Business -related taxes incurred by the Construction Manager as a result of performing Work on the Project directly related to the Project and not related to the general income or business license fees or taxes incurred by Construction Manager, provided Construction Manager represents to Owner that there has been no increase in charges for water or sewer connections as the result of the sale of the city sewer system to a private firm.

§ 7.7.5 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.

...

§ 7.8.2 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, Owner's Board of Education, 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/ Costs Not To Be Paid to Construction Manager
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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 written approval;

...

- .4 Overhead-Home office overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;

...

- ~~.6~~ ~~Except as provided in Section 7.7.3 of this Agreement, costs~~ 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; and
- .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~~ exceeded.

...

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if ~~(1) before~~ (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,; or (3) Owner has authorized a payment upfront or in cash earlier than it would otherwise be due hereunder ;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.

...

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~~

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§ 9.3 Notwithstanding any of the foregoing, Construction Manager acknowledges and agrees that it must adhere to the requirements of RSMo. 67.5050 in its procurement and selection of Subcontractors and that in the event of any conflict between the provisions of this Article and RSMo. 67.5050, the statute shall prevail. Further, this Article is subject to Article 3.

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 reasonably satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded ~~access to,~~ reasonable access to a location reasonably convenient to Owner, 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. 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. The Owner shall ensure all such records it or its accountants obtain from Construction Manager are maintained confidentially, subject to Owner's obligations under the Missouri Sunshine Law.

...

§ 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 5th 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 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 ~~(—)~~ thirty (30) 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, lien waivers, 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. No documentation requirements of any third parties, including any project lender, shall be binding upon Construction Manager.

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- .4 The Construction Manager's Fee, less retainage of five percent (5%). The Construction Manager's Fee shall be 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.

- .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; and
- .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 documentation.
- ~~.6 Retainage withheld pursuant to Section 11.1.8.~~

§ ~~11.1.8.4~~ 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.)

§ ~~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.)

§ ~~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.)

~~§ 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.)~~

~~amount of five percent (5%) as retainage from the payment otherwise due.~~

...

- ~~.1 When the Work is 50% complete, the Owner, at its sole and absolute option, may eliminate further subcontractor retainage for the remainder of the Work.~~
- ~~.2 Upon the request of the Construction Manager, the Owner shall release retainage allocable to a specific subcontractor after such subcontractor properly completes its subcontract work.~~
- ~~.3 Upon Substantial Completion of the Work, all retainage shall be released to Construction Manager, less an amount equal to one hundred fifty percent (150%) of the value of any remaining incomplete Work.~~

~~§ 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. If Owner disputes any portion of an Application for Payment, Owner shall pay to Construction Manager the portion of such Application not in dispute.~~

§ 11.1.13 RESERVED

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- ~~.1 the Construction Manager has fully performed the Contract, including completion and correction of all punch list items, 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;~~

...

- ~~.3 all closeout documentation required under the Contract Documents, lien waivers and releases of claims from Construction Manager and all subcontractors or suppliers providing more than \$3000 of services, equipment or supplies, warranties, certified payrolls and affidavits of compliance with prevailing wage law have been submitted; and~~
- ~~.4 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.~~

...

~~§ 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, shall submit a written report based upon the auditors' findings to the Architect.~~

...

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 or otherwise advise Owner of Construction Manager's disagreement with the Architect's decision 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~~20 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~

Payment.

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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, 6.1.7~~ or there is elsewhere in the contract an agreement as to the allocation of savings between the parties, 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.

...

~~—%~~ As provided in Section 5.2

...

In any dispute arising under or in connection with this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, in addition to any other damages recoverable, from the non-prevailing party.

...

Litigation in a court of competent jurisdiction in Boone County, Missouri.

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§ 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 properly 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.~~Section 5.1.1.

...

§ 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 properly 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.~~Section 5.1.1.

...

§ 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 upon~~ 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.

...

§ 13.1.7 There shall be no amounts due or owing for lost profits.

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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 concurrent with 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.

...

Owner shall pay Construction Manager its Fee on work performed to date, not to exceed the amount the Construction Manager would have otherwise received under Section 13.1.5 above,

...

Sections 6.1 and 6.3.5 of this Agreement. In the event of any suspension of the Work by the Owner, the Construction Manager shall reduce the size of its Project site staff, to the extent necessary to protect and maintain the Work, promptly upon notice of such suspension, and shall continue such reduction for the remainder of the suspension period until directed otherwise by the Owner. Upon the termination of the suspension, the Construction Manager shall increase its Project site staffing, as directed by the Owner, as soon as practicable. The Construction Manager shall be entitled to compensation based on agreed upon costs incurred in the Construction Manager’s Project site staff related to the suspension.

§ 13.4 In no event shall Owner or Construction Manager be liable for consequential or incidental damages arising out of or related to this Agreement. Further, notwithstanding any provision to the contrary in the Agreement, if Owner terminates for cause or default by Construction Manager pursuant to Section 14.2 of the AIA 201 General Conditions, there shall be no termination costs payable to Construction Manager except to the extent permitted by said Section 14.2.

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The Construction Manager shall maintain the following insurance as well as the insurance required by the Insurance Requirements exhibit attached hereto 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 (\$—)Two Million Dollars (\$2,000,000.00) for each occurrence and (\$—)Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury and property damage.

- .1 Products and Completed Operations insurance shall be maintained for a minimum period of at least two year(s) after either 90 days following Substantial Completion or final payment, whichever is earlier.
- .2 The Contractual Liability Insurance shall include coverage of the obligations in Section 3.18.1 of A201–2017.
- .3 The policy shall be endorsed to have the general aggregate apply to this project only.

§ 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 Dollars (\$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.

...

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than ~~(\$—) each accident, (\$—) each employee, and (\$—) One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) each employee, and One Million Dollars (\$1,000,000.00) 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 ~~(\$—) per claim and (\$—) One Million Dollars (\$1,000,000.00) per claim and One Million Dollars (\$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

§ 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 ~~policies~~ policies 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.

...

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 the Construction Manager shall provide the insurance described above in 14.3.1, in the Insurance Requirements Exhibit, 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.~~ Owner shall procure, maintain until Final Completion of the Work, and pay for Builder's Risk Insurance covering the full replacement value of all Work in place, as well as all materials and other items used in the Work or stored at the Project site for use in the Work.

§ 14.3.2.2 **Performance Bond and Payment Bond.** The Construction Manager shall provide payment and/or performance bonds from a surety and in a form acceptable to Owner, covering Construction Manager's obligations for all or any part of the Work. The cost thereof shall be included in the Cost of the Work at an amount equal to one percent (1%) of the GMP.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with a ~~building information modeling exhibit, 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 ~~a building information modeling exhibit, 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.)

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A. Not less than the prevailing hourly rate of wages specified under Sections 290.210-290.340 (Mo. Rev. Stat.) and set out in the Wage Determination # (in effect at time of execution of GMP amendment) for Boone County, MO and attached to the GMP Amendment shall be paid to all workers performing Work under this Contract.

B. The Construction Manager shall forfeit as provided under Section 290.250 (Mo. Rev. Stat.) as a penalty to the District on whose behalf this Contract is made, One Hundred Dollars (\$100.00) for each worker

- employed, for each calendar day, or portion thereof, that such worker is paid less than the stipulated rates for any work done under said Contract by Construction Manager or any of its subcontractors. Construction Manager and all subcontractors shall be required to submit certified weekly payroll sheets with their monthly invoices, showing compliance with Missouri prevailing wage law at the conclusion of the Project prior to final payment. Accurate records pertaining to wages paid all workers employed on the Project shall be kept within the State of Missouri by Construction Manager and each subcontractor for a period of one (1) year following final completion.
- C. The Construction Manager shall furnish both a payment bond which meets all statutory requirements for public works projects (Section 107.170 Mo. Rev. Stat.) and a performance bond in the full amount of the cost of the Work and such performance bond shall meet any and all requirements set forth in the Construction Documents. Construction Manager's bonds shall include such provisions as will guarantee faithful performance of the prevailing hourly wage clauses under this Contract. Bonds shall be delivered no later than the 10th day after the GMP is established.
- D. Before employment of any employee or retention of any independent contractor, subcontractor or supplier who is an individual for work on this Project, the Construction Manager shall conduct criminal background checks through all appropriate state agencies and any other background checks as may be standard for entities providing services to public schools, including without limitation, a thorough review of the list of registered sex offenders as provided by the County Sheriff's Department, and any such individual who does not pass such background check as determined by the Owner in its sole discretion shall not be permitted to enter the premises where the Project is located or any other school district property or to work on the Project, Construction Manager shall include all of these requirements in its contracts with its subcontractors and suppliers.
- E. This is a tax-exempt project and Owner has provided Construction Manager a Missouri State Tax Exemption Certificate. Contract shall make all material purchases for this particular project with the Tax Exemption Certification and therefore will not incur Missouri State Sales Tax. The Owner will not reimburse the Construction Manager for sales tax under any circumstance.
- F. Pursuant to Missouri Revised Statute 285.530, all business entities awarded any contract in excess of five thousand dollars (\$5,000.00) with a Missouri public school district must, as a condition to the award of any such contract, be enrolled in and participate in a federal work authorization program with respect to the employees working in connection with the contracted services to be provided, to the Owner (to the extent allowed by E-Verify). Accordingly, the Construction Manager shall affirm that it is enrolled in such a federal work authorization program and shall provide a sworn affidavit to that effect, which affidavit shall also state that the Construction Manager does not knowingly employ and person who is an unauthorized alien in connection with the services provided to the Owner. The documentation required is attached hereto as Schedule 2. The Construction Manager shall also provide such other documentation as is requested by the Owner to confirm the foregoing.
- G. The Construction Manager shall comply with RSMo. 292.675 and provide a ten-hour OSHA construction safety program for on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees are required to complete the program within 60 days of beginning work on such project. Construction Manager shall forfeit as a penalty to Owner, \$2,500 plus \$100 for each employee employed by Construction Manager or its subcontractors for each calendar day or portion thereof that any such employee is employed without the required training.
- H. Construction Manager shall comply with RSMo. 161.371 and shall establish and implement a random drug and alcohol testing program which shall be administered by a laboratory duly certified by the U.S. Department of Health and Human Services or similar agency approved by the State of Missouri. Such program will require notification to the employer and employee of the results of any positive drug or alcohol test, the Construction Manager shall immediately take appropriate action with respect to such employee in order to protect the safety or the students, and the Owner shall be notified of the action taken to protect the safety of the students as a result of such positive test result. All costs for the program of

screening and testing workers for alcohol and controlled substances, as well as all costs for administration of such drug and alcohol testing program, shall be paid by Construction Manager as a part of the Cost of the Work and not Owner.

- I. Notwithstanding the fact that this Agreement is executed as of the date set forth herein, the parties recognize that portions of the services required hereunder may have already been performed prior to such date, all of which services shall be governed by the terms and conditions of this Agreement. Construction Manager shall not be entitled to any compensation for such prior activities and services except as expressly provided for herein. Without limiting any of the foregoing, all of the Construction Manager's liabilities and obligations to the Owner shall apply to all pre-execution services performed by the Construction Manager, notwithstanding the fact that such services may have been performed prior to the date of this Agreement pursuant to prior negotiations, representations, agreements and understandings or otherwise.
- J. It is the policy of the Owner that weapons (concealed or otherwise), smoking, alcohol, drugs, profanity, amplified sounds and inappropriate behavior are not allowed on any of its job sites. The Construction Manager shall comply and shall cause all of its subcontractors to comply with this policy. Violation of this policy may result in immediate dismissal of the individual and/or the Construction Manager committing the violation. In addition, the safety of the public as well as Owner's students, faculty, administrators and staff is of utmost priority. Any individual and/or Construction Manager with disregard for such safety will be immediately dismissed from the job site.
- K. Construction Manager and all subcontractors and suppliers shall comply with the provisions of the "Missouri Domestic Products Act" and all other applicable Buy American requirements.
- L. Every transient employer as defined in Section 285.230 RSMo. must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) the notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) proof of coverage for workers compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers compensation; and (3) the notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall be liable for a penalty of \$500 per day until the notices required by this section are posted as required by that statute.
- M. Construction Manager agrees to comply with the Equal Employment Opportunity Act and shall not unlawfully discriminate against or harass any employee or applicant for employment because of race, religion, color, national origin, sex, gender, age or disability, or any other protected status or activity.
- N. Construction Manager shall comply with the terms of RSMo. 34.600 and shall provide the Anti-Discrimination Against Israel Certification attached hereto.

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§ 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. Owner and Construction Manager agree that this Agreement has been fully and freely negotiated by both parties hereto, and, accordingly, shall not be construed against either party as the drafter hereof.

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- 2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed Exhibit A, Fee/General Conditions Matrix

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- .4 Exhibit C, S. M. Wilson & Co. Rate Sheet
- .5 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 Building Information Modeling Exhibit, if completed:

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[] AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below: Guaranteed Maximum Price Amendment (when executed)

(Insert the date of the E234-2019 incorporated into this Agreement.)

...

(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.)

- E-verify Documentation
- Prevailing Wage Order
- Anti-Discrimination Against Israel Certification

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HALLSVILLE R-IV SCHOOL DISTRICT

S. M. WILSON & CO.

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Kelly Santacruz, 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 16:04:45 ET on 05/20/2025 under Order No. 2114511872 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)

(Title)

(Dated)