

Board of Education Regular Meeting

September 20, 2021 6:30 PM

Freedom Intermediate School, 840 Glass Lane, Franklin, Tennessee 37064

- I. **MEETING CALLED TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **2021-22 ELECTION OF BOARD OFFICERS**
- IV. **PUBLIC INPUT**
- V. **REPORTS/PRESENTATIONS/DISCUSSIONS**
 - V.1. **City of Franklin Parks & Rec / FSSD Ball Field Construction Presentation**
 - V.2. **Teaching & Learning Spotlight**
 - V.3. **Construction Report**
 - V.4. **2021-22 Community Pre-K Advisory Council Board Representative**
 - V.5. **2021-22 TSBA Legislative Liaison**
 - V.6. **2021 TSBA Convention Delegates**
 - V.7. **NSBA CUBE Conference**
- VI. **APPROVAL OF BOARD AGENDA**
- VII. **APPROVAL OF CONSENT AGENDA**
 - VII.1. **Minutes of Board Meeting dated August 9, 2021**
 - VII.2. **Minutes of Special Called Meeting dated August 20, 2021**
 - VII.3. **Student Disciplinary Hearing Authority Appointment**
 - VII.4. **Bids: Transportation Department Buses - Type A and Type D**
 - VII.5. **Bids: Transportation Department Maintenance and Repairs**
 - VII.6. **Budget Amendments**
 - VII.7. **Sain Construction Company Construction Contract for the Freedom Ball Fields Project in the Amount of \$6,132,200 as awarded by the City of Franklin.**
- VIII. **BUSINESS BEFORE THE BOARD**
 - VIII.1. **Consideration of Extension of the Temporary Mask Requirement**

- VIII.2. **Ratification of the FSSD Tax Rate FY 2021-22**
- VIII.3. **Additional Contract with Nabholz Construction Management Services**
- VIII.4. **Annual Contract to Audit Accounts**
- VIII.5. **Policy Revision: Teacher Tenure (5.117) - *2nd Reading***
- VIII.6. **Policy Revision: Alternative Education (6.319) - *2nd Reading***
- VIII.7. **Policy Revision: Security (3.205) - *1st Reading***
- VIII.8. **Policy Revision: Insurance Management (3.600) - *1st Reading***
- VIII.9. **Policy Revision: Special Programs - Homebound Instruction (4.2061) - *1st Reading***
- VIII.10. **Policy Revision: Textbooks and Instructional Materials (4.400) and Deletion: Textbooks (4.401) - *1st Reading***
- VIII.11. **New Policy: COVID-19 Sick Leave (5.3023) - *New Policy 1st Reading***
- VIII.12. **Policy Deletion: FFCRA Leave (5.3051) - *1st Reading***
- VIII.13. **Policy Revision: Physical Examinations and Immunizations (6.402) - *1st Reading***

IX. **DIRECTOR OF SCHOOLS REPORT**

X. **UPDATES**

X.1. **Teaching and Learning**

X.2. **Finance and Administration**

XI. **ANNOUNCEMENTS**

XII. **ADJOURNMENT**

XIII. **MEETING CALLED TO ORDER**

XIV. **PLEDGE OF ALLEGIANCE**

XV. **2021-22 ELECTION OF BOARD OFFICERS**

XVI. **PUBLIC INPUT**

XVII. **REPORTS/PRESENTATIONS/DISCUSSIONS**

XVII.1. **Teaching & Learning Spotlight**

XVII.2. **Construction Report**

XVIII. **APPROVAL OF BOARD AGENDA**

XIX. APPROVAL OF CONSENT AGENDA

XIX.1. Minutes of Board Meeting dated August 9, 2021

XIX.2. Budget Amendments

XX. BUSINESS BEFORE THE BOARD

XX.1. Policy Revision: Insurance Management (3.600) - *1st Reading*

XX.2. Policy Revision: Special Programs - Homebound Instruction (4.2061) - *1st Reading*

XX.3. Policy Revision: Textbooks and Instructional Materials (4.400) and Deletion: Textbooks (4.401) - *1st Reading*

XX.4. New Policy: COVID-19 Sick Leave (5.3023) - *New Policy 1st Reading*

XX.5. Policy Revision: Physical Examinations and Immunizations (6.402) - *1st Reading*

XXI. DIRECTOR OF SCHOOLS REPORT

XXII. UPDATES

XXII.1. Teaching and Learning

XXII.2. Finance and Administration

XXIII. ANNOUNCEMENTS

XXIV. ADJOURNMENT

Franklin Special Board of Education

Monitoring: Review: Annually, in July	Descriptor Term: Appeals to and Appearances Before the Board	Descriptor Code: 1.404	Issued Date: 08/08/16
		Rescinds: 1.404	Issued: 09/14/98

1 APPEALS TO THE BOARD

2 Any matter relating to the operation of the school system may be appealed to the Board. However, the Board
3 desires that all matters be settled at the lowest level of responsibility and will not hear complaints or concerns
4 which have not advanced through the proper administrative procedure from the point of origin. If all steps of the
5 administrative procedure have been pursued and there is still a desire to appeal to the Board, the matter shall be
6 referred in writing to the office of the director of schools and the Board shall determine whether to hear the appeal.

7 APPEARING BEFORE THE BOARD

8 Individuals desiring to appear before the Board must submit a written request with descriptive materials to the
9 office of the director of schools six (6) days before the meeting. If the request is approved by the Executive
10 Committee, the item will be placed on the agenda. Individuals placed on the agenda will be recognized at the
11 beginning of the meeting and given time to speak when their topic of interest is addressed on the agenda. All
12 requests submitted will be included in the board packet.

13 If an individual wishes to address the Board on an item on the agenda, he/she may sign up on the form provided
14 before the beginning of the board meeting to request time to speak. Delegations must select only one individual
15 to speak on their behalf unless otherwise determined by the Board.

16 The chair may recognize individuals not on the agenda for remarks to the Board if it is determined that such is in
17 the public interest. A majority vote of members present can overrule the decision of the chair. Recognition of
18 individuals who are not citizens of the school system is to be determined by a majority vote of the Board.

19 Individuals speaking to the Board shall address remarks to the chair and may direct questions to individual board
20 members or staff members only upon approval of the chair. Each person speaking shall state his name, address,
21 and subject of presentation. Remarks will be limited to three (3) minutes unless time is extended by the Board.
22 The chair shall have the authority to terminate the remarks of any individual who is disruptive or does not adhere
23 to Board rules.¹ Members of the Board and the director may have the privilege of asking questions of any person
24 who addresses the Board.

25 Individuals desiring additional information about any item on the agenda shall direct such inquiries to the office
26 of the director of schools.

Legal References

1. TCA 39-17-306

Cross References

- School Board Meetings 1.400
- Agendas 1.403
- Complaints About School Personnel 5.502



City of Franklin

109 3rd Ave S.
Franklin, TN 37064
(615) 791-3217

File #: 21-02113

DATE: June 22, 2021
TO: Board of Mayor and Aldermen
FROM: Lisa Clayton, Director of Parks
Paul Holzen, Director of Engineering
Jonathan Marston, Asst. Director of Engineering
Shahad Abdulrahman, Staff Engineer

SUBJECT:

*Consideration Of Resolution 2021-105, A Resolution To Award The Construction Contract (COF 2021-0078) To Sain Construction Company For The Freedom Ball Fields Project In The Amount Of \$6,132,200.
WS 7/13/21

PURPOSE:

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Resolution 2021-105.

BACKGROUND/STAFF COMMENTS:

On August 13th, 2019, the BOMA approved Resolution 2019-68, A Resolution To Adopt The Project List For The FY 2019-2028 CIP (Capital Investment Program). The Franklin Special School District (FSS) Ball Field Reconstruction Project was included at an estimated cost of \$5,150,000. On May 21st, 2021, sealed bids were received by the City of Franklin Engineering Department and were publicly opened and read aloud. After careful review and tabulation of submitted bids, City staff recommends awarding the construction contract to Sain Construction Company in the amount of \$6,261,200.

FINANCIAL IMPACT:

The funding for the project will be a collaborative effort between the City of Franklin and Franklin Special School District and all project cost shall be split 50/50. Funding to be paid out of 310-89610-44700 or as directed by the Finance Department. This project is included in the City's approved Capital Investment Plan.

RECOMMENDATION:

Staff recommends that the Board of Mayor and Aldermen approve Resolution 2021-105.

RESOLUTION 2021-105

A RESOLUTION TO AWARD THE CONSTRUCTION CONTRACT (COF 2021-0078) TO SAIN CONSTRUCTION COMPANY FOR THE FREEDOM BALL FIELDS PROJECT IN THE AMOUNT OF \$6,132,200

WHEREAS, on August 13, 2019, the Board of Mayor and Aldermen approved Resolution 2019-68, A Resolution to Adopt The Project List For The FY 2019-2028 CIP (Capital Investment Program); and

WHEREAS, the FSSD Baseball Field Reconstruction Project was estimated to cost \$5,150,000; and

WHEREAS, on May 21, 2021, sealed bids were received by the City of Franklin Engineering Department, 109 Third Avenue South, Franklin, Tennessee, 37064, and were publicly opened and read aloud for the Freedom Ball Fields Project (COF 2021-0078); and

WHEREAS, after careful review and tabulation of submitted bids, City staff recommends awarding the construction contract (COF 2021-0078) to Sain Construction Company in the amount of \$6,261,200; and

WHEREAS, the funding for this project will be a collaborative effort between the City of Franklin and Franklin Special School District and all project cost shall be split 50/50.

NOW THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that:

Section 1. Approval is granted to award the Contract for the Freedom Ball Fields Project (COF Contract No. 2021-0078) to Sain Construction Company in the amount of \$6,132,200; and

Section 2. Authority is granted to the City Administrator, Assistant City Administrators, City Engineer, and the Assistant Director of Engineering to review and approve the spending of all project funds in the bid award toward the completion of the Freedom Ball Fields Project.

IT IS SO RESOLVED AND DONE on this 13th day of July, 2021.

ATTEST:

By: Eric S. Stuckey
Eric S. Stuckey
City Administrator

CITY OF FRANKLIN, TENNESSEE:

By: Dr. Ken Moore
Dr. Ken Moore
Mayor

Approved as to Form:

By: Shauna R. Billingsley
Shauna R. Billingsley, City Attorney

LOCATION: FRANKLIN, TN
 PROJECT: FSSD Ballfields 2021-0078
 PROJ. DESC.: Construction of Baseball Fields at FSSD
 COF CONTRACT #: 2021-0078

FSSD Ballfields (COF Contract No. 2021-0078) BID ITEMS														
ITEM NO.	ITEM DESCRIPTION	NOTE(S)	UNIT	EST. QTY.	Sain Construction		Olympian Construction		Romach Cons.		The Parents Company		Average	
					UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
PK-1	FSSD BALL FIELDS AND BUILDINGS - ALL OTHER WORK, MATERIALS AND EQUIPMENT, NOT SPECIFICALLY LISTED IN THE BID FORM, REQUIRED TO COMPLETE THE PROJECT PER THE CONTRACT DOCUMENTS AND CONSTRUCTION DRAWINGS		LS	1	\$ 3,358,000.00	\$3,358,000.00	\$ 4,546,700.00	\$4,546,700.00	\$ 4,650,000.00	\$4,650,000.00	\$ 4,944,000.00	\$4,944,000.00	\$ 4,374,675.00	\$4,374,675.00
PK-2	BUILDING A (CONCESSION BUILDING)- PER CONTRACT DOCUMENTS AND CONSTRUCTION DRAWINGS		LS	1	\$ 1,120,000.00	\$1,120,000.00	\$ 845,000.00	\$845,000.00	\$ 767,000.00	\$767,000.00	\$ 877,000.00	\$877,000.00	\$ 902,250.00	\$902,250.00
PK-3	BUILDING B (RESTROOMS) - PER CONTRACT DOCUMENTS AND CONSTRUCTION DRAWINGS		LS	1	\$ 1,080,000.00	\$1,080,000.00	\$ 792,000.00	\$792,000.00	\$ 746,000.00	\$746,000.00	\$ 783,000.00	\$783,000.00	\$ 850,250.00	\$850,250.00
PK-4	BATTING CAGES (ADJACENT TO BASEBALL FIELD)		LS	1	\$ 70,000.00	\$70,000.00	\$ 59,100.00	\$59,100.00	\$ 115,000.00	\$115,000.00	\$ 87,000.00	\$87,000.00	\$ 82,775.00	\$82,775.00
PK-5	UNDERCUTTING (INCLUDES REMOVAL OF EXISTING MATERIAL AND REPLACEMENT AS DIRECTED BY CITY)		C.Y.	2,800	\$ 64.00	\$179,200.00	\$ 21.50	\$60,200.00	\$ 65.00	\$182,000.00	\$ 67.00	\$187,600.00	\$ 54.38	\$152,250.00
PK-6	SIGNING ALLOWANCE (FOR ITEMS NOT SHOWN CONTRACT DOCUMENTS AND CONSTRUCTION DRAWINGS)		DOLL	25,000	\$ 1.00	\$25,000.00	\$ 1.00	\$25,000.00	\$ 1.00	\$25,000.00	\$ 1.00	\$25,000.00	\$ 1.00	\$25,000.00
PK-7	PERMIT FEE ALLOWANCE		DOLL	50,000	\$ 1.00	\$50,000.00	\$ 1.00	\$50,000.00	\$ 1.00	\$50,000.00	\$ 1.00	\$50,000.00	\$ 1.00	\$50,000.00
COF-1	CITY CONSTRUCTION CONTINGENCY (TO BE USED IF AND ONLY AS DIRECTED AND AUTHORIZED BY THE CITY OF FRANKLIN)		DOLL	250,000	\$ 1.00	\$250,000.00	\$ 1.00	\$250,000.00	\$ 1.00	\$250,000.00	\$ 1.00	\$250,000.00	\$ 1.00	\$250,000.00
A-1	BATTING CAGES (ADJACENT TO SOFTBALL FIELD) (SEE SHEET AC1.03, 1.04 AND AE1.10)		LS	1	\$ 75,000.00	\$75,000.00	\$ 54,417.00	\$54,417.00	\$ 98,000.00	\$98,000.00	\$ 69,000.00	\$69,000.00	\$ 74,104.25	\$74,104.25
A-2	CONCRETE BULL PEN WITH ARTIFICIAL TURF AT BASEBALL FIELD AND SOFBALL FIELD (SEE SHEET AC4.01)		LS	1	\$ 54,000.00	\$54,000.00	\$ 36,437.00	\$36,437.00	\$ 55,000.00	\$55,000.00	\$ 23,000.00	\$23,000.00	\$ 42,109.25	\$42,109.25
					BASE BID TOTAL:	\$6,132,200.00	BASE BID TOTAL:	\$6,628,000.00	BASE BID TOTAL:	\$6,785,000.00	BASE BID TOTAL:	\$7,203,600.00	BASE BID TOTAL:	\$6,687,200.00
					BID ALT TOTAL:	\$129,000.00	BID ALT TOTAL:	\$90,854.00	BID ALT TOTAL:	\$153,000.00	BID ALT TOTAL:	\$92,000.00	BID ALT TOTAL:	\$116,213.50
					BID TOTAL:	\$6,261,200.00	BID TOTAL:	\$6,718,854.00	BID TOTAL:	\$6,938,000.00	BID TOTAL:	\$7,295,600.00	BID TOTAL:	\$6,803,413.50

I hereby certify to the best of my knowledge that this is a true and correct record with all errors and extension(s) of unit price(s) corrected.

Shahad Abdulrahman
 (Printed Name)
 Staff Engineer
 (Title)

Shahad Abdulrahman
 (Signature)
 06/03/2021
 (Date)

FSSD Teaching and Learning

Excellence in Teaching and Learning for All



Date: September 1, 2021

To: David Snowden, Director of Schools

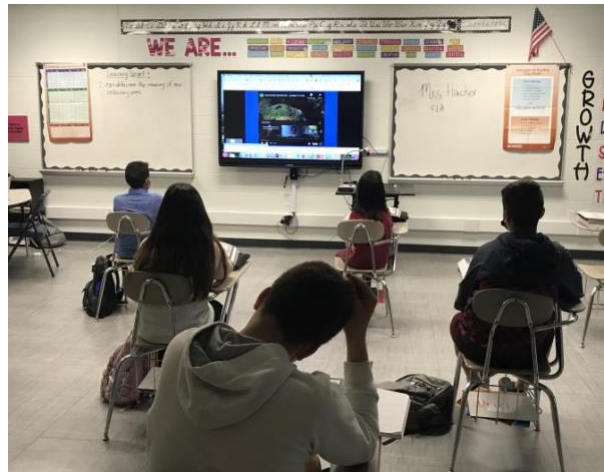
From: Mary Decker, Associate Director of Schools for Teaching and Learning

Subject: Summary of Teaching and Learning Activity for the September Board Meeting



Spotlight:

Summer Learning Camp (SLC) 2021



A major component of the FSSD's exciting and learning-packed summer of 2021 was the Summer Learning Camp that took place at Franklin Elementary School from June 1-24, from 8:30a.m.-2:30p.m. Monday -Thursday. The FSSD SLC encompassed both the Summer Learning Camp for rising first-fourth grade students and the Learning Loss Bridge Camp, which served rising sixth-eighth grade pupils. The camps came about as a result of the Tennessee Learning Loss Remediation and Student Acceleration Act enacted during the extraordinary January 2021 legislative session,

which required their creation starting in 2021 to provide additional, in-person opportunities to accelerate students' growth following COVID-19 related school closures. As such, we enrolled priority students first.

Student participation in the SLC was optional, and the camp was fully funded by the state. Poplar Grove Elementary teachers Dr. Cinamon Collins and Dr. Starr Wallace were selected as the SLC administrators; they will share their reflections this evening. The Learning Loss Remediation and Student Acceleration Act also set requirements for After-School Mini-Camps focused on a STREAM (Science, Technology, Reading, Engineering, Arts, and Math) curriculum; the FSSD received a waiver to offer the STREAM Mini-Camps in the fall. They will be held at each school from September 7-30.

Daily SLC programming included four hours of reading and math instruction (with at least one hour of this block dedicated to math and at least one hour for reading), one hour of intervention, and one hour of physical activity or "play." Teachers had access to our district-supported science and social studies digital resources so they could incorporate these content areas as appropriate. Breakfast, lunch, and snacks were provided to students free of charge, as was bus transportation to and from the SLC. The 425 students enrolled in the camp and the 37 teachers who provided exemplary instruction were expertly supported by twelve paraprofessionals (at least one per grade level), a parent liaison, a nurse, and a front office receptionist.

Our math and literacy coaches created lesson plans and curriculum pacing using specific district resources to ensure focused and consistent instruction occurred. High-quality instructional materials utilized at the SLC included i-Ready, Imagine Learning, Achieve 3000, Vocabulary Workshop, Rewards, Read Aloud Library, and the Moving with Math intervention program. Every student had the daily use of a Chrome Tablet or a Chrome Book, and, as it is during the regular school year, online student safety was monitored by GoGuardian. Further, teachers (based upon their requests developed from meticulous planning) and students were provided all necessary supplies such as paper, pencils, markers, notebooks, folders, and calculators.

We were fortunate that Mercy Community Healthcare provided social emotional learning and mental health support at the camp, and their presence at the teacher onboarding session to equip teachers and paraprofessionals with a toolkit of resources to address issues around anxiety and behavior was very helpful. Additionally, Alma, one of the FSSD's therapy dogs, was regularly present at the SLC. Three safety drills were exercised over the four-week period of the camp. Per the legislative requirement, pre- and post-assessments were administered to SLC students and the scores were reported to the Tennessee Department of Education. We are in the process of analyzing these results and these data will inform our planning for next summer's SLC, as well as instruction during the 2021-2022 school year. In accordance with state expectations, daily attendance was entered in the Summer Programming Enrollment and Attendance Reporting (SPEAR) application.

The SLC was the embodiment of a team effort. Heartfelt thanks go to the Teaching and Learning, Finance and Administration, and Central Office teams, as well as the SLC administrators, faculty, and staff. The Franklin Elementary administrators, faculty, and staff were kind and gracious hosts. Everyone involved collaborated to make the SLC an engaging and effective experience for our students. Parent, student and teacher feedback regarding the camp has been very positive. Comments have highlighted the small class sizes, the time for teachers and students to delve deeply into challenging concepts, and the many opportunities for students to develop existing as well as new

friendships, and get to know their teachers prior to the 2021-2022 school year. We look forward to next summer's SLC being an even more impactful and memorable endeavor.

STREAM Camps

The FSSD STREAM (Science, Technology, Reading, Engineering, Arts, and Math) Camps are in full swing! Five of the camps will run through September 30 and one will conclude on October 7; the camps are non-mandatory but highly encouraged for students and are held for one hour immediately after school, Monday-Thursday. As you may recall, the FSSD was granted a waiver to hold the state-funded STREAM Camps (legislated by the January 2021 Tennessee Learning Loss Remediation and Student Acceleration Act) this fall instead of during the summer of 2021. We are pleased that our own FSSD teachers and paraprofessionals are providing exemplary instruction and support to the students enrolled in the camps, and that the pupils receive daily snacks and, if needed, bus transportation home. There is a capacity of 20 students for each camp.

High-quality instructional materials are a hallmark of the FSSD approach, and this is true for the STREAM Camps as well. The students at every camp are engaging in two challenge activities from the A World in Motion (AWIM) Curriculum from SAE International. Examples of the challenges include Making Music Kits and the Gravity Cruiser. In the Making Music Challenge, "students are using scientific inquiry-based approaches to experiment with sound and vibrations. The challenge asks students to design a musical instrument in order to meet certain design specifications after learning about sound and how it travels. From a science perspective, students will learn about pitch and longitudinal and transverse waves." With the Gravity Cruiser Challenge, "student teams design and construct a vehicle that is powered by gravity. A weighted lever connected to an axle by string rotates on its fulcrum; as the weight descends it causes the axle attached to the string to rotate, propelling the cruiser forward. Concepts explored include potential and kinetic energy, friction, inertia, momentum, diameter, circumference, measurement, graphing, and constructing a prototype."

We are hopeful that the STREAM Camps learning and experience will be memorable and impactful for the participating students, and we are thrilled to offer this type of instruction in an after-school setting.

Instructional Technology – Josh Bracamontes

Beginning of Year Digital Resources

- This school year, digital resources for teachers and students rolled out smoother and faster than any previous year. These essential resources, including Imagine Learning, i-Ready math and reading, Achieve 3000, and all adopted digital textbooks, were available to teachers and students on their first day of school. This monumental achievement was the result of many FSSD leaders collaborating to ensure all students benefit by accessing high-quality curriculum.

Building-Level Instructional Technology Leaders

- The FSSD Building-Level Instructional Technology Leader Program is in full swing. These exceptional teachers have been serving the needs of their schools since the faculty returned on August 3.

Coding in the Elementary Schools

- Students in all elementary schools will have the opportunity to engage in computer coding lessons this year. Using their learning.com accounts, students will access step-by-step lessons in a simplified coding language that requires them to complete numerous fun challenges. The activities become gradually more sophisticated as the students must use appropriate

commands and syntax for increasingly complex tasks. Feedback from staff and students will be compiled as part of the evaluation of the resource and for determining next steps.

Promethean ActivPanels

- Nearly all classrooms in the district are now, or soon will be, equipped with state-of-the-art smartboards called the Promethean ActivPanel. These beautiful boards have crystal clear displays that allow the students to easily see and read what is on the screen. With 20 points of touch, multiple students can solve math problems, mark up and edit texts, and display their learning simultaneously. Teachers and students have been excited to use these boards, and many hours of training have been provided by instructional technology to ensure teachers and students receive the full benefit of the technology.

Curriculum & Professional Learning – Summer Carlton

Collaborative Partnerships Instructional Coaches Professional Learning

- The FSSD math and reading coaches began the year participating in a professional learning session about collaborative partnerships led by the National Institute for Excellence in Teaching (NIET). This training focused on facilitating growth for others by empowering teacher leaders to facilitate improvement in instruction and student learning through the development, modeling and application of effective professional learning. In this two-day training, participants examined how to promote, design and facilitate job-embedded professional learning aligned with group and individual needs. They developed coaching skills to differentiate support through reflective practices and build relationships that impact instruction and enhance student learning.

Upon completion, the coaches:

- knew how to design and facilitate job-embedded professional development aligned to school improvement plans
- understood how to facilitate high-quality adult learning through professional development opportunities and coaching
- were able to coach peers with an instructional focus driven by data to promote reflection and enhance student learning

STREAM Camp Curriculum

- Summer Carlton worked with other members of the Teaching and Learning team to select the curriculum for our STREAM Camps. The program that will be provided is SAE's A World in Motion (AWIM), an inquiry-based learning experience that brings Science, Technology, Engineering, and Math (STEM) education to life for students with hands-on activities, setting students on a path of lifelong learning and discovery. Starting with the youngest learners, from preschool through eighth grade, AWIM combines practical, experiential learning with mentorship from industry volunteers and ongoing training and support for educators to provide equitable access to STEM. The STEM challenges selected for our STREAM Camp are:
 - **AWIM Making Music Kit:** In the newest Making Music Challenge, students explore sound and vibrations. Students learn how the human eardrum works and explore concepts such as pitch and longitudinal and transverse waves. They collect information through hands-on lessons and engineer a musical instrument according to specific criteria. A student reader brings the concepts to life for the students through a fictional story about animals and sounds within nature.

- **AWIM Engineering Inspired by Nature:** In this challenge, students investigate seeds that are dispersed by the wind. They apply what they have learned to make paper helicopters and parachutes. They test different variables (length, width, weight, etc.) to see how these factors affect performance. Concepts covered in this unit include gravity, drag, friction, velocity and acceleration.
- **AWIM Gravity Cruiser:** Student teams design and construct a vehicle that is powered by gravity. A weighted lever connected to an axle by string rotates on its fulcrum; as the weight descends it causes the axle attached to the string to rotate, propelling the cruiser forward. Concepts explored include potential and kinetic energy, friction, inertia, momentum, diameter, circumference, measurement, graphing, and constructing a prototype.
- **AWIM Glider:** Students explore the relationship between force and motion and the effects of weight and lift on a glider. Students learn the relationships between data analysis and variable manipulations, and the importance of understanding consumer demands.

Communications – Susannah Gentry

- Susannah is keeping current the FSSD Together 2021 webpage, which serves as a clearinghouse for all COVID-related communications. This page includes messages to families, health guidelines, illness guidelines, and all COVID-related FAQs for our district.
- Susannah continues to provide text for the Dalton Agency, who is helping create the informational components of the Legacy Gallery.
- Susannah is helping the webmasters as they put into practice what they have learned about making changes to their school webpages.
- District updates on the FSSD webpage have been prevalent, with the additions of the public plan documents of ESSER and revised pacing guides. Also recently updated are: salary schedules, organizational charts, staff directories, voluntary student insurance information, as well as 2021 TCAP scores and Individual Student Reports (ISRs).
- Throughout September, Susannah has focused on promoting open positions within the district, especially in the MAC Food and Culinary Services department. Further, she continues to communicate health and safety information, develop messaging for transportation-related notices, and maintain often-daily communication with the media, fulfilling requests for information.

Attendance – Celby Glass

Attendance

- Attendance is coded in a specific way in Skyward for students that are absent due to a positive COVID-19 test, and for pupils that are quarantined at home due to COVID-19 exposure. Remote learning occurs for these students. Teachers and administrators work with parents to ensure that they know what work the student is required to do in order to be counted present as a distance learner. Teachers know how to take attendance for remote learners and are working with attendance secretaries and school nurses to ensure all documentation is accurate.

Safety

- Celby's weekly threat assessment team meetings with the Williamson County Sheriff's Office and Williamson County Schools have resumed. These meetings are extremely valuable as she

discusses any active investigations occurring in the district that are related to staff or student issues.

- Celby submitted the Safe Schools Grant and the state approved the application. These funds are allocated for phase four of the window film project.
- Celby continues to work closely with the Williamson County Emergency Management (Wilco EMA) Agency and the Williamson County Health Department (Wilco HD) to collect data regarding COVID-19 in the community. She is an active part of the district COVID-19 team and meets with them weekly to discuss current data, trends and mitigation strategies.

Student Support Services – Lee Kirkpatrick

Voluntary Pre-K

- As of September 1, the five voluntary pre-K classes have 75 income-qualifying children enrolled (74 at this time one year ago). The Tennessee Voluntary Pre-K Grant funds 100 seats, and in a typical school year the district operates six classes. The pandemic continues to impact the number of families applying for VPK seats. We continue to receive applications and will place qualifying families until program capacity is reached.

Williamson Inc.

Williamson Inc. is working to establish a date for a Williamson Inc. Chamber of Commerce signature event, the *State of the Schools*. This luncheon is headlined by Dr. Snowden and Williamson County Schools Director of Schools Jason Golden as they address the “state” of our public school districts, the true drivers of the economic engine that is Franklin/Williamson County. The location is tentatively set for the Williamson County Agricultural and Exposition Center. The proposed date is November 2 and, once finalized, will be shared with the Board of Education. Thank you for supporting our close collaboration with Williamson Inc.

School Counselors

- The school counselors will attend the Tennessee School Counselor and Administrator Institute from September 26-28 in Murfreesboro. This year the theme of the conference is *Be the Voice, Live the Mission*. Session highlights include ***Multi-tiered Systems of Support and School Counseling: How Do They Fit Together?*** with Emily Goodman-Scott, ***How Do You View the World? A Discussion of Diversity and Equity*** with Robert Jamison and ***Respond to Suicidal Ideation*** with Melissa Marsh. The school counselors look forward to this annual opportunity to collaborate with colleagues from across the state of Tennessee.

Mercy Community Healthcare Partnership

- The district is pleased to continue its partnership with Mercy Community Healthcare to provide mental health counseling to students. Currently, six Mercy therapists serve all eight FSSD schools.

Parent Liaisons

- The FSSD Parent Liaison Team has concluded the busy beginning-of-the-year enrollment and registration activities and continues to support ongoing school and district COVID-19 notification efforts. Fall is always filled with translation and interpretation services for upcoming parent/teacher conferences and IEP meetings. Parent liaisons play a key role in ensuring teacher, school and district communications reach all FSSD stakeholders.

Reading & Rtl Coordinator – Gina Looney

Literacy/Rtl Update

- The universal screening process has been ongoing and will be completed soon. With the Tennessee Literacy Success Act, the state issued new requirements for universal screening of students in grades K-three. Dr. Looney provided the information about these changes to literacy coaches and administrators. Some additional materials were copied and provided to schools to assist with materials preparation. These new measures in AimswebPlus are to be completed prior to October 1.
- Literacy coaches have started the dyslexia screening process for students who may have characteristics of dyslexia. Although still a lengthy process, we have improved our efficiency with practice over the last few years. Students who are screened and show characteristics of dyslexia will receive specific interventions for dyslexia. Students who are screened and have some deficits, but to a lesser degree, will receive appropriate interventions to address those deficits.
- Additional intervention and core materials are being ordered for schools across the district. Professional learning (PL) for teachers will be provided for these new products.

Literacy Related Professional Learning

- Moore Elementary School Literacy Coach Mandy Wiemers and Dr. Looney are developing a series of PL sessions for coaches to support the implementation of the 95% Phonics Core resources. The plan is to share three support videos that can be viewed by teachers during PLCs.
- This year, the literacy and math coaches will meet together for coaches' meetings the majority of the time.

Special Populations –Cheryl Robey

State Personnel Development Grant (SPDG)Training

- On August 2, the fall full-day SPDG training for Johnson Elementary School and Moore Elementary School was held. The goal of the SPDG initiative is for all FSSD schools to receive professional learning as we undertake the process of increasing access to Tier 1 instruction of our students with disabilities in the general education setting. Ms. Kim Raybon, TDOE Special Education Interventionist, joined us for this session.

FSSD Isolation & Restraint Site-based Training

- From August 3-6 Dr. Robey and Ms. Erin Erb, FSSD District Behavior Consultant, completed the annual required isolation and restraint trainings at FES, JES, MES, PGES, PGMS and FMS. During the training, all staff members were made aware of the state definitions of restraint and isolation, the laws around restraint and isolation and when it is appropriate to use restraint and isolation in the school setting.

Middle Tennessee Sped Supervisors Study Council

- On August 12 the Middle Tennessee special education (sped) supervisors met to discuss American Rescue Plan (ARP) IDEA funding and the options for utilizing these funds, the updates on restraint and isolation and the Tennessee Association for Administrators in Special Education (TAASE) Legal Conference.

Middle Tennessee Sped Supervisor ARP IDEA Discussion

- On August 19 the Middle Tennessee sped supervisors met to discuss the ARP IDEA funds and the process for budgeting these funds in ePlan.

FSSD Certified Restraint Training

- On August 23 FSSD special educators and paraprofessionals participated in Certified Restraint Training. This training was led by Matt and Vickie Eldridge from Overton County. Matt and Vickie Eldridge train individuals to use non-combative techniques to de-escalate a given situation that could cause someone to act out and physically injure themselves or others. There were 14 FSSD participants in the training.

Early Childhood PLC Meeting

- On August 26 the special education preschool teachers and voluntary pre-K teachers met. The group received updates from FSSD Social Worker Amanda Fisher and Parent Liaison Melissa Lopez regarding resources and support available to students and parents. The early childhood team discussed the Imagine Learning resource and highlighted celebrations for the first week of pre-k.

Sped Supervisors' Conference Call

- On August 31, special education supervisors met with Theresa Nicholls from the TDOE Special Populations Office to discuss relevant updates and back to school reminders. The team discussed the Special Education Supervisors' Institute, which was originally scheduled for September 21-23, 2021. Due to a change with a state reading training, the Sped Supervisors' Institute has been rescheduled as a one-day virtual training that will take place on September 29, 2021. A New Sped Supervisors' Academy has been scheduled for Monday, September 27. The group also discussed Free and Appropriate Education (FAPE) for students with disabilities during quarantine/exclusion from school.

School Psychologists' PLC Meeting

- On August 31 the FSSD school psychologists met to discuss assessment needs of students at each school site. Due to student and staff quarantines, it has been challenging to complete observations and assessments.

Middle Tennessee Sped Supervisor Study Council

- On September 2 the Middle Tennessee sped supervisors met to discuss updates on isolation and restraint. TDOE Representative Cindy Ables shared ARP Reminders for Indicators 4, 9,10, 11 and 12. Sped supervisors will be notified if their district is identified as at-risk on any of these indicators. The school psychologist intern application process is open if districts chose to apply for an intern. The group discussed coding for special education students with characteristics of dyslexia, deadlines for upcoming reports and virtual service options for students with disabilities during quarantine.

State Personnel Development Grant (SPDG)Training

- On September 3 the fall community of practice training was completed at Moore Elementary School. The focus of this training is to introduce tools and strategies to shift the mindset of teachers and staff regarding the approaches and strategies used in the classroom while increasing the access to Tier 1 instruction for students with disabilities in the general education setting.

Special Education Newsletter

- The September FSSD Special Education newsletter may be accessed at the following link: <https://www.smores.com/3a5b0>

Instructional Technology – Shelly Robinson

Digital Resource Request Process

- Before any digital resource is purchased or student accounts are created, the resource must go through an application process to be reviewed by the Teaching and Learning team for safety, quality, and effectiveness. After evaluating and gaining a better understanding of this application process, Shelly worked with Mrs. Whitley and Mr. Bracamontes to build out a digital version. Traditionally, teachers completed a paper application to go through the process. Changing it to a digital platform will allow for manageable tracking and data collection.

Digital Citizenship Education for Students

- Each year, all schools work through the process to become recognized as a Common Sense Media certified school. The purpose of this certification is to ensure students, staff, and families receive education on digital citizenship, which is defined as safe and responsible use of technology. One of the middle schools has already completed a significant portion of the Common Sense certification by teaching several digital citizenship lessons to students in all grade levels in the school. Topics for these lessons include, but are not limited to, media balance, digital footprint, and online safety. All lessons are adapted by grade level, making content relevant and age-appropriate for all students.

Newsletter

- Mrs. Whitley and Shelly sent out their first quarterly instructional technology newsletter to faculty and staff in grades 5-8. The newsletter can be found here <https://www.smores.com/qd854> and included information about Google Classroom, district-supported digital resources, online textbooks, and more.

Instructional Technology – Amber Whitley

Teacher Support

- Amber met with a new instructional coach several times during the month of August to review various platforms used within the district. Together they walked through the district's adopted platforms, as Amber answered questions about each one of them.
- It is critical that teachers have access to district resources from the beginning of the year. This year's rollout of accounts was almost flawless. A few teachers had questions about adding content to their accounts once they got in, but those requests were immediately addressed and resolved. The instructional technology department credits much of this to Drew Bingham's knowledge and skill in his role as database manager.
- During the 2020-21 school year, principals in the middle schools requested that paraprofessionals have access to the digital platforms used in the core content areas. By setting up this access, paraprofessionals are able to access what students are working on and further support instruction. This was again a request at the beginning of this school year. Amber and Shelly worked with paraprofessionals, attendance secretaries, and Drew Bingham to make it a reality.

District Support

- In response to Public Chapter 205, the new legislation that prohibits texts and materials aligning to or marketed as Common Core State Standards (CCSS), Amber, Shelly, and Josh

spent time investigating digital resources approved and used in the district. They found many resources referenced Common Core, but also aligned with the Tennessee State Standards. Because the legislation seems to have some gray areas, Dr. Decker reached out to individuals at the state for further guidance on how to determine which resources are acceptable and which are not.

- Each August, the instructional technology specialists (ITSs) visit each building in the district to present their annual “road show.” During this presentation teachers learn about any technology updates and items of importance. This year’s presentation included information about continued district initiatives, the building-level instructional technology leader program, family support documents to be sent home during open house, and examples of ways we work with teachers throughout the year. This is always a time for the ITSs to reintroduce themselves to the faculty and, this year, they were able to introduce their newest team member, Shelly Robinson.

Student Performance & Federal Programs –Pax Wiemers

Student Performance

- **Accountability:** The TDOE released embargoed accountability files to districts through the secure accountability application in late August. These files included the following: district Tennessee Value-Added Assessment System (TVAAS) results, school TVAAS results, district accountability data, school accountability data, and school accountability lists. Upon receipt of these files, Pax backed them up in Google Drive and securely shared them with Dr. Snowden and Dr. Decker. After our initial review, school data was also shared with school administrators through Google Drive with the expectation that nothing could be shared publicly until the embargo was lifted. Pax spent a considerable amount of time evaluating and organizing the results of these accountability releases. By the time that this report is shared in September, the Board will already know the great news about our outstanding 2020-21 results. First, we had five schools earn Reward School status through the calculation of their results. These schools are: Franklin Elementary, Freedom Intermediate, Liberty Elementary, Moore Elementary, and Poplar Grove Elementary. Second, the district earned a Level 5 rating (the highest) for its TVAAS results for student growth. Third, the district earned a Level 5 for both Numeracy and for Literacy, which was a significant improvement from the Level 1 Literacy score from 2019. Pax helped with writing several press releases to share the amazing accomplishments from our 2020-21 school year results.
- **Testing:** It was announced this summer that EOC (End of Course) testing would move to an online platform for spring 2022. The remainder of TCAP will be paper-pencil this coming spring. In order to prepare for the online testing for Algebra I and Geometry students next spring, Pax attended an online webinar on August 26, and the district is planning to participate in an online verification test for practice on September 28 with just these classes. Pax also participated in a New DTC Bootcamp in Nashville on August 24; this was a full-day training for district testing coordinators in their first or second year in this role.

Federal Programs

- **ESSER 3.0:** Our ESSER 3.0 application was fully submitted in ePlan on August 20. The four required documents were also completed and uploaded to the proper folder in ePlan. Since that submission, we have received feedback on some changes that needed to be made to a few documents, and these have since been revised and re-uploaded. At this time, we are still waiting for the final approval of our ESSER 3.0 application and budget. Once it is approved, we can begin reimbursing ourselves through this grant and submitting POs for new purchases. In

the meantime, Pax and Susannah Gentry created a district webpage for our ESSER funding, and Diane Price created Spanish versions of the four required documents. These can all be found here: <https://www.fssd.org/departments/finance-administration/esser>

- Homeless/McKinney-Vento: We have been working hard to call all families that marked YES to any of the six items on the residency questionnaire during registration. In addition, other school personnel have referred families to us, based on their knowledge of a student's living situation. Amanda Fisher, social worker, and Melissa Lopez, parent liaison, have been invaluable in this process. They have been helping Pax make the necessary calls, and we organize our notes and data on a shared Google Sheet. While Pax makes the ultimate determination as to whether a student qualifies for McKinney-Vento services, we have collaborative discussions about each family's living situation, in order to make the best determination possible.
- School Improvement Planning: All schools had to submit their annual School Improvement Plan (SIP) by September 1. Pax worked with all the schools over the summer to review the requirements of their SIP and ensure their ability to navigate the InformTN platform where the SIP is built. Now that all schools have successfully submitted their SIP, Pax will begin sifting through each plan and marking items for revision. In addition, a district-level committee will do a deeper dive into each SIP's goals, strategies, and action steps, and the committee will offer suggested revisions to each school. Pax will put these revisions in the InformTN platform and return the SIP to each school. All plans must be fully approved by the district by October 1.
- ESSER 1.0/ESSER 2.0 Revisions: As we have entered a new fiscal year, any remaining funds in both the ESSER 1.0 or ESSER 2.0 grants can be reallocated for expending this year. Many of these remaining funds were due to expenditures that had not occurred yet. As such, Pax rebuilt the budget and completed the full application for ESSER 2.0, and it has been submitted through ePlan. We were able to purchase additional intervention materials for schools with remaining funds. The ESSER 1.0 application is still in progress as of September 1, as we determine the best use of the remaining few thousand dollars. Also, Pax must consult with the one non-public school that still has funds in this grant.



Bond Fund/Capital Projects Report Status Update – September, 2021

1. PGS Gym/PAC:
 - a. Exterior brick is nearing completion.
 - b. Exterior Metal Panels on site and starting installation.
 - c. Window framing is being installed.
 - d. Supply chain problems caused delay in the delivery of tapered roof insulation. This delay caused the need for a temporary roof to be installed on the PAC to allow interior work to progress on schedule. The insulation arrived on 9/14/21 eliminating the need for another temporary roof installation on the PGS gym.
 - e. Interior metal studs and gypsum board work is progressing throughout.
 - f. Overhead mechanical, plumbing and electrical work is continuing.
 - g. Please see progress report photos provided by Nabholz.

2. Liberty:
 - a. Project is progressing on schedule.
 - b. Current phase is presently installing ductwork, contractor is making equipment connections and prepping for finishes.
 - c. Flooring and ceiling work will begin next week.

3. Central Office Complex:
 - a. Wold/HFR has begun programming the master plan for the site. The project is planned to be completed in 2 phases. The first phase will address the transportation and maintenance facility and phase 2 will be the construction of the new Central Office Building.
 - b. Schematic design / program verification of phase 1 to be completed this week.
 - c. Next steps will be to meet with The City Planning Department to discuss overall site requirements.
 - d. Presentation of phase 1 will be planned after Wold/HFR finalizes the design documents based on feedback from the City Planning Department.

4. Johnson Kitchen Renovation/Expansion:
 - a. Review on-going at City of Franklin. We are expecting approval this week.
 - b. The State Fire Marshal Approval has been received.
 - c. The bid date will be set once City approval is received.

5. Parks and Recreation Master Plan:
 - a. Sain Construction started September 7, 2021 by installing erosion control and prepping the site. Contractor met with the city on September 8, 2021 for a stormwater preconstruction meeting on site.

FSSD PAC & GYM Progress Report



Month:	August	
Project #:	7/20/2470	Date: 9/7/2021

Performing Arts Center

1. Metal Panels arrived on site. 9-1-21. Installation to begin this week.
2. Temp Roof has been installed.
3. MEP- Piping and Duct insulation.
4. Sheathing all interior walls.
5. Grandstand ceiling framing started.



FSSD PAC & GYM Progress Report



Month:	August	
Project #:	7/20/2470	Date: 9/7/2021

Gymnasium

1. Parapet framing and sheathing.
2. Weather resistant barrier ongoing.
3. Above ceiling and In-Wall MEP rough-in is in progress.
4. Interior gym CMU Block walls.





Franklin Special School District

SINCE 1906

David L. Snowden, Ph.D., Director of Schools • 507 New Highway 96 West • Franklin, TN 37064 • 615-794-6624 • 615-790-4716 (fax) • www.fssd.org

TO: Members of the Franklin Special School District Board of Education and Local News Media
FROM: David L. Snowden, Ph.D., Director of Schools
DATE: September 15, 2021
RE: Agenda for the Franklin Special School District Board of Education meeting to be held on Monday, September 20, 2021 at 6:30 p.m., to be held at Freedom Intermediate School, 840 Glass Lane, Franklin, TN.

- I. MEETING CALLED TO ORDER** 6:30 p.m.
II. PLEDGE OF ALLEGIANCE 6:32 p.m.
III. 2021-22 ELECTION OF BOARD OFFICERS 6:35 p.m.
IV. PUBLIC INPUT *Please limit comments to three (3) minutes per speaker* 6:55 p.m.
V. REPORTS/PRESENTATIONS/DISCUSSIONS 7:10 p.m.
1. City of Franklin Parks & Rec/FSSD Ball Field Construction Presentation
2. Teaching and Learning Report
3. Construction Report
4. 2021-22 Community Pre-K Advisory Council Board Representative
5. 2021-22 TSBA Legislative Liaison
6. 2021 TSBA Convention Delegates
7. NSBA CUBE Conference
VI. APPROVAL OF BOARD AGENDA 7:25 p.m.
VII. APPROVAL OF CONSENT AGENDA 7:30 p.m.
1. Minutes of Board Meeting dated August 9, 2021
2. Minutes of Special Called Meeting dated August 20, 2021
3. Student Disciplinary Hearing Authority Appointment
4. Bids: Transportation Department Buses – Type A and Type D
5. Bids: Transportation Department Maintenance and Repairs
6. Budget Amendments
VIII. BUSINESS BEFORE THE BOARD 7:35 p.m.
1. Consideration of Extension of the Temporary Mask Requirement
2. Ratification of the FSSD Tax Rate FY 2021-22
3. Additional Contract with Nabholz Construction Management Services
4. Annual Contract to Audit Accounts
5. Policy Revision: Teacher Tenure (5.117) – 2nd Reading
6. Policy Revision: Alternative Education (6.319) – 2nd Reading
7. Policy Revision: Security (3.205) – 1st Reading
8. Policy Revision: Insurance Management (3.600) – 1st Reading
9. Policy Revision: Special Programs – Homebound Instruction (4.2061) – 1st Reading
10. Policy Revision: Textbooks and Instructional Materials (4.400) and Policy Deletion: Textbooks (4.401) – 1st Reading
11. New Policy: COVID-19 Sick Leave (5.3023) – 1st Reading
12. Policy Deletion: FFCRA Leave (5.3051) – 1st Reading
13. Policy Revision: Physical Examinations and Immunizations (6.402) – 1st Reading
IX. DIRECTOR OF SCHOOLS REPORT 8:00 p.m.
X. UPDATES 8:10 p.m.
1. Teaching and Learning
2. Finance and Administration
XI. ANNOUNCEMENTS 7:40 p.m.
XII. ADJOURNMENT 7:45 p.m.

All Franklin Special School District meetings are open to the public.

Excellence in Teaching and Learning for All

The Franklin Special School District is an equal opportunity employer

August 9, 2021
Franklin, Tennessee

The Franklin Special School District Board of Education met at 6:30 p.m. on Monday, August 9, 2021, at Freedom Middle School, 750 New Highway 96 West, Franklin. A link to the recording may be found at <https://www.youtube.com/watch?v=nIPIHXmAUnw> .

The following members were present: Chair Robert Blair, Alicia Barker, Allena Bell, Robin Newman, Tim Stillings and Kevin Townsel.

Others present were: Dr. David Snowden, Dr. David Esslinger, Dr. Mary Decker, Susannah Gentry, Amy Fisher, Celby Glass, Lisa Chatman, Mark Anderson, Carol Riordan, Dr. Pax Wiemers, Dr. Cheryl Robey, Chip Sternenberg, Bo Alexander, Amanda Parks, Summer Carlton, principals and other district leadership team members, community and media.

I. MEETING CALLED TO ORDER

The meeting was called to order at 6:30.

II. PLEDGE OF ALLEGIANCE

Freedom Middle Principal Dr. Charles Farmer welcomed those in attendance and led the Pledge of Allegiance. Chair Robert Blair called for a moment of silence.

III. PUBLIC INPUT

1. Bryn Sierra, 628 Bonnie Place – Mother of LES student, spoke for temporary mask mandate.
2. Angel Stansberry, 123 Daniels Drive, Apt. A – Mother of LES students, spoke for mask mandate.
3. David Madeira, 624 Watson Branch Drive – Father of MES students, spoke for mask mandate until those younger than 12 can be vaccinated, or cases decline in area.
4. Brandi McCutchan, 503 Braylon Circle – Mother of FES and FIS students, spoke against mask mandate and would like parent choice.
5. Lance Shelby, 1220 Carnton Lane – Father of FES and FIS students, family of two working parents, thanked the Board for having children back in schools last year, spoke for having the responsibility of keeping yourself/family safe.
6. Jenni Rodgers, 500 Stefan Court – Mother of PGMS student, spoke for parents to shoulder the burden of keeping their child from sickness.
7. Aria Witherow, 117 Gist Street – Mother of FES student, spoke for consideration of social and emotional health of children.
8. Katy Dodson, 1216 Carnton Lane – Mother of FES students, spoke in favor of parents being those in charge of keeping their children safe, masks or no masks, and for consideration of the emotional and mental stability of the child.
9. Betsy Bagsby, LES teacher stood for Kayla Gibson, 4011 Monte Bella Place (on speaker phone) – Mother of LES student, spoke for mask requirement to keep students safe until

they are able to be vaccinated.

10. Evelyn Rodgers, address not specified – Grandmother of PGMS student, mother of Jenni Rodgers, previous speaker, spoke regarding children used as political pawns, need to be around virus for herd immunity and believes that masks are unscientific and do not work.
11. An unidentified member of the audience thanked the Board for allowing their children to go back to school.

IV. REPORTS / PRESENTATIONS / DISCUSSIONS

1. **City of Franklin Parks & Rec/FSSD Ball Field Construction Presentation** – This presentation was moved to the September meeting.
2. **Teaching and Learning Spotlight** – The presentation was moved to the September meeting. The Summary of T&L Activity for August (on file) was provided for the Board in their documents.
3. **Construction Report** – presented by Dr. Esslinger (on file). There was a time designated for questions and discussion from the report provided to the Board. Mr. Stillings reported that on a visit to LES the renovation being done was exciting to see.

4. **Director of Schools Report following COVID-19 Public Input** – Dr. Snowden presented the following report to the Board:

“It is important to acknowledge the anxiety many parents feel as we return to school. We know the CDC has recommended a universal mask use of everyone in a school building. The CDC also in their guidance states that localities should monitor community transmission, vaccination coverage and occurrence of outbreaks to guide decisions on the level of layered prevention strategies. Last school year, we found school data to be extremely important when analyzing COVID to determine if there was school transmission or if the virus was being contracted outside the school. For the most part, there was minimal transmission of the virus in schools. Could the low transmission have been due to masks? It certainly could, but there are many other mitigation protocols being used at the same time. At this point in time, we only have a day and a half of data to determine how COVID looks in our schools. If we begin to see a spike in cases and transmission, we can ask the Board to vote on requiring masks. When it comes to a mask requirement, we know from last year there will be parents who are opposed and seek exemptions. We were informed last year by legal counsel and again this year that the school district has to accept, on a case by case basis, all health and/or religious exemptions from any mask requirement. A mask requirement will not mean 100% coverage.

Mitigation strategies we are currently employing: asking parents to not send students to school if they are sick; social distancing strategies throughout building; respiratory etiquette; proper hand washing; hand sanitizer available all over the buildings and in classrooms; optional masking by families and staff; custodial, transportation and school staff diligent in routine cleaning and disinfecting/sanitizing practices; monitor students for signs of illness and refer to school nurse; some protocols for increased ventilation in schools and on buses; buses are assigned seating; school nurses are monitoring for illness; advising parents and staff to self-monitor and not to report to campus if they have been in

close contact with a confirmed diagnosis of COVID-19 in the past 10 days or experiencing symptoms of infectious illness. We will continue to review these strategies to determine if and how they can be more effective.

An extremely important mitigation protocol is the vaccination process, of which the school district has no control. We continue to ask the community to consider receiving the vaccine.

We will: continue working with the Health Department to assist in contact tracing to identify close contacts in our schools; have weekly meetings with county and city officials to discuss trends in the community; give weekly reporting to families on spread of virus for staff and students at the end of each week; hold weekly COVID Team meetings to review county, city, school and district data. As we continue to monitor all the data available, the district can change direction related to any or all of the protocols.”

VI. APPROVAL OF BOARD AGENDA

Dr. Snowden presented the agenda with Item 12. under Business Before the Board - Policy Revision: Physical Examinations and Immunizations (6.402) being pulled for presentation at the September meeting, as there was a question before the meeting regarding wording.

Allena Bell made a **motion** to approve the board agenda with Business Before the Board, Item 12. pulled. Robin Newman **seconded** the motion, which **carried 6-0**.

VII. APPROVAL OF CONSENT AGENDA

Robin Newman made a **motion** to approve the consent agenda as presented. Alicia Barker **seconded** the motion, which **carried 6-0**.

Approved under Consent Agenda (on file) were:

1. **Minutes of Board Meeting dated July 19, 2021**
2. **Annual Board Agenda FY 2021-22**
3. **Extended Contract Proposals**
4. **Bids: Food and Culinary Services**

VIII. BUSINESS BEFORE THE BOARD

1. **New Policy: Instructional Standards (4.1011) – 2nd Reading** - Per TSBA Policy Department recommendations: “Several recent changes to state law impact the materials and content that can be included in classroom instruction. (TSBA has) created this new model policy to align with these updated state laws. Adopting this policy is not required by state law, however, doing so would allow the Board to show compliance with the new standards.” There were no changes requested by the Board upon 1st Reading. The administration recommended approval.

Tim Stillings made a **motion** to approve the new policy **Instructional Standards (4.1011) – 2nd Reading** as presented. Allena Bell **seconded** the motion, which **carried 6-0**.

- 2. New Policy: Summer Instructional Programs (4.2041) – 2nd Reading** - During the past legislative session, laws were also passed that impact summer programming. TSBA has provided a model policy to be adopted to include the additional summer programs that will be offered to students in addition to the traditional summer school. Certain factors, as outlined in this new state law, determine student eligibility for these programs. Boards have the discretion when determining whether to require the attendance of priority students in summer instructional programming. If the Board chooses to require the attendance of priority students, this information must be included in policy. There were no changes requested by the Board upon 1st Reading. The administration recommended approval.

Robin Newman made a **motion** to approve the new policy **Summer Instructional Programs (4.2041) – 2nd Reading** as presented. Alicia Barker **seconded** the motion, which **carried 6-0**.

- 3. New Policy: Enrollment in Advanced Courses (4.205) – 2nd Reading** - Boards are now required to adopt a policy detailing how students can enroll in advanced courses. This policy must list objective enrollment criteria including TCAP scores and grades. TSBA has updated their policy 4.205, up for our adoption, to align with this change to state law. TSBA recommends that Boards include the criteria of those courses offered by the district. There were no changes requested by the Board upon 1st Reading. The administration recommended approval.

Allena Bell made a **motion** to approve the new policy **Enrollment in Advanced Courses (4.205) – 2nd Reading** as presented. Alicia Barker **seconded** the motion, which **carried 6-0**.

- 4. Policy Revision: Application and Employment (5.106) – 2nd Reading** - Recently passed, Public Chapter 211 allows the Director of Schools to hire individuals with a teaching permit if a teacher with a valid license is not available. TSBA has provided language in their updated model policy to clarify that this is an option. There were no changes requested by the Board upon 1st Reading. The administration recommended approval.

Robin Newman made a **motion** to approve the policy revisions for **Application and Employment (5.106) – 2nd Reading** as presented. Alicia Barker **seconded** the motion, which **carried 6-0**.

- 5. Policy Revision: Qualifications and Duties of the Director of Schools (5.802) – 2nd Reading** - Also part of Public Chapter 211, which allows the Director to hire individuals with a teaching permit if a teacher with a valid license is not available, Policy 5.802 is impacted, as the Director of Schools would be required to report potential misconduct by these individuals to the State Board of Education in the same manner that is done for licensed teachers. There were no changes requested by the Board upon 1st Reading. The administration recommended approval.

Kevin Townsel made a **motion** to approve the policy revisions for **Qualifications and Duties of the Director of Schools (5.802) – 2nd Reading** as presented. Allena Bell **seconded** the motion, which **carried 6-0**.

- 6. Policy Revision: Testing Programs (4.700) – 1st Reading** - Per TSBA Director of Policy & Staff Attorney, districts must now provide students with information on available career and technical education opportunities after aptitude assessment are administered. TSBA has provided language for our use reflecting this requirement. The administration recommended approval.

Allena Bell made a **motion** to approve the policy revisions for **Testing Programs (4.700) – 1st Reading** as presented **and to waive the 2nd Reading**. Kevin Townsel **seconded** the motion, which **carried 6-0**.

- 7. Policy Revision: Teacher Tenure (5.117) – 1st Reading** - TSBA Director of Policy & Staff Attorney has given updates to this policy based on recently passed legislation. “Due to the cancellation of TNReady tests during the pandemic, there are no teacher evaluation scores from the 2019-2020 school year. Public Chapter 2 from the Special Legislative Session clarifies that the two most recent evaluation scores can be used when determining tenure. Additionally, Public Chapter 378 changes the requirements for providing notice of nonrenewal to teachers. This notice must now be sent to teachers by certified mail, overnight carrier, or email so that it will be received within five business days following the last instructional day. The model policy has been updated to align with both of these legal changes.” The title changes from “Procedures for Granting Tenure”; references are also updated. The administration recommended approval.

Robin Newman made a **motion** to approve the policy revisions for **Teacher Tenure (5.117) – 1st Reading** as presented. Kevin Townsel **seconded** the motion, which **carried 6-0**.

- 8. Policy Revision: Separation Practices for Tenured Teachers (5.200) – 1st Reading** - Previously, state law gave the Commissioner of Education the authority to suspend a teacher's license if he/she broke a contract with a local board of education. Under this new change to state law, this authority now rests with the State Board of Education. We have updated this policy to reflect that change. TSBA has provided their model policy for guidance in updating the policy and references. The administration recommended approval.

Robin Newman made a **motion** to approve the policy revisions for **Separation Practices for Tenured Teachers (5.200) – 1st Reading** as presented **and to waive the 2nd Reading**. Allena Bell **seconded** the motion, which **carried 6-0**.

- 9. Policy Revision: Separation Practices for Non-Tenured Teachers (5.201) – 1st Reading** - As in the update for Policy 5.200, state law previously gave the Commissioner of Education the authority to suspend a teacher's license if he/she broke a contract with a local board of education, whereas this authority now rests with the State Board of Education. In addition, there is a change in the way that notice of non-renewal is provided to non-tenured

teachers. We have updated this policy to reflect that change. TSBA has provided their model policy for guidance in updating the policy and references. The administration recommended approval.

Allena Bell made a **motion** to approve the policy revisions for **Separation Practices for Non-Tenured Teachers (5.201) – 1st Reading** as presented **and to waive the 2nd Reading**. Robin Newman **seconded** the motion, which **carried 6-0**.

- 10. Policy Revision: Home Schools (6.202) – 1st Reading** - The TSBA Policy Department has provided this update based on Public Chapter 493. In order to conduct a home school, parents must meet certain criteria. Previously, this included having a high school diploma or a GED. A change to state law, however, now includes parents with High School Equivalency Test (HiSET) in this category. This updated model policy includes this additional qualification option. The administration recommended approval.

Allena Bell made a **motion** to approve the policy revisions for **Home Schools (6.202) – 1st Reading** as presented **and to waive the 2nd Reading**. Kevin Townsel **seconded** the motion, which **carried 6-0**.

- 11. Policy Revision: Alternative Education (6.319) – 1st Reading** - Per TSBA Director of Policy & Staff Attorney, “Public Chapter 229 creates another exception regarding assignment to an alternative school or program. Now, a Director of Schools is not required to assign a student to the alternative school or program if: (1) the student committed an offense of violence or threatened violence or an offense that threatened the safety of other students in the school; and (2) the location of the alternative school or program is on the same grounds from which the student was disciplined.” TSBA has provided model language to update our policy to include this exception. The administration recommended approval.

Kevin Townsel made a **motion** to approve the policy revisions for **Alternative Education (6.319) – 1st Reading** as presented. Alicia Barker **seconded** the motion. During discussion, it was questioned whether both requirements need to be met, or if either requirement needed to be met. Upon 2nd Reading, clarification of the description of the policy will be made. The motion **carried 6-0**.

- 12. Policy Revision: Physical Examinations and Immunizations (6.402) – 1st Reading** – This policy was pulled from the agenda for clarification on the updates, and will be presented for 1st Reading at the September meeting.

VIII. DIRECTOR OF SCHOOLS REPORT

- **Transition of Programs/Personnel Related to Eddy Lane Property and Movement of Programs/Personnel from CO Annex** – WeeMAC has now fully transitioned from the Central Office Annex to Freedom Middle School. The move went well and the WeeMAC staff did a great job in preparing their new space and creating a positive and caring environment. Thanks to the staff for all their efforts! A playground is still needed for

WeeMAC and the space will be investigated after the construction for the PAC is completed. The Board was invited to visit the new location of our WeeMAC program if they have not had the opportunity.

- **Opening Day and Professional Learning Days** - On August 2nd our *Opening of Schools Program* went well, with personnel beginning the day in their own schools for the most part this year, due to limited parking at PGS because of the construction. Although we were apart this year, plans are to have the Opening of Schools for the 2022-2023 year at the FSSD's new Performing Arts Center.

The "Partnership Fair" sponsors were split up between the schools, followed by our personnel attending the opening virtually as a live-stream from the Teacher Center. Professional learning sessions followed, for the most part, contained in their home schools. Our keynote speaker, Dr. John Hodge, carried an excellent message that we hope was inspirational to all as we begin the year. As we had introduced to you before, Dr. Hodge is president and co-founder of Urban Learning and Leadership Center, an organization focused on student achievement and reduction of the achievement gap.

Thanks to the Board members who could attend our Opening this year.

As we finish the week, we will have district-wide (grade or subject specific) and school-based professional learning, with an administrative day in the week as well. Meet-and-Greet evening was held on Wednesday, August 4th – with teachers and school administration ready to welcome students and families!

- **First Student Day** – We will be having the students back ½ day on Friday, April 6, with the return to full days on Monday. Kindergartners will come one day this coming week and begin full time on the following Monday, August 16.
- **Labor Day Holiday** – Following an early dismissal day on September 3, the district and offices will be closed September 6th.
- **Conferences and meetings update:** Updates were provided separately.

X. UPDATES

Teaching & Learning – Dr. Mary Decker, Associate Director for Teaching & Learning, provided the following (on file):

- Demographics Report for August 2021

Finance & Administration – David Esslinger, Associate Director for Finance & Administration, provided the following (on file):


- Personnel Change Report July/August 2021
- Investment Report
- Revenue and Expenditure Reports
- Sales Tax Revenue Comparison Report for August

XI. ANNOUNCEMENTS

- Sales tax collections are up 22% from what they were last year at this time.
- Mr. Townsel thanked the speakers from this evening, as well as those that have sent emails. He noted that they have heard what everyone has said and that the COVID Team will continue to monitor closely to provide information to the Board.
- Mrs. Bell notes the upcoming TSBA Mid-Cumberland Fall District Meeting where she hopes TSBA will also provide guidance.
- Mrs. Bell asked if another immunization clinic can be arranged for the new employees and those that did not previously receive the immunization; District Nurse Fisher will investigate. Mrs. Fisher also noted that many received immunizations from other areas and if personnel were not able to attend the previous clinic and she had made arrangements for them to get an immunization if they wanted it.

XII. ADJOURNMENT

Chair Blair adjourned the meeting at 7:44 p.m.

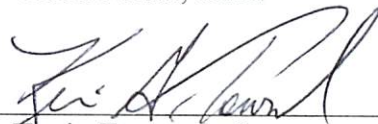


Robert Blair, Chair

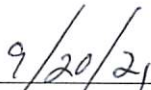


Date

ATTEST:



Kevin Townsel, Secretary



Date

August 20, 2021
Franklin, Tennessee

The Franklin Special School District Board of Education met in a Special Called Meeting on Friday, August 20, 2021 at Freedom Middle School, 750 New Highway 96 West, Franklin. A link to the recording may be found at <https://www.youtube.com/watch?v=-uST0qX8ac> .

The following members were present: Chair Robert Blair, Alicia Barker, Allena Bell, Robin Newman and Kevin Townsel. Tim Stillings joined by electronic attendance in accordance with Board Policy 1.400.

Others present were: Dr. David Snowden, Dr. David Esslinger, Susannah Gentry, Amy Fisher, Celby Glass, Lisa Chatman, Mark Anderson, Drew Bingham, Carol Riordan, principals, community and media.

I. MEETING CALLED TO ORDER

The meeting was called to order at 4:00.

II. PLEDGE OF ALLEGIANCE

Freedom Middle Principal Dr. Charles Farmer welcomed those in attendance and led the Pledge of Allegiance. Chair Robert Blair called for a moment of silence.

III. PUBLIC INPUT

Chairman Blair expressed appreciation from the Board for the emails, texts and calls over the past month and week, showing passion but also showing compassion for the Board members and others. The FSSD COVID team, the Williamson County Health Department and other entities have provided research for the Board's consideration. Public input was limited to 15 residents at 1 minute per resident.

1. Brandi McCutchan, 503 Braylon Circle – Mother of FES and FIS students and substitute, thanked the Governor for his Executive Order allowing parents to opt out of their child's wearing a mask and giving parents the choice.
2. Allyson Duardo, 8th grade class representative at FMS – Spoke in favor students and staff wearing masks.
3. Courtenay Rogers, 200 Royal Oaks Boulevard, Apt. A1 – Mother of FMS 8th grader, spoke in favor of wearing masks, in addition to being vaccinated, and promoting responsible citizenship.
4. Amanda Bradley, 1421 Southampton Court – Mother of FMS 8th grader and business owner, spoke in favor of continuing the mitigation protocol in place last year and wearing masks.
5. Rodney Aslinger, 1418 Clairmonte Circle – Father of PGES 2nd grader, spoke in favor of wearing masks.
6. Lisa Casey, 1003 Del Rio Court – Physical Education teacher at PGES and mother of PGMS student, teaches 10 classes a day in a mask, spoke in favor of masks optional and would like more data on quarantining.
7. Deidra Brock, 1009 Lawnview Court – Math coach at PGES and mother of PGMS student, gave early statistics for positive cases in our district, spoke in favor of masks optional.
8. Katie Swafford, 111 Cambridge Place – Mother of three children in FSSD and substitute last

- year, spoke against masks for children.
9. Ce'cile Laine', 396 Forrest Park Circle – Mother of children at MES and FMS, spoke in favor of wearing masks.
 10. Eric McCann, 1011 Murfreesboro Road, Apt. F2 – Spoke against a mask mandate.
 11. Dominique Vansiatky, 353 9th Avenue North – Mother of 2nd grader at JES, spoke in favor of a temporary mask mandate.
 12. Lance Shelby, 1220 Carnton Lane – Father of FES and FIS students, family of two working parents, thanked the Board for having children back in schools last year, spoke for having the responsibility of keeping yourself/family safe and no mask mandate.
 13. Lee Flatt, 253 Circle View Drive – Father of 3-year old with services, spoke in favor of a mask mandate.
 14. Chris Boles, 1051 Huntsman Circle – Doctor of Chiropractic, gave statistics for remaining healthy.
 15. Mindy Spradlin, 1525 Cabot Drive – Mother of 4 children and wife of EMT, spoke against a mask mandate.

IV. APPROVAL OF BOARD AGENDA

Allena Bell made a **motion** to approve the Board Agenda as presented. Alicia Barker **seconded** the motion, which **carried 6-0**.

V. BUSINESS BEFORE THE BOARD

1. **Consideration of Temporary Mask Requirement inside all FSSD schools and buses for employees and students** – Dr. Snowden introduced the Business item to the Board. Paraphrasing his introduction: That no matter what position you have taken on masks, your opinions are valued. Our goal is to do everything that we can to defeat COVID, a virus that none of us wanted or expected.

When we presented the health guidelines in July, we had success in our summer programs without this specific protocol. We also wanted time to analyze school and district data as well as community data because last year our numbers were much lower for sickness than the community was experiencing.

Our first five days of the school year went well, but now there is a significant increase between the end of last week and this week. This is due to the more contagious nature of the variant or a combination? We believe that parents want their students to be in school and we want them to be in school.

Superintendents were notified that our district is responsible to notify parents and the Health Department of positive cases and close contacts. There is concern about keeping our schools open if there are many exclusions: last year a school closed primarily because there were not enough adults to provide appropriate supervision. We have (now) had a number of breakthrough cases with fully vaccinated employees who can also spread the virus to students and other employees. The State no longer allows the virtual teaching model, which was used last year during the time that our school(s) were closed, so that students could continue to learn.

Quoted: “We believe, at this point in time, the prudent decision is to recommend a temporary mask requirement inside all FSSD schools/buildings and buses effective Monday,

August 23rd for employees, students and visitors. If this requirement is approved, there will be a grace period allowed on Monday for students so parents can have sufficient time to complete an opt out form based upon Governor Lee’s Executive Order No. 84. We also recommend that the Temporary Mask Requirement expire at 11:59 p.m. on September 21st. The Board will have an opportunity at their Board meeting on September 20th to re-evaluate the temporary mask requirement if approved tonight. The COVID team is available tonight if there are any questions from the Board.”

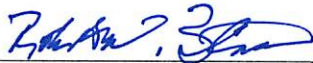

Kevin Townsel made a **motion** for FSSD to have a temporary mask requirement inside all FSSD schools, buildings and buses effective Monday, August 23rd for employees, students and visitors, with a grace period on August 23rd, and to expire on Tuesday, September 21st at 11:59, for re-evaluation of the mask requirement at the September 20th Board meeting. Tim Stillings **seconded** the motion. After discussion, the **motion carried 6-0**.

Discussion/statements before the vote included:

- Confirmation that quarantine was defined by the Health Department, not the schools. Schools will exclude until the WCHD investigates positive cases – a close contact wearing a mask will not have to be excluded.
- Request to evaluate the number of masks the district has available to be distributed.
- Request that the proper use of using the masks for younger children continues to be demonstrated in our schools.
- Request for weekly comparisons of the data to see if this makes a difference in our exclusions.
- Statement that wearing a mask is done for others in case the person gets the virus and is asymptomatic to avoid passing the virus to another, also that the fact that a masked child next to masked child does not have to be an exclusion if one has the virus.
- Statement that the emails and calls are acknowledged and that the Board is passionate for children and this is a necessary step.
- Statement that the Board understands how the public must feel and does not minimize the personal choice, asks that all be gracious.
- Statement that the COVID-19 protocols are on the website, and thanked the audience for their kindness.

VI. ADJOURNMENT

Chair Blair adjourned the meeting at 4:37 p.m.

		<u>9.20.21</u>
	Robert Blair, Chair	Date
ATTEST:		<u>9/20/21</u>
	Kevin Townsel, Secretary	Date



Franklin Special School District

SINCE 1906

David L. Snowden, Ph.D., Director of Schools • 507 New Highway 96 West • Franklin, TN 37064 • 615-794-6624 • 615-790-4716 (fax) • www.fssd.org

To: FSSD Board of Education Members

From: Bo Alexander, Transportation Supervisor

Re: School Bus Bids

On Wednesday, September 1, 2021, sealed bids were opened at the FSSD Central Office for the purchase of two (2) new Type A, special needs school buses equipped with wheelchair lift.

The following bids were received:

Central States Bus Sales, Inc. (Blue Bird/Micro Bird)	\$ 84,500.00 each
Mid-South Bus Center (Collins/Nexbus)	\$ 79,000.00 each
Cumberland Companies (IC Bus)	No Bid Submitted

With the low bid, and no notable exceptions to our specifications, I respectfully recommend proceeding with the purchase from Mid-South Bus Center.

A handwritten signature in black ink, appearing to read 'Bo Alexander', written over a horizontal line.

Bo Alexander
Supervisor of Transportation
September 8, 2021

Specifications	Description	YES	NO	List / Explain Exception
Reflective / Safety	3-M or Reflexite Grade 2" yellow tape - exits & rear	✓		
Reflective / Safety	Side reflectors attached w/ screws	✓		
Rubrails	Four applied rubrails painted Black	✓		
Safety	FE, FAK, BFK, Flares, seat belt cutters	✓		
Safety	Include all out warning device	✓		
Seats / Driver	Chassis manufactured standard	✓		
Seats / Driver	Arm rest	✓		
Seats / Passenger	QTY eight (8) - 39" Floor mounted High Back seats w/3 Lap & Shoulder Belts per seat	✓		
Seats / Passenger	Include left and right side high back barriers w/ modesty panels	✓		
Seats / Passenger	Include Fire Block Upholstery	✓		
Side Panels	Interior - Aluminized steel side walls	✓		
Solenoid	Disconnect all body circuits	✓		
Stepwell	two step entrance w/ exterior guard	✓		
Vents	2 - driver's fresh air & static roof vent	✓		two or three steps
Wheel Chair Position	QTY two (2). Minimum 50" long. Pockets. One back left, one back right	✓		
Wheel Chair Tiedown	QTY two set of auto retracting tiedowns with J-hook, include lap & Shoulder belt. Sur-Lok or Q-Straint preferred with storage pouch.	✓		
Windows Driver	Chassis manufactured standard	✓		
Windows	12" s/s sides, tempered & dark tinted	✓		
Windows	All rear to be tempered and dark tinted	✓		
Windshield	Chassis manufactured standard	✓		
Wipers	Single switch w/ variable speeds incl. Intermittent	✓		
Wiring	Body wiring color & numbered coded	✓		
Warranty	bumper to bumper one year 12K miles	✓		

I have read the above specifications and agree to all therein. I submit the following bid:

This bid may be shared with other local education agencies. Yes _____ NO X

Type "A" Special Needs School Bus: \$ 79,000.00 each each

We request immediate delivery date. Please state your delivery date Approx 225 days ARO

Make: Chevy/Collins Model: NEXBUS Year: 2021 chassis w/
2022 Body

Mid-South Bus Center
Company Name

3512 Bill Smith Drive
Address

Murfreesboro, TN 37129
City, State and Zip Code

[Signature]
Authorized Signature

Chuck Lalance
Persons Submitting Bid

615 890-6368
Phone Number

615-890-6387
Fax Number

9/1/21
Date

* For Camera w/ 4 heads (REI) - Add \$ 2800.00

Specifications	Description	YES	NO	List / Explain Exception
Reflective / Safety	3-M or Reflexite Grade 2" yellow tape - exits & rear			
Reflective / Safety	Side reflectors attached w/ screws			
Rubrails	Four applied rubrails painted Black			
Safety	FE, FAK, BFK, Flares, seat belt cutters			
Safety	Include all out warning device			
Seats / Driver	Chassis manufactured standard			
Seats / Driver	Arm rest			
Seats / Passenger	QTY eight (8) - 39" Floor mounted High Back seats w/3 Lap & Shoulder Belts per seat			
Seats / Passenger	Include left and right side high back barriers w/ modesty panels			
Seats / Passenger	Include Fire Block Upholstery			
Side Panels	Interior - Aluminized steel side walls			
Solenoid	Disconnect all body circuits			
Stepwell	two step entrance w/ exterior guard			
Vents	2 - driver's fresh air & static roof vent			interior guard NA
Wheel Chair Position	QTY two (2). Minimum 50" long. Pockets. One back left, one back right			
Wheel Chair Tiedown	QTY two set of auto retracting tiedowns with J-hook, include lap & Shoulder belt. Sur-Lok or Q-Straint preferred with storage pouch.			
Windows Driver	Chassis manufactured standard			
Windows	12" s/s sides, tempered & dark tinted			
Windows	All rear to be tempered and dark tinted			
Windshield	Chassis manufactured standard			
Wipers	Single switch w/ variable speeds incl. Intermittent			
Wiring	Body wiring color & numbered coded			
Warranty	bumper to bumper one year 12K miles			

I have read the above specifications and agree to all therein. I submit the following bid:

This bid may be shared with other local education agencies.

Yes X

NO

Type "A" Special Needs School Bus: \$ 884,500 each

We request immediate delivery date.

Please state your delivery date unknown.

Make: Girardin Model: Micro Bird Year: 2022

Central States Bus Sales, Inc.

Company Name

303 Business Park Drive

Address

Lebanon TN 37090

City, State and Zip Code

Paula Rieger

Authorized Signature

Paula Rieger

Persons Submitting Bid

(615) 364-4721

Phone Number

(866) 300-8893

Fax Number

September 1, 2021

Date



Franklin Special School District

SINCE 1906

David L. Snowden, Ph.D., Director of Schools • 507 New Highway 96 West • Franklin, TN 37064 • 615-794-6624 • 615-790-4716 (fax) • www.fssd.org

To: FSSD Board of Education Members
From: Bo Alexander, Transportation Supervisor
Re: School Bus Bids

On Wednesday, September 1, 2021, sealed bids were opened at the FSSD Central Office for the purchase of two (2) new Type D, front-engine, transit style school buses.

The following bids were received:

Central States Bus Sales, Inc. (Blue Bird)	\$ 109,418.00 each
Mid-South Bus Center (Thomas Built)	\$ 112,966.00 each
Cumberland Companies (IC Bus)	No Bid Submitted

With the low bid, and no notable exceptions to our specifications, I respectfully recommend proceeding with the purchase from Central States Bus Sales.

A handwritten signature in black ink, appearing to read 'Bo Alexander', written over a horizontal line.

Bo Alexander
Supervisor of Transportation
September 8, 2021



BID FORM

SUBMITTED TO: FRANKLIN SPECIAL SCHOOL DISTRICT

BUS TYPE, YEAR, MODEL: 2023 BLUE BIRD ALL AMERICAN, 84 PASSENGER TYPE D

BID PRICE: \$109,418.00

BID SUBMITTED BY: Central States Bus Sales, Inc.
303 Business Park Drive
Lebanon, TN 37090

State Dealer License # 14796 Federal ID #: 43-1051799

Contact Name: Paula Rieger Phone
Regional Sales Manager Number: 615-466-5040

Parts and Service Facility 303 Business Park Drive
located at: Lebanon, TN 37090

Delivery: 180 days after receipt of purchase order

Signature: 

Date: September 1, 2021

FSSD-Copy #1

Franklin Special School District

Thank you for allowing Mid-South Bus Center, Inc. this opportunity to bid on your school system's transportation needs. Below, please accept our bid amount.

NEW BUS BID PRICE: \$112,966.00 each

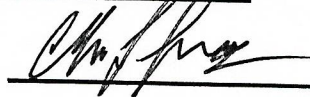
YEAR MODEL: Thomas Built Bus, 2022 Model EFX
Transit Style School Bus, 1418S,
84 passengers

DELIVERY DATE: 225 Days or less ARO

SUBMITTED BY : Mid - South Bus Center, Inc.
3590 Manson pike
Murfreesboro, Tn. 37129

CONTACT: Chuck LaLance

SIGNED:



DATED:

9-1-21



Franklin Special School District

SINCE 1906

David L. Snowden, Ph.D., Director of Schools • 507 New Highway 96 West • Franklin, TN 37064 • 615-794-6624 • 615-790-4716 (fax) • www.fssd.org

To: FSSD Board of Education Members

From: Bo Alexander, Transportation Supervisor

Re: Maintenance and Repair Bids

On Wednesday, September 1, 2021, sealed bids were opened at the FSSD Central Office for the provision of fleet maintenance and repair services.

The following bids were received:

Tomlin Diesel, LLC

**\$ 105.00 hour shop labor (inclusive)
\$ 125.00 mobile labor (inclusive)
20% markup on parts
Shop is located 3.5 miles from the bus yard**

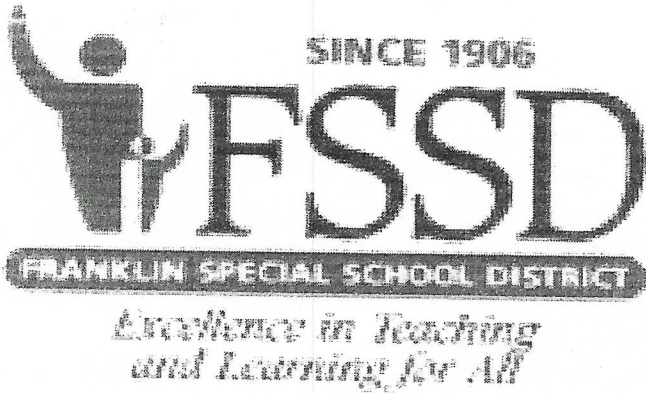
Clarke Power Services / Vehicare

**\$ 115.00 hour shop labor (general)
\$ 170.00 hour shop labor (transmission)
\$ 171.00 hour shop labor (engine)
\$ 171.00 hour mobile labor
15% markup on parts
Shop is located 20 miles from the bus yard**

No other bids were submitted.

With the lower bid for labor, no notable exceptions to our specifications, and proximity to the FSSD bus yard, I respectfully recommend proceeding with the contract with Tomlin Diesel.

**Bo Alexander
Supervisor of Transportation
September 8, 2021**



Franklin Special School District

Franklin, Tennessee

Bus and Vehicle Maintenance and Repair Services

Bid Proposal

Specification

Hourly Rate – Labor – Maintenance and Repair

Mobile Service / Service Truck

Bid Price

\$ 105.00 per hour

125.00 per hour

Or _____ per call

% Markup on Parts Over Actual Cost to Vendor*

20 %

Distance From Bidder's Work Location to FSSD Bus Yard**

3.5 miles

This bid proposal is intended to run from October 1, 2021 to September 30, 2022. Upon mutual agreement of FSSD authorized representative and successful bidder, two (2) annual extensions may be exercised, provided that each line item cost does not rise by more than five percent (5 %) annually.

* FSSD reserves the right to periodically review invoices and documentation for verification.

** FSSD Bus Yard is located at 205 Eddy Lane, Franklin TN. To reduce costs of moving buses to and from the bidder's work location, preference may be granted to bidders within thirty (30) miles of the Bus Yard.

FSSD reserves the right to reject any and all bids and to negotiate both prices and specifications with the lowest and best bidder. FSSD reserves the right to award based on quality, price, and availability of services whichever is in the best interest of FSSD. FSSD reserves the right to award based on lowest/best/most responsive competitive bid as determined to be in the best interests of the FSSD.

Bidder/Vendor Name Tomlin Diesel LLC

Address 110 Century Ct Franklin TN 37064

Phone 615-791-0902 -Mail Service@TomlinDiesel.com

Contact Person Jason M Tomlin

Title General MGR / CO-Owner

Signature of Authorized Representative Jason M Tomlin

Signature by authorized representative indicates understanding of all terms and conditions, and warranties that the submitted bid meets all minimum specifications. Signature further certifies that this bid is submitted without consultation or collusion with any other company, firm, corporation or competing entity. Signature certifies that this bid is submitted, in all respects fair, and without fraud.



Franklin Special School District

Franklin, Tennessee

Bus and Vehicle Maintenance and Repair Services

Bid Proposal

Specification

Bid Price (Mobile Repair)

Hourly Rate – Labor – Maintenance and Repair

Mobile Service / Service Truck

\$171.00 per hour

Emergency Call Out Fee Unscheduled Work

\$125 per call out

% Markup on Parts Over Actual Cost to Vendor*

15 %

Distance From Bidder's Work Location to FSSD Bus Yard**

20 miles

This bid proposal is intended to run from October 1, 2021 to September 30, 2022. Upon mutual agreement of FSSD authorized representative and successful bidder, two (2) annual extensions may be exercised, provided that each line item cost does not rise by more than five percent (5 %) annually.

* FSSD reserves the right to periodically review invoices and documentation for verification.

** FSSD Bus Yard is located at 205 Eddy Lane, Franklin TN. To reduce costs of moving buses to and from the bidder's work location, preference may be granted to bidders within thirty (30) miles of the Bus Yard.

FSSD reserves the right to reject any and all bids and to negotiate both prices and specifications with the lowest and best bidder. FSSD reserves the right to award based on quality, price, and availability of services whichever is in the best interest of FSSD. FSSD reserves the right to award based on lowest/best/most responsive competitive bid as determined to be in the best interests of the FSSD.

Bidder/Vendor Name: Clarke Power Services

Address: 115 Haywood Ln, Antioch, TN, 37013

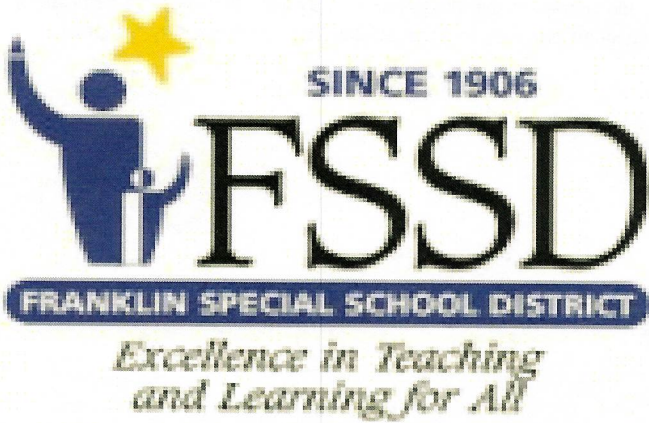
Phone: 615-262-4141 E-Mail: Tgreenwood@clarkepsi.com

Contact Person: Tom Greenwood

Title: Manager of Government Business State & Municipal

Signature of Authorized Representative T Greenwood 8/24/2021

Signature by authorized representative indicates understanding of all terms and conditions, and warranties that the submitted bid meets all minimum specifications. Signature further certifies that this bid is submitted without consultation or collusion with any other company, firm, corporation or competing entity. Signature certifies that this bid is submitted, in all respects fair, and without fraud.



Franklin Special School District

Franklin, Tennessee

Bus and Vehicle Maintenance and Repair Services

Bid Proposal

Specification

Hourly Rate – Labor – Maintenance and Repair

Bid Price (At Clarke Shop)

General \$115.00

Engine \$171.00

Transmission (Allison) \$170.00

% Markup on Parts Over Actual Cost to Vendor*

15 %

Distance From Bidder's Work Location to FSSD Bus Yard**

20 miles

This bid proposal is intended to run from October 1, 2021 to September 30, 2022. Upon mutual agreement of FSSD authorized representative and successful bidder, two (2) annual extensions may be exercised, provided that each line item cost does not rise by more than five percent (5 %) annually.

* FSSD reserves the right to periodically review invoices and documentation for verification.

** FSSD Bus Yard is located at 205 Eddy Lane, Franklin TN. To reduce costs of moving buses to and from the bidder's work location, preference may be granted to bidders within thirty (30) miles of the Bus Yard.

FSSD reserves the right to reject any and all bids and to negotiate both prices and specifications with the lowest and best bidder. FSSD reserves the right to award based on quality, price, and availability of services whichever is in the best interest of FSSD. FSSD reserves the right to award based on lowest/best/most responsive competitive bid as determined to be in the best interests of the FSSD.

Bidder/Vendor Name: Clarke Power Services

Address: 115 Haywood Ln, Antioch, TN, 37013

Phone: 615-262-4141 E-Mail: Tgreenwood@clarkepsi.com

Contact Person: Tom Greenwood

Title: Manager of Government Business State & Municipal

Signature of Authorized Representative

8/24/2021



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 16th day of June in the year 2021
(In words, indicate day, month, and year.)

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

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

and the Construction Manager:
(Name, legal status, address, and other information)

Nabholz Construction Corporation
3415 One Place
Jonesboro, AR 72404
for the following Project:
(Name, location, and detailed description)

FSSD New Central Office
205 Eddy Lane
Franklin, TN 37064

The Architect:
(Name, legal status, address, and other information)

HFR Design
214 Centerview Drive Suite 300
Brentwood, TN 37027

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

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

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

AIA Document A201[™]-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

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.)

To Be Determined

§ 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

§ 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.)

Unknown at time of execution

Init.

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

.1 Design phase milestone dates, if any:

Unknown at time of execution

.2 Construction commencement date:

Unknown at time of execution

.3 Substantial Completion date or dates:

Unknown at time of execution

.4 Other milestone dates:

§ 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.)

Unknown at time of execution

§ 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.)

Unknown at time of execution

§ 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.)

To Be Determined

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

David Esslinger
Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064
Ph 615.794.6624
Fax 615.591.4327

§ 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:

Init.

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(List name, legal status, address, and other contact information.)

(Paragraphs deleted)

.1 Other, if any:

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

To Be Determined

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

Steve Griffin
HFR Design
214 Centerview Drive Suite 300
Brentwood, TN 37027
Ph 615.370.8500
Fax 601.832.2296

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

(List name, address, and other contact information.)

Adam Seiter
Nabholz
3415 One Place
Jonesboro, AR 72404
Ph 870.934.4854
Fax 870.333.4854

§ 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.)

To Be Determined

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

(List any Owner-specific requirements for subcontractor procurement.)

To Be Determined

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

To Be Determined

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents

Init.

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User Notes:

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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.

§2.1.1 Construction Manager shall exercise the degree of care, skill and diligence in the performance of the Construction Manager's Work, to assure its Work is performed in a good and workmanlike manner, consistent with construction industry standards for similar projects and circumstances in the same geographic area (hereinafter the "Construction Manager's Standard of Care"). The Construction Manager shall be responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Construction Manager's Work under this Agreement, including all coordination of the duties of all trades, and shall furnish efficient business administration and supervision of the Work.

Construction Manager's Standard of Care specifically excludes any design or design-related responsibilities, and any action taken by Construction Manager under this Agreement does not and shall not be construed to approve, represent or warrant the adequacy and suitability of the plans and specifications for the purpose for which they are provided.

§2.1.2 To the extent the Owner requests that the Construction Manager provide services within its Standard of Care, such as value analysis and/or constructability suggestions or comments with respect to the Drawings and Specifications, Owner acknowledges that such services are advisory only and not professional design services. The Owner shall refer all suggestions and comments to the Architect or other design professionals for review and evaluation prior to Owner's acceptance thereof. The Owner further acknowledges that the Construction Manager is not responsible for adequacy of the drawings and specifications or for confirming the absence of errors or omissions that may exist therein. The Owner shall cause the Architect to revise the Drawings and Specifications to reflect all value analysis and constructability suggestions and comments accepted by the Owner without delay or disruption to the timely and orderly progress of the work. The contract sum and contract time may be adjusted upon the Contractor's review and pricing of the revised Drawings and Specifications.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction (as amended), 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; Article 15, Claims and Disputes. The term "Contractor" as used in A201–2017 (as amended) 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 (as amended), which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 (as amended) 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 (as amended) referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall perform its Preconstruction Services consistent with the Construction Manager's Standard of Care. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

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

§ 3.1.3.3 The Owner and Architect shall consult with the Construction Manager in establishing building information modeling and digital data protocols for the Project, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the

Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together in an effort 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 [Intentionally Omitted]

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 **Subcontractors and Suppliers**

§ 3.1.11.1 [Intentionally Omitted]

§ 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 well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 **Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 **Other Preconstruction Services**

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 **Guaranteed Maximum Price Proposal**

§ 3.2.1 When the Drawings and Specifications have been completed, the Construction Manager and in consultation with the Architect will solicit trade contractors for competitive bids in relevant trade categories. Upon completion of the bidding cycle, the Construction Manager shall propose a Guaranteed Maximum Price which shall be the sum of the

Init.

estimated cost of work, including the contingencies described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 The Owner and Construction Manager acknowledge that the Construction Manager will/has developed the Guaranteed Maximum Price based upon completed Contract Documents "CDs".

In the event that the Owner and Construction Manager agree that the Construction Manager will develop a Guaranteed Maximum Price before the completion of the Contract Documents (CDs), in that such Drawings and Specifications do not contain all details and requirements of the Work, the Guaranteed Maximum Price will be based on certain assumptions by the Construction Manager. To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager will include an allowance to be identified in the GMP Amendment for 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, or any condition which was not reasonably anticipated by the Construction Manager's assumptions regarding the completion of the design, all of which, if required shall be incorporated by Change Order for additional cost and/or time as required. If the Contract Documents (CDs) or final Drawings and Specifications require performance of the Work in any manner different from such assumptions, or contain changes in the scope of the Work to be performed by the Construction Manager, the Construction Manager shall as soon as practicable notify the Owner and Architect thereof and of the Construction Manager's estimate of the resulting increase or decrease in the Guaranteed Maximum Price. At such time as the Owner, Architect and the Construction Manager have agreed upon the effect of such difference and/or changes in the scope of the Work, a Change Order shall be issued substituting the finished Contract Documents (CDs) for those described in this Agreement and the Guaranteed Maximum Price and Contract Time shall be adjusted as agreed by the parties.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 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.

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§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017 (as amended), 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 (as amended).

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER’S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 (as amended) Section 2.2.

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§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017 (as amended), the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

(Paragraphs deleted)

§ 5.1.2 The fee for preconstruction services shall be a lump sum of Zero (\$0.00). Any miscellaneous costs associated with the delivery of preconstruction services (printing, advertising, travel, etc.) shall be invoiced at direct cost of the item without mark-up or profit for the Construction Manager. Preconstruction Services will be invoiced on a pro-rata monthly basis for the term of

(Table deleted)

the preconstruction services as identified in Article 5.1.2.1.

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 [Intentionally Omitted]

§ 5.2 Payments

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

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the maximum rate allowed by applicable law.

(Insert rate of monthly or annual interest agreed upon.)

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

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

§ 6.1.3 A lump sum equal to 4.5% of the Cost of the Work. The Construction Manager's Fee shall be adjusted for changes in the Work by zero percent (0%) for deductive changes and 4.5% for additive changes.

§ 6.1.4 Limitations, if any, on Subcontractor's overhead and profit for increases in the cost of its portion of the work shall be per Project Specifications.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 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.)

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.2.1 Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of Work as defined in Article 6 of this Agreement and in no event shall be considered a line item guarantee of the cost of any individual portion of the Work.

§ 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 (as amended).

§ 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 (as amended).

§ 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 amended), 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 (as amended) shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be included in the Guaranteed Maximum Price

§ 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.

§ 7.1.1.1 The sum for General Conditions will be billed as a lump sum and paid in monthly installments commencing with the next calendar month following the date of commencement of construction of the Project and concluding on the date of completion of the Work. Payments will be pro-rated for part of a calendar month at the commencement of construction and the calendar month in which Final Completion occurs.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval in writing prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 7.1.3 [Intentionally Omitted]

§ 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 at off-site locations or workshops.

Init.

§ 7.2.2 Salaries and burden of the Construction Manager's supervisory, project/operations management, executive, safety and administrative personnel, when engaged in execution of the Work, whether at the site, at the Construction Manager's principal office or offices other than the site office. These persons costs will be charged on an hourly basis and will be included in an agreed upon General Conditions costs.

Classification

Name

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal office or offices other than the site office shall be included in the Cost of the Work, such personnel shall be identified below.)

§ 7.2.2.1

(Paragraphs deleted)

[Intentionally Omitted]

§ 7.2.3 [Intentionally Omitted]

§ 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, collectively referred to as "Labor Burden", which may be charged at a flat rate agreed upon by Construction Manager, Owner's Representative, and the statutory executive committee of the Owner, provided that such costs are based on wages and salaries included in the Cost of the Work as described herein.

§ 7.2.4.1 The Contract Sum is based upon the Project not being subject to State and Federal Prevailing Wage Law. In the event that this Project becomes subject to State or Federal Prevailing Wage Law the Contract Sum will be adjusted accordingly.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

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

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of 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 owned by the construction workers, which are provided by the Construction Manager at the site, whether rented from the Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof.

Init.

Equipment owned by the Construction manager shall be rented at a rate not to exceed the standard rental rate in the geographical area in which the project is located.

§ 7.5.3 Costs of removal of debris and/or costs associated with diverting water waste to a waste recycling center 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 That portion of insurance including deductibles and bond premiums that can be directly attributed to this Contract and expenses.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 (as amended) 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 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 (as amended). 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, data lines, telephone service, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

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

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

Init.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017 (as amended).

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 (as amended) 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.

§ 7.7.5 Warranty Reserve (CM at Risk). A warranty reserve in the amount of TBD percent (TBD%) of the Cost of the Work will be agreed upon and included as a line item in the GMP Amendment(s) to cover the Construction Manager's cost for providing the warranty as outlined in the Contract Documents. The warranty reserve shall be deemed a Cost of the Work. In order to facilitate the final payment process set forth in Article 7.2, the Construction Manager will bill the Owner a lump sum amount for the full warranty reserve at the time of final payment.

§ 7.8 Related Party Transactions

§ 7.8.1 [Intentionally Omitted]

§ 7.8.2 [Intentionally Omitted]

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7; 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; 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 perform with the Construction Manager's own personnel when permitted by applicable law, shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the 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 Construction Manager and Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any 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. To the extent allowed by applicable law, the Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. 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.

§ 10.1 Any reimbursement obligation otherwise required by the Contract Documents shall not be applicable to Contractor when an auditor is hired by Owner on a contingency fee basis.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

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

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th 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 If required by the Owner, with each Application for Payment, the Construction Manager shall submit a detailed cost transaction report generated from the Construction Manager's accounting system, and upon request by the Owner or Architect, shall provide any other evidence reasonably required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager, less (2) that portion of the progress payments attributable to the Construction Manager's Fee, plus (3) payrolls for the period covered by the present Application for Payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 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 Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of the Work. 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 [Intentionally Omitted]

§ 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 (as amended) 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, 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 (as amended);

Init.

- .3 [Intentionally Omitted]
- .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 (as amended);
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 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.)

If the manner of completion of the work, and its progress are and remain satisfactory for the Owner, and the Work is shown at fifty percent (50%) or more complete in the Application for Payment, without reduction of previous retainage, no further retainage will be withheld.

§ 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.)

§ 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 (as amended).

§ 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 stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations,

audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017 (as amended), and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017 (as amended). The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017 (as amended). 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 (as amended). A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments

(Paragraphs deleted)

are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid 30 days after the invoice date shall bear interest at the maximum rate allowed by applicable law.

Init.

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 (as amended). 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 (as amended) for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017 (as amended), the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017 (as amended)
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 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 (as amended).

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

Init.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017 (as amended).

§ 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 (as amended), the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 (as amended) 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 (as amended).

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017 (as amended), 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.)

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017 (as amended); in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017 (as amended), except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017 (as amended). Where reference is made in this Agreement to a provision of AIA Document A201–2017 (as amended) 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 (as amended), 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 Owner shall provide Construction Manager advance written notice of such assignment. The Construction Manager shall execute all consents reasonably required to facilitate the assignment and acceptable to Construction Manager.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of Two million dollars (\$ 2,000,000) for each occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of two million dollars (\$ 2,000,000) 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 of one million dollars (\$ 1,000,000) each accident for bodily injury, one million dollars (\$ 1,000,000) each employee for bodily injury by disease, and one million dollars (\$ 1,000,000) policy limit for bodily injury by disease.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of two million dollars (\$ 2,000,000) per claim and two million dollars (\$ 2,000,000) 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 for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents. Bonds may be obtained through the Construction Manager's usual source and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017 (as amended), 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:

§ 14.5.1 Owner acknowledges that Contractor is an independent contractor and the Owner has no ownership or control over Contractor, a private entity. Contractor has not agreed to act as a custodian of public records for the Owner subject to the provisions of the Tennessee Public Records Act. Owner acknowledges and agrees that certain documents and information provided to Owner pursuant to the terms and conditions of this agreement may place Contractor and Owner at a competitive disadvantage if the information is disclosed and may constitute Contractor's trade secret, confidential, proprietary, or information otherwise excluded from disclosure under the Act. In the event Owner receives a request for disclosure pursuant to letter, subpoena or other means, Owner shall provide notice of such request to Contractor within twenty-four (24) hours of receipt of the request, subpoena or demand, and shall not disclose such records without having provided Contractor with such notice and opportunity to take reasonable action to protect such records.

§ 14.5.2 If Drawings are revised after the Drawings referenced in the Contract, the Owner shall have the Architect re-date all revised sheets and clearly identify all changes by bubble and delta number or other means acceptable to the Construction Manager and Owner. The Owner and Construction Manager acknowledge that it is difficult to determine and implement changes that are not so identified. Regardless if the Contract is amended to incorporate revised Drawings, the Guaranteed Maximum Price and Contract Time are subject to additional equitable adjustments for the cost and time impacts if implementing any changes not so identified.

§ 14.5.3 If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction (as amended)
- .5

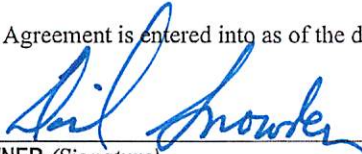
(Paragraphs deleted)

Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 (as amended) 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.)

To Be Determined

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



OWNER *(Signature)*

David Snowden

(Printed name and title)



CONSTRUCTION MANAGER *(Signature)*

Adam Seiter, EVP of Operations

(Printed name and title)

Init.

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

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:21:33 ET on 09/13/2021.

PAGE 1

AGREEMENT made as of the 16th day of June in the year 2021

...

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

...

Nabholz Construction Corporation
3415 One Place
Jonesboro. AR 72404

...

FSSD New Central Office
205 Eddy Lane
Franklin, TN 37064

...

HFR Design
214 Centerview Drive Suite 300
Brentwood, TN 37027

PAGE 2

To Be Determined

...

To Be Determined

...

Unknown at time of execution

PAGE 3

Unknown at time of execution

...

Unknown at time of execution

...

Unknown at time of execution

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Unknown at time of execution

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Unknown at time of execution

...

To Be Determined

...

David Esslinger
Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064
Ph 615.794.6624
Fax 615.591.4327

...

To Be Determined

PAGE 4

.1 — Geotechnical Engineer:

.2 — Civil Engineer:

.3 —
.1 Other, if any:

...

To Be Determined

...

Steve Griffin
HFR Design
214 Centerview Drive Suite 300
Brentwood, TN 37027
Ph 615.370.8500
Fax 601.832.2296

...

Adam Seiter
Nabholz
3415 One Place
Jonesboro, AR 72404
Ph 870.934.4854
Fax 870.333.4854

...

To Be Determined

...

To Be Determined

...

To Be Determined

PAGE 5

§2.1.1 Construction Manager shall exercise the degree of care, skill and diligence in the performance of the Construction Manager's Work, to assure its Work is performed in a good and workmanlike manner, consistent with construction industry standards for similar projects and circumstances in the same geographic area (hereinafter the "Construction Manager's Standard of Care"). The Construction Manager shall be responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Construction Manager's Work under this Agreement, including all coordination of the duties of all trades, and shall furnish efficient business administration and supervision of the Work.

Construction Manager's Standard of Care specifically excludes any design or design-related responsibilities, and any action taken by Construction Manager under this Agreement does not and shall not be construed to approve, represent or warrant the adequacy and suitability of the plans and specifications for the purpose for which they are provided.

§2.1.2 To the extent the Owner requests that the Construction Manager provide services within its Standard of Care, such as value analysis and/or constructability suggestions or comments with respect to the Drawings and Specifications, Owner acknowledges that such services are advisory only and not professional design services. The Owner shall refer all suggestions and comments to the Architect or other design professionals for review and evaluation prior to Owner's acceptance thereof. The Owner further acknowledges that the Construction Manager is not responsible for adequacy of the drawings and specifications or for confirming the absence of errors or omissions that may exist therein. The Owner shall cause the Architect to revise the Drawings and Specifications to reflect all value analysis and constructability suggestions and comments accepted by the Owner without delay or disruption to the timely and orderly progress of the work. The contract sum and contract time may be adjusted upon the Contractor's review and pricing of the revised Drawings and Specifications.

...

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, Construction (as amended), shall apply as follows: Section 1.5, Ownership and Use of Documents;

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User Notes:

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; Article 15, Claims and Disputes. The term "Contractor" as used in A201-2017 (as amended) 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; A201-2017 (as amended), which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 (as amended) 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 (as amended) referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

PAGE 6

The Construction Manager shall ~~exercise reasonable care in performing its Preconstruction Services; perform its Preconstruction Services consistent with the Construction Manager's Standard of Care.~~ The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

...

§ 3.1.3.2 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.~~

§ 3.1.3.3 ~~The Construction Manager shall assist the Owner and Architect~~ shall consult with the Construction Manager 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.

...

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 well in advance of construction; and the occupancy requirements of the Owner.

...

The Construction Manager, in consultation with the Architect, ~~Manager~~ 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.

PAGE 7

§ 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 in an effort to reconcile the cost estimates.

...

§ 3.1.9 ~~The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.~~[Intentionally Omitted]

...

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

...

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well 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.

...

§ 3.2.1 ~~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. When the Drawings and Specifications have been completed, the Construction Manager and in consultation with the Architect will solicit trade contractors for competitive bids in relevant trade categories. Upon completion of the bidding cycle, the Construction Manager shall propose a Guaranteed Maximum Price which shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency estimated cost of work, including the contingencies 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.~~The Owner and Construction Manager acknowledge that the Construction Manager will/has developed the Guaranteed Maximum Price based upon completed Contract Documents "CDs".

In the event that the Owner and Construction Manager agree that the Construction Manager will develop a Guaranteed Maximum Price before the completion of the Contract Documents (CDs), in that such Drawings and Specifications do not contain all details and requirements of the Work, the Guaranteed Maximum Price will be based on certain assumptions by the Construction Manager. To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager will include an allowance to be identified in the GMP Amendment for 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 or any condition which was not reasonably anticipated by the Construction Manager's assumptions regarding the completion of the design, all of

which, if required shall be incorporated by Change Order for additional cost and/or time as required. If the Contract Documents (CDs) or final Drawings and Specifications require performance of the Work in any manner different from such assumptions, or contain changes in the scope of the Work to be performed by the Construction Manager, the Construction Manager shall as soon as practicable notify the Owner and Architect thereof and of the Construction Manager's estimate of the resulting increase or decrease in the Guaranteed Maximum Price. At such time as the Owner, Architect and the Construction Manager have agreed upon the effect of such difference and/or changes in the scope of the Work, a Change Order shall be issued substituting the finished Contract Documents (CDs) for those described in this Agreement and the Guaranteed Maximum Price and Contract Time shall be adjusted as agreed by the parties.

PAGE 9

§ 3.3.1.1 For purposes of Section 8.1.2 of ~~A201-2017~~, A201-2017 (as amended), the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

...

§ 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~~, A201-2017 (as amended).

...

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in ~~A201-2017~~ (as amended) Section 2.2.

PAGE 10

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of ~~A201-2017~~, A201-2017 (as amended), the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

PAGE 11

§ 5.1.1 For the Construction Manager's Preconstruction Phase ~~services described in Sections 3.1 and 3.2,~~ services, 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.)

~~§ 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.)~~

§ 5.1.2 The fee for preconstruction services shall be a lump sum of Zero (\$0.00). Any miscellaneous costs associated with the delivery of preconstruction services (printing, advertising, travel, etc.) shall be invoiced at direct cost of the item without mark-up or profit for the Construction Manager. Preconstruction Services will be invoiced on a pro-rata monthly basis for the term of

Individual or Position

Rate

the preconstruction services as identified in Article 5.1.2.1.

...

§ 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. ~~[Intentionally Omitted]~~

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the ~~rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager,~~ maximum rate allowed by applicable law.

(Insert rate of monthly or annual interest agreed upon.)

—%

...

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

A lump sum equal to 4.5% of the Cost of the Work. The Construction Manager's Fee shall be adjusted for changes in the Work by zero percent (0%) for deductive changes and 4.5% for additive changes.

§ 6.1.4 ~~Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work; work shall be per Project Specifications.~~

...

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

PAGE 12

§ 6.2.1 Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of Work as defined in Article 6 of this Agreement and in no event shall be considered a line item guarantee of the cost of any individual portion of 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~~ Construction (as amended).

§ 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~~ Construction (as amended).

§ 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, A201–2017 (as amended)~~, 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 (as amended) 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.

...

§ 7.1 ~~Costs to Be Reimbursed~~ Costs to Be included in the Guaranteed Maximum Price

...

§ 7.1.1.1 The sum for General Conditions will be billed as a lump sum and paid in monthly installments commencing with the next calendar month following the date of commencement of construction of the Project and concluding on the date of completion of the Work. Payments will be pro-rated for part of a calendar month at the commencement of construction and the calendar month in which Final Completion occurs.

§ 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 Guaranteed Maximum Price Amendment.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner. [Intentionally Omitted]

...

§ 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 or at off-site locations or workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval. Salaries and burden of the Construction Manager's supervisory, project/operations management, executive, safety and administrative personnel, when engaged in execution of the Work, whether at the site, at the Construction Manager's principal office or offices other than the site office. These persons costs will be charged on an hourly basis and will be included in an agreed upon General Conditions costs.

Classification

Name

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal office or offices other than the site office shall be included in the Cost of the Work, such personnel shall be identified below.)

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

[Intentionally Omitted]

§ 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. [Intentionally Omitted]

§ 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, collectively referred to as "Labor Burden", which may be charged at a flat rate agreed upon by Construction Manager, Owner's Representative, and the statutory executive committee of the Owner, provided that such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3 as described herein.

§ 7.2.4.1 The Contract Sum is based upon the Project not being subject to State and Federal Prevailing Wage Law. In the event that this Project becomes subject to State or Federal Prevailing Wage Law the Contract Sum will be adjusted accordingly.

PAGE 13

§ 7.5.2 Rental charges for temporary facilities, machinery, ~~equipment, equipment~~ and hand tools not customarily owned by ~~construction workers that the construction workers,~~ which are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item, ~~whether rented from the Construction Manager or others,~~ and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Equipment owned by the Construction manager shall be rented at a rate not to exceed the standard rental rate in the geographical area in which the project is located.

§ 7.5.3 Costs of removal of debris and/or costs associated with diverting water waste to a waste recycling center from the site of the Work and its proper and legal disposal.

PAGE 14

§ 7.6.1 ~~Premiums for that portion of insurance and bonds required by the Contract Documents~~ That portion of insurance including deductibles and bond premiums that can be directly attributed to this Contract. ~~Contract and expenses.~~

...

§ 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 (as amended) or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

...

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager ~~had reason to believe~~ knew 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.~~ A201-2017 (as amended). 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, data lines, telephone service, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

PAGE 15

§ 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.~~ A201-2017 (as amended).

...

§ 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 (as amended) 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.

§ 7.7.5 Warranty Reserve (CM at Risk). A warranty reserve in the amount of TBD percent (TBD%) of the Cost of the Work will be agreed upon and included as a line item in the GMP Amendment(s) to cover the Construction Manager's cost for providing the warranty as outlined in the Contract Documents. The warranty reserve shall be deemed a Cost of the Work. In order to facilitate the final payment process set forth in Article 7.2, the Construction Manager will bill the Owner a lump sum amount for the full warranty reserve at the time of final payment.

§ 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. [Intentionally Omitted]

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9. [Intentionally Omitted]

...

- .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.~~

PAGE 16

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel when permitted by applicable law, shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the ~~Architect and~~ Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Construction Manager and Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. ~~Any advice of the Architect, or approval or objection by the Owner,~~ shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. ~~The~~ To the extent allowed by applicable law, the Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

...

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. ~~The accounting and control systems shall be satisfactory to the Owner.~~ The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. 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.

§ 10.1 Any reimbursement obligation otherwise required by the Contract Documents shall not be applicable to Contractor when an auditor is hired by Owner on a contingency fee basis.

...

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th 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.

PAGE 17

§ 11.1.4 With-If required by the Owner, with each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence a detailed cost transaction report generated from the Construction Manager's accounting system, and upon request by the Owner or Architect, shall provide any other evidence reasonably required by the Owner or Architect to demonstrate that payments cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less (2) that portion of the progress payments attributable to the Construction Manager's Fee, plus (3) payrolls for the period covered by the present Application for Payment.

...

§ 11.1.5.2 Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of the Work. 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. [Intentionally Omitted]

...

§ 11.1.7 In accordance with AIA Document A201–2017 (as amended) and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

- .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;A201–2017 (as amended);
- .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; [Intentionally Omitted]
- .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;A201–2017 (as amended);

PAGE 18

Five percent (5%)

...

If the manner of completion of the work, and its progress are and remain satisfactory for the Owner, and the Work is shown at fifty percent (50%) or more complete in the Application for Payment, without reduction of previous retainage, no further retainage will be withheld.

...

§ 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;A201–2017 (as amended).

§ 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.

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager’s responsibility to correct Work as provided in Article 12 of AIA Document ~~A201–2017~~, A201–2017 (as amended), and to satisfy other requirements, if any, which extend beyond final payment;

...

§ 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~~, A201–2017 (as amended). The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document ~~A201–2017~~, A201–2017 (as amended). 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~~, A201–2017 (as amended). A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager’s receipt of a copy of the Architect’s final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner’s auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect’s final Certificate for Payment.

...

~~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.)~~

~~—%—~~ are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid 30 days after the invoice date shall bear interest at the maximum rate allowed by applicable law.

§ 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~~, A201–2017 (as amended). 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~~ (as amended) 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.

...

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document ~~A201–2017~~, A201–2017 (as amended), the method of binding dispute resolution shall be as follows:

...

- Arbitration pursuant to Article 15 of AIA Document ~~A201–2017~~ (as amended)
- Litigation in a court of competent jurisdiction

...

§ 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~~, A201-2017 (as amended).

PAGE 21

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document ~~A201-2017~~, A201-2017 (as amended).

...

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document ~~A201-2017~~, A201-2017 (as amended), the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document ~~A201-2017~~ (as amended) shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

...

- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document ~~A201-2017~~, A201-2017 (as amended).

PAGE 22

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document ~~A201-2017~~, A201-2017 (as amended), then the Owner shall pay the Construction Manager a termination fee as follows:

...

The Work may be suspended by the Owner as provided in Article 14 of AIA Document ~~A201-2017~~; A201-2017 (as amended); in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document ~~A201-2017~~, A201-2017 (as amended), 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.

...

§ 14.1 Terms in this Agreement shall have the same meaning as those in ~~A201-2017~~, A201-2017 (as amended). Where reference is made in this Agreement to a provision of AIA Document ~~A201-2017~~ (as amended) or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

...

§ 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~~, A201-2017 (as amended), 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 Owner shall provide Construction Manager advance written notice of such assignment. The Construction Manager shall execute all consents reasonably required to facilitate the ~~assignment~~ assignment and acceptable to Construction Manager.

...

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

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of ~~not less than~~ ~~(\$ two million dollars (\$ 2,000,000)~~ 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 ~~(\$)~~ policy limit of one million dollars (\$ 1,000,000) each accident for bodily injury, one million dollars (\$ 1,000,000) each employee for bodily injury by disease, and one million dollars (\$ 1,000,000) policy limit for bodily injury by disease.

§ 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 ~~(\$ two million dollars (\$ 2,000,000)~~ per claim and two million dollars (\$ 2,000,000) in the aggregate.

PAGE 23

§ 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. Bonds may be obtained through the Construction Manager's usual source and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, A201-2017 (as amended), 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:

...

§ 14.5.1 Owner acknowledges that Contractor is an independent contractor and the Owner has no ownership or control over Contractor, a private entity. Contractor has not agreed to act as a custodian of public records for the Owner subject to the provisions of the Tennessee Public Records Act. Owner acknowledges and agrees that certain documents and information provided to Owner pursuant to the terms and conditions of this agreement may place Contractor and Owner at a competitive disadvantage if the information is disclosed and may constitute Contractor's trade secret, confidential, proprietary, or information otherwise excluded from disclosure under the Act. In the event Owner receives a request for disclosure pursuant to letter, subpoena or other means, Owner shall provide notice of such request to Contractor within twenty-four (24) hours of receipt of the request, subpoena or demand, and shall not disclose such records without having provided Contractor with such notice and opportunity to take reasonable action to protect such records.

§ 14.5.2 If Drawings are revised after the Drawings referenced in the Contract, the Owner shall have the Architect re-date all revised sheets and clearly identify all changes by bubble and delta number or other means acceptable to the Construction Manager and Owner. The Owner and Construction Manager acknowledge that it is difficult to determine and implement changes that are not so identified. Regardless if the Contract is amended to incorporate revised Drawings, the Guaranteed Maximum Price and Contract Time are subject to additional equitable adjustments for the cost and time impacts if implementing any changes not so identified.

§ 14.5.3 If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

PAGE 24

.2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed

...

- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction (as amended)
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

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

AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

- .7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 (as amended) 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.)

To Be Determined

...

David Snowden

Adam Seiter, EVP of Operations

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:21:33 ET on 09/13/2021 under Order No. 6551960194 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, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

EVP OF OPERATIONS

(Title)

9/14/2021

(Dated)



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Franklin Special School District New Central Office
205 Eddy Lane
Franklin, TN 37064

THE OWNER:

(Name, legal status and address)

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

THE ARCHITECT:

(Name, legal status and address)

HFR Design
214 Centerview Drive, Suite 300
Brentwood, TN 37027

TABLE OF ARTICLES

- 1 **GENERAL PROVISIONS**
- 2 **OWNER**
- 3 **CONTRACTOR**
- 4 **ARCHITECT**
- 5 **SUBCONTRACTORS**
- 6 **CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**
- 7 **CHANGES IN THE WORK**
- 8 **TIME**
- 9 **PAYMENTS AND COMPLETION**
- 10 **PROTECTION OF PERSONS AND PROPERTY**
- 11 **INSURANCE AND BONDS**
- 12 **UNCOVERING AND CORRECTION OF WORK**
- 13 **MISCELLANEOUS PROVISIONS**

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

Init.

14	TERMINATION OR SUSPENSION OF THE CONTRACT
15	CLAIMS AND DISPUTES
16	RENOVATIONS OR ADDITIONS TO AN EXISTING STRUCTURE AND TEMPORARY UTILITIES



Init.

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INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.3.2, 14.1, 15.1.2, 15.2

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10

Approvals

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9,
3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration

8.3.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,
13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,
4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,
9.5.4, 9.6.4, 15.1.4, 15.2

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.4.2, 15.2

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,
3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,
3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,
15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**

Building Information Models Use and Reliance

1.8

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Init.

/

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval
13.4.4

Certificates of Insurance
9.10.2

Change Orders

1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2

Change Orders, Definition of

7.2.1

CHANGES IN THE WORK

2.2.2, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5

Claims, Definition of

15.1.1

Claims, Notice of
1.6.2, 15.1.3

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4
Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**

Claims for Additional Time

3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages

3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7

Claims Subject to Arbitration
15.4.1

Cleaning Up

3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**

Commencement of the Work, Definition of
8.1.2

Communications

3.9.1, **4.2.4**

Completion, Conditions Relating to

3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2

COMPLETION, PAYMENTS AND **9**

Completion, Substantial

3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Compliance with Laws

2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1

Construction Schedules, Contractor's

3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.4

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 5.4.2, 11.5, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating to

3.7.1, 3.10, 5.2, 6.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3

Contract Documents, Definition of

1.1.1

Contract Sum

2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, **9.1**, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5**, **15.2.5**

Contract Sum, Definition of

9.1

Contract Time

1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5

Contract Time, Definition of

8.1.1

CONTRACTOR

3

Contractor, Definition of

3.1, **6.1.2**

3

Contractor, Definition of

3.1, **6.1.2**

Contractor's Construction and Submittal Schedules

3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees
2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance

11.1

Contractor's Relationship with Separate Contractors
and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Contractor's Relationship with Subcontractors

1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7,
9.10.2, 11.2, 11.3, 11.4

Contractor's Relationship with the Architect

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,
3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2,
7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3,
11.3, 12, 13.4, 15.1.3, 15.2.1

Contractor's Representations

3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the
Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents

3.2

Contractor's Right to Stop the Work

2.2.2, 9.7

Contractor's Right to Terminate the Contract

14.1

Contractor's Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2,
9.8.3, 9.9.1, 9.10.2, 9.10.3

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction

Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3,
7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4

Coordination and Correlation

1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications

1.5, 2.3.6, 3.11

Copyrights

1.5, **3.17**

Correction of Work

2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3,
15.1.3.1, 15.1.3.2, 15.2.1

Correlation and Intent of the Contract Documents

1.2

Cost, Definition of

7.3.4

Costs

2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3,
7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2,
12.1.2, 12.2.1, 12.2.4, 13.4, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate
Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2,
11.3, 14.2.4, 15.1.7

Damages for Delay

6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

Date of Commencement of the Work, Definition of

8.1.2

Date of Substantial Completion, Definition of

8.1.3

Day, Definition of

8.1.4

Decisions of the Architect

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4,
7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2,
14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance,
Rejection and Correction of

2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3,
9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1,
6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1

Delays and Extensions of Time

3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**,
10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5

Digital Data Use and Transmission

1.7

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

3.11

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of

3.11

Effective Date of Insurance

8.2.2

Emergencies

10.4, 14.1.1.2, **15.1.5**

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2,
10.3.3, 11.3, 14.1, 14.2.1.1

Equipment, Labor, or Materials

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3,
9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work

1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1,
3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1,
9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
10.4, 14.3, 15.1.6, **15.2.5**

Failure of Payment

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Faulty Work

(See Defective or Nonconforming Work)

Final Completion and Final Payment

4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,

9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision

15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5, **11**

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

11.2

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,

9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,

15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of

12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,

4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,

11.3, 12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,

5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, **10.3**

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,

10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

Init.

/

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2

Notice

1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2, 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance

11.1.4, 11.2.3

Notice of Claims

1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections

13.4.1, 13.4.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements

2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work

2.5, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

Ownership and Use of Drawings, Specifications and Other Instruments of Service

1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3

Payment, Certificates for

4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4

Payment, Failure of

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4

Progress Payments

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Init.

/

Project, Definition of
1.1.4
Project Representatives
4.2.10
Property Insurance
10.2.5, **11.2**
Proposal Requirements
1.1.1
PROTECTION OF PERSONS AND PROPERTY
10
Regulations and Laws
1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1,
10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work
4.2.6, 12.2.1
Releases and Waivers of Liens
9.3.1, 9.10.2
Representations
3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives
2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work
3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage
9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field
Conditions by Contractor
3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and
Architect
3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and Samples
by Contractor
3.12
Rights and Remedies
1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,
6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2,
12.2.4, **13.3**, 14, 15.4
Royalties, Patents and Copyrights
3.17
Rules and Notices for Arbitration
15.4.1
Safety of Persons and Property
10.2, 10.4
Safety Precautions and Programs
3.3.1, 4.2.2, 4.2.7, 5.3, **10.1**, 10.2, 10.4
Samples, Definition of
3.12.3
Samples, Shop Drawings, Product Data and
3.11, **3.12**, 4.2.7
Samples at the Site, Documents and
3.11
Schedule of Values
9.2, 9.3.1
Schedules, Construction
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Separate Contracts and Contractors
1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of
6.1.1
Shop Drawings, Definition of
3.12.1
Shop Drawings, Product Data and Samples
3.11, **3.12**, 4.2.7
Site, Use of
3.13, 6.1.1, 6.2.1
Site Inspections
3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing
4.2.6, 12.2.1, 13.4
Specifications, Definition of
1.1.6
Specifications
1.1.1, **1.1.6**, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14
Statute of Limitations
15.1.2, 15.4.1.1
Stopping the Work
2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials
6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of
5.1.1
SUBCONTRACTORS
5
Subcontractors, Work by
1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2,
9.6.7
Subcontractual Relations
5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8,
9.9.1, 9.10.2, 9.10.3
Submittal Schedule
3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of
6.1.1, **11.3**
Substances, Hazardous
10.3
Substantial Completion
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2,
15.1.2
Substantial Completion, Definition of
9.8.1
Substitution of Subcontractors
5.2.3, 5.2.4
Substitution of Architect
2.3.3
Substitutions of Materials
3.4.2, 3.5, 7.3.8
Sub-subcontractor, Definition of
5.1.2

Subsurface Conditions
3.7.4

Successors and Assigns
13.2

Superintendent
3.9, 10.2.6

Supervision and Construction Procedures
1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3,
7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers
1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6,
9.10.5, 14.2.1

Surety
5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2,
15.2.7

Surety, Consent of
9.8.5, 9.10.2, 9.10.3

Surveys
1.1.7, 2.3.4

Suspension by the Owner for Convenience
14.3

Suspension of the Work
3.7.5, 5.4.2, 14.3
Suspension or Termination of the Contract
5.4.1.1, 14

Taxes
3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor
14.1, 15.1.7

Termination by the Owner for Cause
5.4.1.1, **14.2**, 15.1.7

Termination by the Owner for Convenience
14.4

Termination of the Architect
2.3.3
Termination of the Contractor Employment
14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14
Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,
9.9.2, 9.10.1, 10.3.2, 12.2.1, **13.4**

TIME
8

Time, Delays and Extensions of
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7,
10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,
5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1,
9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2,
15.1.3, 15.4

Time Limits on Claims
3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work
9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK
12

Uncovering of Work
12.1
Unforeseen Conditions, Concealed or Unknown
3.7.4, 8.3.1, 10.3

Unit Prices
7.3.3.2, 9.1.2

Use of Documents
1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site
3.13, 6.1.1, 6.2.1

Values, Schedule of
9.2, 9.3.1
Waiver of Claims by the Architect
13.3.2

Waiver of Claims by the Contractor
9.10.5, 13.3.2, **15.1.7**

Waiver of Claims by the Owner
9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, **15.1.7**
Waiver of Consequential Damages
14.2.4, 15.1.7

Waiver of Liens
9.3, 9.10.2, 9.10.4

Waivers of Subrogation
6.1.1, **11.3**

Warranty
3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2,
15.1.2

Weather Delays
8.3, 15.1.6.2

Work, Definition of
1.1.3

Written Consent
1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,
13.2, 13.3.2, 15.4.4.2

Written Interpretations
4.2.11, 4.2.12

Written Orders
1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. Any agreement to such protocols shall be included in the

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Contract Documents as "BIM Addendum," or other agreed designation. The Owner shall cause an identical version of the BIM Addendum, if any, to be appended or incorporated into all written agreements between the Owner and any design professional performing obligations to be modeled.

§ 1.9 ORDER OF PRECEDENCE

§ 1.9.1 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of the omissions or errors in figures, drawings or specifications, the Contractor shall immediately submit the matter to the Architect for clarification. The Architect's clarifications are final and binding on all parties, subject to an equitable adjustment in Contact Time or Price pursuant to Articles 7 and 8 or claims and disputes in accordance with Article 15.

§ 1.9.2 Where figures are given, they shall be preferred to scaled dimensions.

§ 1.9.3 Any terms that have well-known technical or trade meanings, unless otherwise specifically defined in the Contract Documents, shall be interpreted in accordance with the well-known meanings.

§ 1.9.4 In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the following order:

- a. Change order and written Modifications to this Agreement
- b. this Agreement
- c. drawings (large scale governing over small scale)
- d. approved submittals
- e. information furnished by the Owner
- f. other documents listed in the Agreement (Among categories of documents having the same order of precedence, the term or provision that includes the most recent date shall control).

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. Prior to commencement of the Work, the Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Owner hereby agrees that Contractor shall not be liable or responsible in any manner whatsoever for any claims, damages, expenses, costs, errors, or omissions arising out of the professional services performed by the Architect or other design professionals, whether through indemnity or otherwise. The Owner's sole recourse shall be against the Architect, or other design professionals performing such professional services, and any insurance procured by the Architect.

To the extent that the Owner requires, or the Contractor otherwise provides, any incidental services, construction consulting, or value engineering, the Owner acknowledges that such services are advisory and are not professional design services. The Owner shall, with due diligence, refer such questions, matters and inquiries to the design professionals, and the Contractor shall have no liability to the Owner or to the Architect or its consultants for such services required by the Owner and rendered hereunder.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions

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and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. Unless otherwise required by the Contract Documents, the Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures required by the Contract Documents may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall, upon discovery, notify the Architect in writing, and necessary changes shall be accomplished by appropriate Modifications. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

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§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not

expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor, in making this representation, is relying on the Architect to have fully coordinated the design drawings.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design criteria expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form required by the Contract Documents.

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§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The obligations of the Contractor shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them, including but not limited to any liability arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants and agents and employees of any of them.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor in writing of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. To the extent the Owner chooses to perform construction or operations related to the Project, or to award separate contracts in connection with other portions of the Project or other construction or operations on the site, the Owner shall be required to secure a separate permit for that Work, if required by the authority having jurisdiction. Regardless, the Owner shall ensure that the Contractor is listed as an additional insured on the Separate Contractor's general liability and excess liability policy. If the Contractor claims that delay or additional cost is involved because of performance of construction or operations of Separate Contractors, of such action by the Owner or its Separate Contractors, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractors..

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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

§ 7.3 Construction Change Directives

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

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

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

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time. Notwithstanding, in the event the Architect has issued multiple Additional Supplementary Instructions that, in the aggregate, result in the changes justifying an adjustment in Contract Sum or extension of the Contract Time, Contractor shall be entitled to submit a request for an equitable adjustment.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, epidemics, pandemics, or other designated health emergency, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from first-tier Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

However, in no event shall the Architect refuse to certify or shall the Owner withhold payment of an amount greater than that which is sufficient to pay the direct expenses the Owner reasonably expects to incur to correct any of the above reasons set forth by the Architect for withholding certification.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 [Intentionally Omitted]

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.7.1 Upon execution of the Agreement, Contractor shall provide Owner with written payment instructions and all necessary forms required by Owner to effectuate payments to Contractor by wire transfer (the "Payment Information"). Contractor shall submit the initial Payment information to Owner by certified mail or hand delivery only. If Owner receives a request to change such Payment Information, Owner agrees that it will not modify or make change to this Payment Information without oral communication, followed by written confirmation, from Contractor's Controller. Owner shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein. If Owner makes any change to the Payment Information without first receiving the confirmations stated herein, it shall be solely responsible for any monies lost or stolen and not paid to Contractor as required under the terms of this Agreement.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

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

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

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

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of

the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or

polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

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

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

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

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.3.7 Unless required by the Contract Documents, the Contractor shall not be required to perform, without consent, any Work relating to mold, asbestos, or polychlorinated biphenyl ("PCB"). The Contractor shall perform no work involving toxic, contaminant, contaminated or hazardous material of any type, which removal or responsibility to render harmless is the Owner's obligation.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. The cost of the Contractor-procured property insurance shall be charged to the Owner by a Change Order. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. If the Owner does not provide written notice to the Contractor of the Owner's failure to procure the required property insurance with all of the coverage and in the amounts described in the Contract Documents, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain such insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto. In the event the Owner fails to procure the required property insurance with all of the amounts described in the Contract Documents, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner with respect to damage to the Work, furnishings, fixtures, equipment, and materials intended to be incorporated into the permanent structure, and consequential damages stemming therefrom.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide written notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3)

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Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, or delay in completion due to fire or other causes of loss. The Owner waives all rights of action against the Contractor, Subcontractors, Sub-subcontractors, Separate Contractors, and Architect for loss of use of the Owner's property, the inability to conduct normal operations, or delay in completion, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of written notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before or After Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. In the event Work is uncovered and determined as conforming to the Contract Documents the costs of recovering and replacement, including compensation for Contractor's service and expenses, shall be at the Owner's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense. If such procedures reveal the Work complies with the Contract Documents, all such costs shall be at the Owner's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,

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the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

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

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

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

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

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§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5.1 Where the price of material, equipment or energy increases significantly during the term of the Contract, through no fault of the Contractor, the Contract Sum shall be equitably adjusted by Change Order as provided in Section 7 of the General Conditions of the Contract. A significant price increase means a change in price from the date of Contract execution to the date of performance by an amount exceeding five percent (5%). Such price increases shall be documented by available vendor quotes, estimates, invoices, catalogs, receipts, or other documentation.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data

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from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 15.2.9 If the Parties cannot reach resolution on a matter relating to or arising out of the Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of the first discussions. If the Parties' representatives are not able to resolve such matter within five (5) business days of the date of first discussion, the Parties' representative shall immediately inform senior executives of the Parties in writing that resolution was not achieved. Upon receipt of such notice, senior executives of the Parties shall meet within five (5) business days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by a mediator jointly chosen and approved by the parties. The mediation shall be conducted according to the American Arbitration Association Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

§ 15.3.3 [Intentionally Omitted]

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

§ 15.4 Arbitration

§ 15.4.1 [Intentionally Omitted]

§ 15.4.1.1 [Intentionally Omitted]

§ 15.4.2 [Intentionally Omitted]

§ 15.4.3 [Intentionally Omitted]

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 [Intentionally Omitted]

§ 15.4.4.2 [Intentionally Omitted]

§ 15.4.4.3 [Intentionally Omitted]

§ 15.5 If the claim, dispute, or other matter in controversy is unresolved after submission of the matter to mediation, either party may submit the matter to litigation in either the United States District Court for the Middle District of Tennessee or the courts of the State of Tennessee sitting in Williamson County.

ARTICLE 16 RENOVATIONS OR ADDITIONS TO AN EXISTING STRUCTURE AND TEMPORARY UTILITIES

§ 16.1 Investigation, Analysis, and Testing

§ 16.1.1 The Contractor has not investigated or determined the current conditions of the existing superstructure, building systems and the adequacy of utilities that may impact Contractor’s performance of the Work. The cost of correcting any such deficiencies is not included within the GMP.

Additions and Deletions Report for AIA® Document A201® – 2017

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PAGE 1

Franklin Special School District New Central Office
205 Eddy Lane
Franklin, TN 37064

...

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

...

HFR Design
214 Centerview Drive, Suite 300
Brentwood, TN 37027

PAGE 2

15 **CLAIMS AND DISPUTES**

16 **RENOVATIONS OR ADDITIONS TO AN EXISTING STRUCTURE AND TEMPORARY UTILITIES**

PAGE 11

~~The parties shall agree upon protocols governing the transmission and use of~~ If the parties intend to transmit Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

...

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model ~~and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form,~~ shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. Any agreement to such protocols shall be included in the Contract Documents as "BIM Addendum," or other agreed designation. The Owner shall cause an identical version of the BIM Addendum, if any, to be appended or incorporated into all written agreements between the Owner and any design professional performing obligations to be modeled.

§ 1.9 ORDER OF PRECEDENCE

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User Notes:

(1650550090)

§ 1.9.1 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of the omissions or errors in figures, drawings or specifications, the Contractor shall immediately submit the matter to the Architect for clarification. The Architect's clarifications are final and binding on all parties, subject to an equitable adjustment in Contact Time or Price pursuant to Articles 7 and 8 or claims and disputes in accordance with Article 15.

§ 1.9.2 Where figures are given, they shall be preferred to scaled dimensions.

§ 1.9.3 Any terms that have well-known technical or trade meanings, unless otherwise specifically defined in the Contract Documents, shall be interpreted in accordance with the well-known meanings.

§ 1.9.4 In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the following order:

- a. Change order and written Modifications to this Agreement
- b. this Agreement
- c. drawings (large scale governing over small scale)
- d. approved submittals
- e. information furnished by the Owner
- f. other documents listed in the Agreement (Among categories of documents having the same order of precedence, the term or provision that includes the most recent date shall control).

PAGE 12

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. ~~The Prior to commencement of the Work,~~ the Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

PAGE 13

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

PAGE 14

§ 3.1.4 The Owner hereby agrees that Contractor shall not be liable or responsible in any manner whatsoever for any claims, damages, expenses, costs, errors, or omissions arising out of the professional services performed by the Architect or other design professionals, whether through indemnity or otherwise. The Owner's sole recourse shall be against the Architect, or other design professionals performing such professional services, and any insurance procured by the Architect.

To the extent that the Owner requires, or the Contractor otherwise provides, any incidental services, construction consulting, or value engineering, the Owner acknowledges that such services are advisory and are not professional design services. The Owner shall, with due diligence, refer such questions, matters and inquiries to the design professionals, and the Contractor shall have no liability to the Owner or to the Architect or its consultants for such services required by the Owner and rendered hereunder.

...

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by ~~or made known to the Contractor as a request for information in such form as the Architect may require.~~ Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by ~~or made known to the Contractor as a request for information in such form as the Architect may require.~~

PAGE 15

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. ~~The~~ Unless otherwise required by the Contract Documents, the Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures required by the Contract Documents may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

PAGE 16

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall, upon discovery, notify the Architect in writing, and necessary changes shall be accomplished by appropriate Modifications. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

...

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, ~~Contractor in writing,~~ stating the reasons. If either party disputes the Architect's determination or recommendation, that party may ~~submit a Claim~~ proceed as provided in Article 15.

PAGE 17

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, schedule the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

PAGE 18

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor, in making this representation, is relying on the Architect to have fully coordinated the design drawings.

...

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design ~~concept expressed~~ criteria expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified ~~required~~ by the Architect. Contract Documents.

PAGE 19

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, by the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

PAGE 20

§ 3.18.3 The obligations of the Contractor shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them, including but not limited to any liability arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants and agents and employees of any of them.

PAGE 21

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions ~~or~~ or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

...

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor in writing of any change in the duties, responsibilities and limitations of authority of the Project representatives.

PAGE 23

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. To the extent the Owner chooses to perform construction or operations related to the Project, or to award separate contracts in connection with other portions of the Project or other construction or operations on the site, the Owner shall be required to secure a separate permit for that Work, if required by the authority having jurisdiction. Regardless, the Owner shall ensure that the Contractor is listed as an additional insured on the Separate Contractor's general liability and excess liability policy. If the Contractor claims that delay or additional cost is involved because of performance of construction or operations of Separate Contractors, of such action by the Owner or its Separate Contractors, the Contractor shall make such Claim as provided in Article 15.

...

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor ~~that are not apparent.~~ Contractors.

PAGE 25

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be ~~in writing.~~ writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time. Notwithstanding, in the event the Architect has issued multiple Additional Supplementary Instructions that, in the aggregate, result in the changes justifying an adjustment in Contract Sum or extension of the Contract Time, Contractor shall be entitled to submit a request for an equitable adjustment.

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, epidemics, pandemics, or other designated health emergency, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

...

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from first-tier Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

However, in no event shall the Architect refuse to certify or shall the Owner withhold payment of an amount greater than that which is sufficient to pay the direct expenses the Owner reasonably expects to incur to correct any of the above reasons set forth by the Architect for withholding certification.

...

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment. **[Intentionally Omitted]**

§ 9.7.1 Upon execution of the Agreement, Contractor shall provide Owner with written payment instructions and all necessary forms required by Owner to effectuate payments to Contractor by wire transfer (the "Payment Information"). Contractor shall submit the initial Payment information to Owner by certified mail or hand delivery only. If Owner receives a request to change such Payment Information, Owner agrees that it will not modify or make change to this Payment Information without oral communication, followed by written confirmation, from Contractor's Controller. Owner shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein. If Owner makes any change to the Payment Information without first receiving the confirmations stated herein, it shall be solely responsible for any monies lost or stolen and not paid to Contractor as required under the terms of this Agreement.

§ 10.3.7 Unless required by the Contract Documents, the Contractor shall not be required to perform, without consent, any Work relating to mold, asbestos, or polychlorinated biphenyl ("PCB"). The Contractor shall perform no work involving toxic, contaminant, contaminated or hazardous material of any type, which removal or responsibility to render harmless is the Owner's obligation.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that

will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. The cost of the Contractor-procured property insurance shall be charged to the Owner by a Change Order. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. If the Owner does not provide written notice to the Contractor of the Owner's failure to procure the required property insurance with all of the coverage and in the amounts described in the Contract Documents, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain such insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto. In the event the Owner fails to procure ~~coverage,~~ the required property insurance with all of the amounts described in the Contract Documents, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. ~~The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.~~ Owner with respect to damage to the Work, furnishings, fixtures, equipment, and materials intended to be incorporated into the permanent structure, and consequential damages stemming therefrom.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide written notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

PAGE 34

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, or delay in completion due to fire or other causes of loss. The Owner waives all rights of action against the ~~Contractor~~ Contractor, Subcontractors, Sub-subcontractors, Separate Contractors, and Architect for loss of use of the Owner's property, the inability to conduct normal operations, or delay in completion, due to fire or other hazards however caused.

...

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of written notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

PAGE 35

§ 12.2.1 Before or After Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. In the event Work is uncovered and determined as conforming to the Contract Documents the

costs of recovering and replacement, including compensation for Contractor's service and expenses, shall be at the Owner's expense.

PAGE 36

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense. If such procedures reveal the Work complies with the Contract Documents, all such costs shall be at the Owner's expense.

PAGE 39

§ 15.1.5.1 Where the price of material, equipment or energy increases significantly during the term of the Contract, through no fault of the Contractor, the Contract Sum shall be equitably adjusted by Change Order as provided in Section 7 of the General Conditions of the Contract. A significant price increase means a change in price from the date of Contract execution to the date of performance by an amount exceeding five percent (5%). Such price increases shall be documented by available vendor quotes, estimates, invoices, catalogs, receipts, or other documentation.

PAGE 40

§ 15.2.9 If the Parties cannot reach resolution on a matter relating to or arising out of the Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of the first discussions. If the Parties' representatives are not able to resolve such matter within five (5) business days of the date of first discussion, the Parties' representative shall immediately inform senior executives of the Parties in writing that resolution was not achieved. Upon receipt of such notice, senior executives of the Parties shall meet within five (5) business days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

...

§ 15.3.2 ~~The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its a mediator jointly chosen and approved by the parties. The mediation shall be conducted according to the American Arbitration Association Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

§ 15.3.3 ~~Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision. [Intentionally Omitted]~~

PAGE 41

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

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.[Intentionally Omitted]~~

~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.[Intentionally Omitted]~~

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.[Intentionally Omitted]~~

~~...~~

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).[Intentionally Omitted]~~

~~§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.[Intentionally Omitted]~~

~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.[Intentionally Omitted]~~

~~§ 15.5 If the claim, dispute, or other matter in controversy is unresolved after submission of the matter to mediation, either party may submit the matter to litigation in either the United States District Court for the Middle District of Tennessee or the courts of the State of Tennessee sitting in Williamson County.~~

ARTICLE 16 RENOVATIONS OR ADDITIONS TO AN EXISTING STRUCTURE AND TEMPORARY UTILITIES

§ 16.1 Investigation, Analysis, and Testing

~~§ 16.1.1 The Contractor has not investigated or determined the current conditions of the existing superstructure, building systems and the adequacy of utilities that may impact Contractor's performance of the Work. The cost of correcting any such deficiencies is not included within the GMP.~~

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:10:27 ET on 09/13/2021 under Order No. 6551960194 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA[®] Document A133[™] – 2019 Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 16th day of June in the year 2021
(In words, indicate day, month and year.)

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

Franklin Special School District New Central Office
205 Eddy Lane
Franklin, TN 37064

THE OWNER:
(Name, legal status, and address)

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

Nabholz Construction Corporation
3415 One Place
Jonesboro, AR 72404

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 OWNER’S INSURANCE**
- B.3 CONSTRUCTION MANAGER’S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201[™]-2017, General Conditions of the Contract for Construction, as modified.

ARTICLE B.2 OWNER’S INSURANCE

§ B.2.1 General

§ B2.1.1 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager’s request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

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.

This document is intended to be used in conjunction with AIA Document A201[™]-2017, General Conditions of the Contract for Construction. Article 11 of A201[™]-2017 contains additional insurance provisions.

§ B2.1.2 The Owner shall take reasonable steps to require its separate contractors to name the Owner and Contractor as Additional Insureds on the separate contractors' general liability insurance policies and file certificates of insurance with the Owner showing such compliance prior to commencing Work at the Project site.

§ B.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance with coverage limits of no less than \$2,000,000.00 per occurrence.

§ B.2.3 Required Property Insurance – Contractor Provided Builder's Risk

§ B.2.3.1 Unless directed otherwise in writing by Owner, Contractor shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, builder's risk insurance written on an "all-risks" policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. This builder's risk insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of any labor performed and materials, furnishings, equipment or fixtures. Owner will provide advance written notice to Contractor if materials, furnishings, or equipment supplied by others should be covered under the builder's risk insurance. The builder's risk insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ B.2.3.1.1 Causes of Loss. The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire (with extended coverage), physical loss or damage, explosion, theft, vandalism, malicious mischief, collapse, earthquake, earth movement, flood, water damage, rain damage, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss

Sub-Limit

§ B.2.3.1.2 Specific Required Coverages. The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to falsework, temporary structures, building systems, and construction forms, including, cribbing and scaffolding, falsework, and from testing and startup (both cold and hot testing). The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, utility replacement costs and fees, general conditions costs including supervision, third party consultants for inspections and testing, all local, state, and federal permits, fees and inspections, business interruption and expediting expenses, "soft costs" including reasonable compensation for A/E services, interest, taxes, advertising expenses, insurance and legal and accounting expenses, portions of the Work and materials stored off-site, portions of the Work and materials stored on-site but not yet incorporated into the Work, and portions of the Work in transit, required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage

Sub-Limit

TBD based upon Project

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall assure continuation of the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions if Owner provides the coverage.

§ B.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing. In the event Owner fails to obtain any necessary insurer consent to occupy prior to Substantial Completion, and such failure results in a loss or reduction of insurance coverage, Owner shall bear all risk of loss and waives all its rights of action against Contractor, Subcontractors, and Sub-subcontractors for such loss.

§ B.2.3.3 Insurance for Existing Structures

Unless the parties agree in writing otherwise, if the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance for the value of such existing structure and any of its contents, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner agrees that the insured value of the existing structure and any contents under this property insurance policy is the sole source of recovery to the Owner in the event of a loss, or losses exceeding the insured value of the existing structure. The Owner shall waive all rights for damages to such existing structure and its contents and shall waive subrogation rights in favor of Contractor, Subcontractor, Sub-subcontractors, agents and their respective employees. If there are any coinsurance penalties, or losses otherwise uninsured, Owner shall pay uninsured losses to the Work.

§ B.2.4 Optional Extended Property Insurance.

(Paragraph deleted)

[Intentionally Omitted]

(Paragraphs deleted)

§ B.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

§ B.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)

§ B.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits
Worker's Compensation	Statutory Limit
Employer's Liability	\$1,000,000 each accident for bodily injury \$1,000,000 each employee for bodily injury by disease \$1,000,000 per policy for bodily injury by disease
Business Auto	\$2,000,000 combined single limit including Hired and Non-Owned Auto

§ B.2.6 Risk of Loss. If Owner elects not to purchase the Optional Insurance, Owner shall bear the risk of loss and waives all rights of action against Contractor, Subcontractors, and Sub-subcontractors for uninsured loss.

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the

Owner's written request. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. If requested, the Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager. The Contractor shall be responsible for all loss not covered because of such deductibles or retentions when providing the Builder's Risk coverage.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, Owner's board, departments, and employees as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 04 13, CG 20 3 04 13.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: *(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)*

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of Two Million Dollars (\$ 2,000,000) each occurrence, Two Million Dollars (\$ 2,000,000) general aggregate, and Two Million Dollars (\$ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions, as modified.

The CGL policy shall not exclude coverage for explosion, collapse, and underground hazard.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of Two Million Dollars (\$ 2,000,000) 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.

§ B.3.2.4 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 such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, 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.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits of One Million Dollars (\$ 1,000,000) each accident for bodily injury, One Million Dollars (\$ 1,000,000) each employee for bodily injury by disease, and One Million Dollars (\$ 1,000,000) policy limit for bodily injury by disease.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.11 If required, insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of (\$) per claim and (\$) in the aggregate.

§ B.3.2.12 If required, insurance for the use or operation of unmanned aircraft, if the Work requires such activities, with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required completed operations insurance for a period of three (3) years following the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

Init.

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

§ B.3.3.2.1 Builder’s Risk insurance on an "all-risks" form of the type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations under Section B.2.3 except to the extent provided below. The Construction Manager shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the builder’s risk insurance policy or policies required. Unless otherwise indicated below, the Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the Builder’s Risk insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

Contractor will be responsible for adjusting and settling a loss with the insurer and act as trustee of the proceeds of insurance under a Contractor-provided Builder’s Risk policy.

§ B.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate, for Work within fifty (50) feet of railroad property.

§ B.3.3.2.3 Asbestos Abatement Liability Insurance, under a Pollution Liability policy with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

§ B.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

§ B.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type

Penal Sum (\$0.00)

Payment Bond

Performance Bond

Payment and Performance Bonds shall be on the appropriate AIA forms or compatible bond forms provided by the Surety Company.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

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

NabModel Version 07.31.2020



Init.

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User Notes:

(2016824647)

Additions and Deletions Report for AIA[®] Document A133™ – 2019 Exhibit B

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:13:57 ET on 09/13/2021.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 16th day of June in the year 2021

...

Franklin Special School District New Central Office
205 Eddy Lane
Franklin, TN 37064

...

Franklin Special School District
507 New Hwy 96 West
Franklin, TN 37064

...

Nabholz Construction Corporation
3415 One Place
Jonesboro, AR 72404

...

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for ~~Construction~~Construction, as modified.

...

~~Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.~~ § B2.1.1 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B2.1.2 The Owner shall take reasonable steps to require its separate contractors to name the Owner and Contractor as Additional Insureds on the separate contractors' general liability insurance policies and file certificates of insurance with the Owner showing such compliance prior to commencing Work at the Project site.

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance with coverage limits of no less than \$2,000,000.00 per occurrence.

§ B.2.3 Required Property Insurance – Contractor Provided Builder's Risk

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner directed otherwise in writing by Owner, Contractor shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, ~~property insurance written on a builder's risk "all-risks" completed value or equivalent builder's risk insurance written on an "all-risks" policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property-~~ This builder's risk insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property cost of any labor performed and materials, furnishings, equipment or fixtures. Owner will provide advance written notice to Contractor if materials, furnishings, or equipment supplied by others should be covered under the builder's risk insurance. The builder's risk insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ B.2.3.1.1 Causes of Loss. The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of ~~fire, fire (with extended coverage), physical loss or damage,~~ explosion, theft, vandalism, malicious mischief, collapse, earthquake, earth movement, flood, water damage, rain damage, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

...

§ B.2.3.1.2 Specific Required Coverages. The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to ~~falsework and other temporary structures, and to building systems from testing and startup.~~ falsework, temporary structures, building systems, and construction forms, including, cribbing and scaffolding, falsework, and from testing and startup (both cold and hot testing). The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, ~~and reasonable compensation for the Architect's and Construction Manager's services and expenses~~ utility replacement costs and fees, general conditions costs including supervision, third party consultants for inspections and testing, all local, state, and federal permits, fees and inspections, business interruption and expediting expenses, "soft costs" including reasonable compensation for A/E services, interest, taxes, advertising expenses, insurance and legal and accounting expenses, portions of the Work and materials stored off-site, portions of the Work and materials stored on-site but not yet incorporated into the Work, and portions of the Work in transit, required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

...

TBD based upon Project

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall ~~continue assure~~ continuation of the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or ~~retentions-~~ retentions if Owner provides the coverage.

§ B.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing. In the event Owner fails to obtain any necessary insurer consent to occupy prior to Substantial Completion, and such failure results in a loss or reduction of insurance coverage, Owner shall bear all risk of loss and waives all its rights of action against Contractor, Subcontractors, and Sub-subcontractors for such loss.

PAGE 3

~~If Unless the parties agree in writing otherwise, if the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, insurance for the value of such existing structure and any of its contents, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties. The Owner agrees that the insured value of the existing structure and any contents under this property insurance policy is the sole source of recovery to the Owner in the event of a loss, or losses exceeding the insured value of the existing structure. The Owner shall waive all rights for damages to such existing structure and its contents and shall waive subrogation rights in favor of Contractor, Subcontractor, Sub-subcontractors, agents and their respective employees. If there are any coinsurance penalties, or losses otherwise uninsured, Owner shall pay uninsured losses to the Work.~~

...

~~The Owner shall purchase and maintain the insurance selected and described below.~~

~~(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)~~[Intentionally Omitted]

~~**§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.~~

~~**§ B.2.4.2 Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.~~

~~**§ B.2.4.3 Expediting Cost Insurance,** for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.~~

~~**§ B.2.4.4 Extra Expense Insurance,** to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.~~

~~**§ B.2.4.5 Civil Authority Insurance,** for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.~~

§ B.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

§ B.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ B.2.5 Other Optional Insurance.

...

§ B.2.5.2 Other Insurance

...

<u>Worker's Compensation</u>	<u>Statutory Limit</u>
<u>Employer's Liability</u>	<u>\$1,000,000 each accident for bodily injury</u>
	<u>\$1,000,000 each employee for bodily injury by disease</u>
	<u>\$1,000,000 per policy for bodily injury by disease</u>
<u>Business Auto</u>	<u>\$2,000,000 combined single limit including Hired and Non-Owned Auto</u>

§ B.2.6 Risk of Loss. If Owner elects not to purchase the Optional Insurance, Owner shall bear the risk of loss and waives all rights of action against Contractor, Subcontractors, and Sub-subcontractors for uninsured loss.

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§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The If requested, the Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager. The Contractor shall be responsible for all loss not covered because of such deductibles or retentions when providing the Builder's Risk coverage.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, ~~the Architect, and the Architect's consultants~~ Owner's board, departments, and employees as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and

non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.04 13, CG 20 3 04 13.

PAGE 4

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than ~~(\$)~~ each occurrence, ~~(\$)~~ general aggregate, and ~~(\$ Two Million Dollars (\$ 2,000,000)~~ each occurrence, Two Million Dollars (\$ 2,000,000) general aggregate, and Two Million Dollars (\$ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

...

- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General ~~Conditions~~Conditions, as modified.

The CGL policy shall not exclude coverage for explosion, collapse, and underground hazard.

PAGE 5

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than ~~(\$ Two Million Dollars (\$ 2,000,000)~~ 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.

...

§ B.3.2.6 Employers' Liability with policy limits not less than ~~(\$)~~ each accident, ~~(\$)~~ each employee, and ~~(\$)~~ policy limit of One Million Dollars (\$ 1,000,000) each accident for bodily injury, One Million Dollars (\$ 1,000,000) each employee for bodily injury by disease, and One Million Dollars (\$ 1,000,000) policy limit for bodily injury by disease.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and ~~docks~~docks.

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$ Two Million Dollars (\$ 2,000,000)~~ per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$ Two Million Dollars (\$ 2,000,000)~~ per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ~~(\$)~~ per claim and ~~(\$ Two Million Dollars (\$ 2,000,000)~~ per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

§ B.3.2.11 ~~Insurance~~If required, insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$)~~ in the aggregate.

§ B.3.2.12 ~~Insurance~~If required, insurance for the use or operation of ~~manned or~~ unmanned aircraft, if the Work requires such activities, with policy limits of not less than ~~(\$)~~ per claim and ~~(\$ Two Million Dollars (\$ 2,000,000)~~ per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.

...

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

Construction Manager shall maintain the required ~~insurance until completed operations insurance~~ for a period of three (3) years following the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

PAGE 6

- § B.3.3.2.1 ~~Property insurance of the same~~ Builder's Risk insurance on an "all-risks" form of the type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall ~~disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property-builder's risk insurance policy or policies required. The~~ Unless otherwise indicated below, the Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property-Builder's Risk insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below.

Additionally, if a party other than the Owner Contractor will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

act as trustee of the proceeds of insurance under a Contractor-provided Builder's Risk policy.

- § B.3.3.2.2 **Railroad Protective Liability Insurance**, with policy limits of ~~not less than~~ (\$) per claim and (\$ Two Million Dollars (\$ 2,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate, for Work within fifty (50) feet of railroad property.
- § B.3.3.2.3 **Asbestos Abatement Liability Insurance**, with ~~policy limits of not less than~~ (\$) per claim and (\$ under a Pollution Liability policy with policy limits of Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- § B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- § B.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

PAGE 7

Payment and Performance Bonds shall be ~~AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement on the appropriate AIA forms or compatible bond forms provided by the Surety Company.~~

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NabModel Version 07.31.2020

CONTRACT TO AUDIT ACCOUNTS

OF

Franklin Special School District

FROM July 01, 2021 TO June 30, 2022

This agreement made this 25th day of August 2021, by and between Matlock Clements, PC, 270 Glenis Drive, Suite A, Murfreesboro, TN 37129, hereinafter referred to as the "auditor" and Franklin Special School District, of 507 New Hwy 96, West, Franklin, TN 37064, hereinafter referred to as the "organization", as follows:

1. In accordance with the requirements of the laws and/or regulations of the State of Tennessee, the auditor shall perform a financial and compliance audit of the organization for the period beginning July 01, 2021, and ending June 30, 2022 with the exceptions listed below:

2. The auditor shall conduct the audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and requirements prescribed by the Comptroller of the Treasury, State of Tennessee, as detailed in the *Audit Manual*. Additional information and procedures necessary to comply with requirements of governments other than the State of Tennessee are permissible provided they do not conflict with or undermine the requirements previously referenced. If applicable, the audit is to be conducted in accordance with the provisions of the Single Audit Act and Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*. The audit is also to be conducted in accordance with any other applicable federal agency requirements. It is agreed that this audit will conform to standards, procedures, and reporting requirements established by the Comptroller of the Treasury. It is further agreed that any deviation from these standards and procedures will be approved in writing by the Comptroller of the Treasury prior to the execution of the contract. The interpretation of this contract shall be governed by the above-mentioned publications and the laws of the State of Tennessee.

3. The auditor shall, as part of the written audit report, submit to the organization's management and those charged with governance:

- a) a report containing an expression of an unmodified or modified opinion on the financial statements, as prescribed by the *Audit Manual*. This report shall state the audit was performed in accordance with *Government Auditing Standards*, except when a disclaimer of opinion is issued. If the organization is a component unit or fund of another entity, it is agreed that: (a) the financial statements may be included in the financial statements of the other entity; (b) the principal auditor for the other entity may rely upon the contracted auditor's report; and (c) any additional information required by the principal auditor of the other entity will be provided in a timely manner.
- b) a report on the internal control and on compliance with applicable laws and regulations and other matters. This report shall be issued regardless of whether the organization received any federal funding. Audit reports of entities which are subject to the provisions of the Single Audit Act and OMB's Uniform Guidance shall include the additional reports required by that guidance. The reports will set forth findings, recommendations for improvement, concurrence or nonconcurrence of appropriate officials with the audit findings, comments on management's responses as appropriate, and comments on the disposition of prior year findings.

4. If a management letter or any other reports or correspondence relating to other matters involving internal controls or noncompliance are issued in connection with this audit, a copy shall be filed with the Comptroller of the Treasury by the auditor. Such management letters, reports, or correspondence shall be consistent with the findings published in the audit report (i.e., they shall disclose no reportable matters or significant deficiencies not also disclosed in the findings found in the published audit report). The report should also include a corrective action plan for findings developed under OMB's Uniform Guidance and for other findings in accordance with Section 9-3-407, *Tennessee Code Annotated* and the *Audit Manual*. The corrective action plan is only applicable to findings published in the audit report.

5. The auditor shall file **one (1)** electronic copy of said report with the Comptroller of the Treasury, State of Tennessee. The auditor shall furnish printed copies and/or an electronic copy of the report to the organization's management and those charged with governance. It is anticipated that the auditor's report shall be filed prior to November 15, 2022, **but in no case, shall be filed later than six (6) months following the period to be audited, without explanation to the Comptroller of the Treasury, State of Tennessee and the organization. . (Audit documentation for additional procedures for centralized cafeteria systems contracted with audits of internal school funds must be completed and available for review by September 30.)** Requirements for additional copies, including those to be filed with the appropriate officials of granting agencies, are listed below:

6. The auditor agrees to retain working papers for no less than five (5) years from the date the report is received by the Comptroller of the Treasury, State of Tennessee. In addition, the auditor agrees that all audit working papers shall, upon request, be made available in the manner requested by the Comptroller for review by the Comptroller of the Treasury or the Comptroller's representatives, agents, and legal counsel, while the audit is in progress and/or subsequent to the completion of the report. Furthermore, at the Comptroller's discretion, it is agreed that the working papers will be reviewed at the

office of the auditor, the entity, or the Comptroller and that copies of the working papers can be made by the Comptroller's representatives or may be requested to be made by the firm and may be retained by the Comptroller's representatives.

7. Any reasonable suspicion of fraud, (regardless of materiality) or other unlawful acts including, but not limited to, theft, forgery, credit/debit card fraud, or any other act of unlawful taking, waste, or abuse of, or official misconduct, as defined in *Tennessee Code Annotated*, § 39-16-402, involving public money, property, or services shall, upon discovery, be promptly reported in writing by the auditor to the Comptroller of the Treasury, State of Tennessee, who shall under all circumstances have the authority, at the discretion of the Comptroller, to directly investigate such matters. Notwithstanding anything herein to the contrary, the Comptroller of the Treasury, State of Tennessee, acknowledges that the auditor's responsibility hereunder is to design its audit to obtain reasonable, but not absolute, assurance of detecting fraud that would have a material effect on the financial statements, as well as other illegal acts or violations of provisions of contracts or grant agreements having a direct and material effect on financial statement amounts. If the circumstances disclosed by the audit call for a more detailed investigation by the auditor than necessary under ordinary circumstances, the auditor shall inform the organization's management and those in charge of governance in writing of the need for such additional investigation and the additional compensation required therefor. Upon approval by the Comptroller of the Treasury, an amendment to this contract may be made by the organization's management, those charged with governance, and the auditor for such additional investigation.

8. **Group Audits.** The provisions of Section 8, relate exclusively to contracts to audit components of a group under AU-C 600. (See definitions in AU-C 600, Paragraph 11.) Section 8 is only applicable to an auditor that audits a component (e.g. a fund, component unit, or other component) **of a county government that is audited by the Division of Local Government Audit (LGA)**. Section 8 is intended to satisfy the communication requirements for the group auditor (LGA) to the component auditor under AU-C 600.

- a) The Division of Local Government Audit (LGA) shall be considered the "group auditor" for any contract to audit a component of an applicable county government. LGA shall present the county's financial statements in compliance with U.S. Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB). LGA shall conduct the audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- b) The contracting auditor shall be considered the "component auditor" for purposes of this section.
- c) The financial statements audited by the component auditor should be presented in accordance with GAAP as promulgated by GASB. If the financial reporting framework for any component does not conform to this basis, the financial reporting framework should be disclosed in Section 9 (Special Provisions). (Component financial statements that are not presented using the same financial reporting framework as the county's financial statements may cause this contract to be rejected.)
- d) The component auditor shall conduct the component audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- e) The component auditor shall cooperate with LGA to accomplish the group audit. It is anticipated that LGA will make reference to the component auditor's report in the group audit report. Should LGA find it necessary to assume responsibility for the component auditor's work, the terms, if any, shall be negotiated under a separate addendum to this contract.
- f) The component auditor shall follow the ethical requirements of *Government Auditing Standards* and affirms that the component auditor is independent to perform the audit and will remain independent throughout the course of the component audit engagement.
- g) The component auditor affirms that the component auditor is professionally competent to perform the audit. LGA may confirm certain aspects of the component auditor's competence through the Tennessee State Board of Accountancy.
- h) The component auditor will be contacted via email by the LGA's Audit Review Manager with the estimated date of the conclusion of LGA's audit of the county government. The component auditor agrees to **update subsequent events** between the date of the component auditor's report and the date of the conclusion of LGA's audit of the county government. Additional subsequent events should be communicated via email to LGA's Audit Review Manager.
- i) The component auditor shall read LGA's audited financial statements for the county government for the previous fiscal year noting in particular **related parties** in the notes to the financial statements, and **material misstatement** findings in the Findings and Questioned Costs Section. The previous year audited financial statements can be obtained from the Comptroller's website at www.comptroller.tn.gov. As required by generally accepted auditing standards, we have identified Management Override of Controls and Improper Revenue Recognition as presumptive fraud risks. The component auditor shall communicate to LGA (i.e. group management) on a timely basis **related parties** not previously identified by the group management in LGA's prior year audited financial statements. Related parties should be communicated via email to LGA's Audit Review Manager.
- j) The component auditor's report should not be restricted as to use in accordance with AU-C 905.
- k) Sections 1-7 and Sections 9-13 of this contract are also applicable to the component auditor during the performance of the component audit.

9. (Special Provisions)

10. In consideration of the satisfactory performance of the provisions of this contract, the organization shall pay to the auditor a fee of (Fees may be fixed amounts or estimated.) (Fixed Amount: **\$20,000.00**) or (Estimated gross fee:)

(If not a fixed amount, an estimated gross fee should be furnished to the governing unit for budgetary purposes. A schedule of fees and/or rates should be set

forth below. Interim billings may be arranged with consent of both parties to this contract.) Provision for the payment of fees under this agreement has been or will be made by appropriation of management and those charged with governance.

SCHEDULE OF FEES AND/OR RATES:

11. As the authorized representative of the firm, I do hereby affirm that:
- our firm and all individuals participating in the audit are in compliance with all requirements of the Tennessee State Board of Accountancy and;
 - our firm has participated in an external quality control review at least once every three (3) years, conducted by an organization not affiliated with our firm, and that a copy of our most recent external quality control review report has been provided to the organization and the office of the Tennessee Comptroller of the Treasury approving this contract;
 - all members of the staff assigned to this audit have obtained the necessary hours of continuing professional education required by *Government Auditing Standards*;
 - all auditors participating in the engagement are independent under the requirements of the American Institute of Certified Public Accountants and *Government Auditing Standards*.

12. This writing, including any amendments or special provisions, contains all terms of this contract. There are no other agreements between the parties hereto and no other agreements relative hereto shall be enforceable, unless entered into in accordance with the procedures set out herein and approved by the Comptroller of the Treasury, State of Tennessee. In the event of a conflict or inconsistency between this contract and the special provisions contained in paragraph 9 of this contract, the special provision(s) are deemed to be void. Any changes to this contract must be agreed to in writing by the parties hereto and must be approved by the Comptroller of the Treasury, State of Tennessee. All parties agree that the digital signatures, that is, the electronic signatures applied by submitting the contract, are acceptable as provided for in the Uniform Electronic Transaction Act. Any paper documents submitted related to this contract will be converted to an electronic format and such electronic document(s) will be treated as the official document(s).

13. If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

Matlock Clements, PC

Audit Firm



Andy Matlock, CPA

By

Signature

Title/Position: **Audit Manager**

E-mail address **eric@matlockclements.com**

Date: **August 31, 2021**

Franklin Special School District

Governmental Unit or Organization



David Esslinger

By

Signature

Title/Position: **Associate Director of Schools for Franklin Special School District**

E-mail address **esslingerdav@fssd.org**

Date: **August 25, 2021**

Approved by the Comptroller of the Treasury, State of Tennessee

For the Comptroller:



Jean Suh

By

Date: **September 02, 2021**

**CONTRACT TO AUDIT ACCOUNTS
OF
Franklin Special School District - Internal School Funds**

FROM July 01, 2021 TO June 30, 2022

This agreement made this 25th day of August 2021, by and between Matlock Clements, PC, 270 Glenis Drive, Suite A, Murfreesboro, TN 37129, hereinafter referred to as the "auditor" and Franklin Special School District - Internal School Funds, of 506 New Hwy 96 West, Franklin, TN 37064, hereinafter referred to as the "organization", as follows:

1. In accordance with the requirements of the laws and/or regulations of the State of Tennessee, the auditor shall perform a financial and compliance audit of the organization for the period beginning July 01, 2021, and ending June 30, 2022 with the **exceptions listed below**:

2. The auditor shall conduct the audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and requirements prescribed by the Comptroller of the Treasury, State of Tennessee, as detailed in the *Audit Manual*. Additional information and procedures necessary to comply with requirements of governments other than the State of Tennessee are permissible provided they do not conflict with or undermine the requirements previously referenced. If applicable, the audit is to be conducted in accordance with the provisions of the Single Audit Act and Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*. The audit is also to be conducted in accordance with any other applicable federal agency requirements. It is agreed that this audit will conform to standards, procedures, and reporting requirements established by the Comptroller of the Treasury. It is further agreed that any deviation from these standards and procedures will be approved in writing by the Comptroller of the Treasury prior to the execution of the contract. The interpretation of this contract shall be governed by the above-mentioned publications and the laws of the State of Tennessee.

3. The auditor shall, as part of the written audit report, submit to the organization's management and those charged with governance:

- a) a report containing an expression of an unmodified or modified opinion on the financial statements, as prescribed by the *Audit Manual*. This report shall state the audit was performed in accordance with *Government Auditing Standards*, except when a disclaimer of opinion is issued. If the organization is a component unit or fund of another entity, it is agreed that: (a) the financial statements may be included in the financial statements of the other entity; (b) the principal auditor for the other entity may rely upon the contracted auditor's report; and (c) any additional information required by the principal auditor of the other entity will be provided in a timely manner.
- b) a report on the internal control and on compliance with applicable laws and regulations and other matters. This report shall be issued regardless of whether the organization received any federal funding. Audit reports of entities which are subject to the provisions of the Single Audit Act and OMB's Uniform Guidance shall include the additional reports required by that guidance. The reports will set forth findings, recommendations for improvement, concurrence or nonconcurrence of appropriate officials with the audit findings, comments on management's responses as appropriate, and comments on the disposition of prior year findings.

4. If a management letter or any other reports or correspondence relating to other matters involving internal controls or noncompliance are issued in connection with this audit, a copy shall be filed with the Comptroller of the Treasury by the auditor. Such management letters, reports, or correspondence shall be consistent with the findings published in the audit report (i.e., they shall disclose no reportable matters or significant deficiencies not also disclosed in the findings found in the published audit report). The report should also include a corrective action plan for findings developed under OMB's Uniform Guidance and for other findings in accordance with Section 9-3-407, *Tennessee Code Annotated* and the *Audit Manual*. The corrective action plan is only applicable to findings published in the audit report.

5. The auditor shall file **one (1)** electronic copy of said report with the Comptroller of the Treasury, State of Tennessee. The auditor shall furnish **20** printed copies and/or an electronic copy of the report to the organization's management and those charged with governance. It is anticipated that the auditor's report shall be filed prior to November 15, 2022, **but in no case, shall be filed later than six (6) months following the period to be audited, without explanation to the Comptroller of the Treasury, State of Tennessee and the organization. (Audit documentation for additional procedures for centralized cafeteria systems contracted with audits of internal school funds must be completed and available for review by September 30.)** Requirements for additional copies, including those to be filed with the appropriate officials of granting agencies, are listed below:

6. The auditor agrees to retain working papers for no less than five (5) years from the date the report is received by the Comptroller of the Treasury, State of Tennessee. In addition, the auditor agrees that all audit working papers shall, upon request, be made available in the manner requested by the Comptroller for review by the Comptroller of the Treasury or the Comptroller's representatives, agents, and legal counsel, while the audit is in progress and/or subsequent to the completion of the report. Furthermore, at the Comptroller's discretion, it is agreed that the working papers will be reviewed at the

office of the auditor, the entity, or the Comptroller and that copies of the working papers can be made by the Comptroller's representatives or may be requested to be made by the firm and may be retained by the Comptroller's representatives.

7. Any reasonable suspicion of fraud, (regardless of materiality) or other unlawful acts including, but not limited to, theft, forgery, credit/debit card fraud, or any other act of unlawful taking, waste, or abuse of, or official misconduct, as defined in *Tennessee Code Annotated*, § 39-16-402, involving public money, property, or services shall, upon discovery, be promptly reported in writing by the auditor to the Comptroller of the Treasury, State of Tennessee, who shall under all circumstances have the authority, at the discretion of the Comptroller, to directly investigate such matters. Notwithstanding anything herein to the contrary, the Comptroller of the Treasury, State of Tennessee, acknowledges that the auditor's responsibility hereunder is to design its audit to obtain reasonable, but not absolute, assurance of detecting fraud that would have a material effect on the financial statements, as well as other illegal acts or violations of provisions of contracts or grant agreements having a direct and material effect on financial statement amounts. If the circumstances disclosed by the audit call for a more detailed investigation by the auditor than necessary under ordinary circumstances, the auditor shall inform the organization's management and those in charge of governance in writing of the need for such additional investigation and the additional compensation required therefor. Upon approval by the Comptroller of the Treasury, an amendment to this contract may be made by the organization's management, those charged with governance, and the auditor for such additional investigation.

8. **Group Audits.** The provisions of Section 8, relate exclusively to contracts to audit components of a group under AU-C 600. (See definitions in AU-C 600, Paragraph 11.) Section 8 is only applicable to an auditor that audits a component (e.g. a fund, component unit, or other component) **of a county government that is audited by the Division of Local Government Audit (LGA)**. Section 8 is intended to satisfy the communication requirements for the group auditor (LGA) to the component auditor under AU-C 600.

- a) The Division of Local Government Audit (LGA) shall be considered the "group auditor" for any contract to audit a component of an applicable county government. LGA shall present the county's financial statements in compliance with U.S. Generally Accepted Accounting Principles (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB). LGA shall conduct the audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- b) The contracting auditor shall be considered the "component auditor" for purposes of this section.
- c) The financial statements audited by the component auditor should be presented in accordance with GAAP as promulgated by GASB. If the financial reporting framework for any component does not conform to this basis, the financial reporting framework should be disclosed in Section 9 (Special Provisions). (Component financial statements that are not presented using the same financial reporting framework as the county's financial statements may cause this contract to be rejected.)
- d) The component auditor shall conduct the component audit in accordance with auditing standards generally accepted in the United States of America and the auditing standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.
- e) The component auditor shall cooperate with LGA to accomplish the group audit. It is anticipated that LGA will make reference to the component auditor's report in the group audit report. Should LGA find it necessary to assume responsibility for the component auditor's work, the terms, if any, shall be negotiated under a separate addendum to this contract.
- f) The component auditor shall follow the ethical requirements of *Government Auditing Standards* and affirms that the component auditor is independent to perform the audit and will remain independent throughout the course of the component audit engagement.
- g) The component auditor affirms that the component auditor is professionally competent to perform the audit. LGA may confirm certain aspects of the component auditor's competence through the Tennessee State Board of Accountancy.
- h) The component auditor will be contacted via email by the LGA's Audit Review Manager with the estimated date of the conclusion of LGA's audit of the county government. The component auditor agrees to update subsequent events between the date of the component auditor's report and the date of the conclusion of LGA's audit of the county government. Additional subsequent events should be communicated via email to LGA's Audit Review Manager.
- i) The component auditor shall read LGA's audited financial statements for the county government for the previous fiscal year noting in particular **related parties** in the notes to the financial statements, and **material misstatement** findings in the Findings and Questioned Costs Section. The previous year audited financial statements can be obtained from the Comptroller's website at www.comptroller.tn.gov. As required by generally accepted auditing standards, we have identified Management Override of Controls and Improper Revenue Recognition as presumptive fraud risks. The component auditor shall communicate to LGA (i.e. group management) on a timely basis **related parties** not previously identified by the group management in LGA's prior year audited financial statements. Related parties should be communicated via email to LGA's Audit Review Manager.
- j) The component auditor's report should not be restricted as to use in accordance with AU-C 905.
- k) Sections 1-7 and Sections 9-13 of this contract are also applicable to the component auditor during the performance of the component audit.

9. (Special Provisions)

10. In consideration of the satisfactory performance of the provisions of this contract, the organization shall pay to the auditor a fee of (Fees may be fixed amounts or estimated.) (Fixed Amount: **\$8,500.00**) or (Estimated gross fee:)

(If not a fixed amount, an estimated gross fee should be furnished to the governing unit for budgetary purposes. A schedule of fees and/or rates should be set forth below. Interim billings may be arranged with consent of both parties to this contract.) Provision for the payment of fees under this agreement has been

or will be made by appropriation of management and those charged with governance.

SCHEDULE OF FEES AND/OR RATES:

- 11. As the authorized representative of the firm, I do hereby affirm that:
 - our firm and all individuals participating in the audit are in compliance with all requirements of the Tennessee State Board of Accountancy and;
 - our firm has participated in an external quality control review at least once every three (3) years, conducted by an organization not affiliated with our firm, and that a copy of our most recent external quality control review report has been provided to the organization and the office of the Tennessee Comptroller of the Treasury approving this contract;
 - all members of the staff assigned to this audit have obtained the necessary hours of continuing professional education required by *Government Auditing Standards*;
 - all auditors participating in the engagement are independent under the requirements of the American Institute of Certified Public Accountants and *Government Auditing Standards*.

12. This writing, including any amendments or special provisions, contains all terms of this contract. There are no other agreements between the parties hereto and no other agreements relative hereto shall be enforceable, unless entered into in accordance with the procedures set out herein and approved by the Comptroller of the Treasury, State of Tennessee. In the event of a conflict or inconsistency between this contract and the special provisions contained in paragraph 9 of this contract, the special provision(s) are deemed to be void. Any changes to this contract must be agreed to in writing by the parties hereto and must be approved by the Comptroller of the Treasury, State of Tennessee. All parties agree that the digital signatures, that is, the electronic signatures applied by submitting the contract, are acceptable as provided for in the Uniform Electronic Transaction Act. Any paper documents submitted related to this contract will be converted to an electronic format and such electronic document(s) will be treated as the official document(s).

13. If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

Matlock Clements, PC

Franklin Special School District - Internal School Funds

Audit firm

Governmental Unit or Organization

 **Andy Matlock, CPA**

 **David Esslinger**

By _____
Signature

By _____
Signature

Title/Position: **Audit Manager**

Title/Position: **Associate Director of Schools for Fi**

E-mail address **eric@matlockclements.com**

E-mail address **esslingerdav@fssd.org**

Date: **August 31, 2021**

Date: **August 25, 2021**

Approved by the Comptroller of the Treasury, State of Tennessee

For the Comptroller:

By _____ Date: _____

5.117 TEACHER TENURE – 2nd Reading

TSBA Director of Policy & Staff Attorney has given updates to this policy based on recently passed legislation. “Due to the cancellation of TCAP tests during the pandemic, there are no teacher evaluation scores from the 2019-2020 school year. Public Chapter 2 from the Special Legislative Session clarifies that the two most recent evaluation scores can be used when determining tenure.

Additionally, Public Chapter 378 changes the requirements for providing notice of nonrenewal to teachers. This notice must now be sent to teachers by certified mail, overnight carrier, or email so that it will be received within five business days following the last instructional day. The model policy has been updated to align with both of these legal changes.”

The title changes from “Procedures for Granting Tenure”; references are also updated.

There were no updates requested by the Board upon 1st Reading.

Franklin Special Board of Education

Monitoring: Review: Annually in February	Descriptor Term: Teacher Tenure	Descriptor Code: 5.117	Issued Date: Proposed
		Rescinds: 5.117	Issued: 09/21/15

1 **General**

2 To attain tenure status,¹ a teacher shall: (1) meet tenure eligibility requirements; (2) be renewed and
3 recommended by the Director of Schools; and (3) receive a majority vote of the Board.

4 **TENURE ELIGIBILITY²**

5 A teacher that meets the following requirements is eligible for tenure:

- 6 1. Has a degree from an approved four-year college or any career and technical teacher who has
7 the equivalent amount of training established and is licensed by the State Board of Education;
8
- 9 2. Holds a valid teacher license issued by the State Board of Education, based on training
10 covering the subjects or grades taught;
11
- 12 3. Has completed a probationary period of five (5) school years or not less than forty-five (45)
13 months within the last seven-year period with the last two (2) years being employed in a regular
14 teaching position rather than an interim teaching position; and
15
- 16 4. Has received evaluations demonstrating an overall performance effectiveness level of “above
17 expectations” or “significantly above expectations” as provided in the evaluation guidelines
18 adopted by the State Board of Education, during the last two (2) years of the probationary
19 period.

20 If a teacher has met all other requirements for tenure eligibility but has not acquired an official
21 evaluation score during the last one (1) or two (2) years of the probationary period due to allowable
22 circumstances outlined in state law, he/she may utilize the most recent two (2) years of available
23 evaluation scores achieved during the probationary period to become eligible for tenure.³

24 **ACQUISITION OF TENURE STATUS**

25 Once a teacher is eligible for tenure, he/she shall be either recommended by the Director of Schools for
26 tenure or nonrenewed. If tenure is denied by the Board, the teacher shall be dismissed.⁴

27
28 The Board of Education will grant tenure only to those teachers who can present documentation of a
29 record of excellence as a teacher ~~and who are determined by State guidelines to be considered a~~
30 ~~"highly qualified" teacher or those making appropriate progress toward achieving that status.~~ The

1 director of schools is responsible for documenting and presenting the recommendation for tenure to the
2 Board of Education.¹

3 Documentation of a record of excellence in teaching must include:

- 4 1. Consistently high ratings on evaluations conducted by the principal and/or other evaluators
- 5 2. Specific evidence of effectiveness in teaching students (if appropriate):
 - 6 a) test scores, including the annual estimate of teacher effect on student progress;²
 - 7 b) narrative descriptions of specific examples of effectiveness with students;
 - 8 c) letters from parents;
- 9 3. Record of attendance for the last five years;
- 10 4. Letter from the principal summarizing reasons for recommendation of tenure; **and**
- 11 5. Other indicators of effectiveness may be included.

12 The following additional guidelines will apply:

- 13 1. The Director of Schools will recommend **persons teachers** eligible for tenure at a board meeting
14 in ample time ~~for the director of schools to provide notice~~ **to send notice** of non-renewal to each
15 teacher not ~~granted~~ **recommended for** tenure within five (5) business days following the last
16 instructional day for the school year.^{4 5}
- 17 2. The decision to grant tenure is solely within the discretion of the Board ~~of Education.~~^{3 6} Only
18 those teachers who receive a majority vote of the membership of the Board will be granted
19 tenure.⁷
- 20 3. A teacher who is eligible for tenure, but tenure is denied **by the Board**, shall not be rehired beyond
21 the contract year.⁴
- 22 4. Teachers who earn tenure will be honored by the Board in a special ceremony, either at a board
23 meeting or in some other special public event.
- 24 5. No person who has been denied tenure by the Board of Education shall be employed in the school
25 system in any position which requires a license.
- 26 6. A background check within six (6) months prior to tenure being granted.

27 **TEACHER RETURNING TO EMPLOYMENT**

28 A teacher who has ~~attained~~ **acquired** tenure status in the school district and later resigns shall serve a
29 two-year probationary period upon reemployment, unless the probationary period is waived by the
30 Board upon request of the Director of Schools. Upon completion of the two-year probationary period,
31 the teacher shall either be recommended ~~to the Board~~ by the Director of Schools for tenure or non-
32 renewed. If tenure is ~~not granted~~ **denied by the Board**, the teacher ~~cannot continue in employment~~ **shall**
33 **be dismissed.**^{4 8}

35 **TEACHER TRANSFERRING FROM ANOTHER SCHOOL DISTRICT⁹**

36 A tenured or nontenured teacher with five (5) or more years of prior service that transfers from another
37 school district to begin employment in the Franklin Special School District shall serve the regular
38 probationary period. The Board, upon the recommendation of the Director of Schools, may waive the
39 probationary period and grant tenure status or shorten the probationary period.

1 If a nontenured teacher with fewer than five (5) years of service transfers from another school district,
2 such teacher shall not be eligible for tenure status until the teacher has served at least five (5) years when
3 service in both school districts is counted.

4 All tenure decisions made under this section are subject to the requirements concerning overall teacher
5 performance effectiveness levels.

6 **TEACHER RETURNING TO PROBATIONARY STATUS¹⁰**

7 Any tenured teacher who receives two (2) consecutive years of evaluations demonstrating an overall
8 performance effectiveness level of “below expectations” or “significantly below expectations” shall be
9 returned to probationary status by the Director of Schools until the teacher has received two (2)
10 consecutive years of evaluations demonstrating an overall performance effectiveness level of “above
11 expectations” or “significantly above expectations.”

12 When a teacher who has returned to probationary status has received two (2) consecutive years of
13 evaluations demonstrating an overall performance effectiveness level of “above expectations” or
14 “significantly above expectations,” the teacher is again eligible for tenure and shall be either
15 recommended by the Director of Schools for tenure or nonrenewed; provided, however, that the teacher
16 shall be dismissed if tenure is denied by the Board.⁴

17 This section does not apply to teachers who acquired tenure prior to July 1, 2011.

Legal References

1. TCA 49-5-501(11)(A)
2. TCA 49-5-503
3. Public Acts of 2021, Special Legislative Session
Chapter No. 2
4. TCA 49-5-504(b)
5. TCA 49-5-409(b); Public Acts of 2021, Chapter No.
378
6. TCA 49-2-203(a)(1)
7. TCA 49-2-202(g)
8. TCA 49-5-504(d)
9. TCA 49-5-509
10. TCA 49-5-504(e), (f)

Cross References

- Separation Practices for Tenured Teachers 5.200
Separation Practices for Non-Tenured Teachers 5.201

Franklin Special Board of Education

Monitoring: Review: Annually in February	Descriptor Term: <h2 style="text-align: center;">Procedure for Granting Tenure</h2>	Descriptor Code: 5.117	Issued Date: 09/21/15
		Rescinds: 5.117	Issued: 06/10/13

1 The Board of Education will grant tenure only to those teachers who can present documentation of a
 2 record of excellence as a teacher and who are determined by State guidelines to be considered a
 3 "highly qualified" teacher or those making appropriate progress toward achieving that status. The
 4 director of schools is responsible for documenting and presenting the recommendation for tenure to the
 5 Board of Education.¹

6 Documentation of a record of excellence in teaching must include:

- 7 1. Consistently high ratings on evaluations conducted by the principal and/or other evaluators
- 8 2. Specific evidence of effectiveness in teaching students (if appropriate):
 - 9 a) test scores, including the annual estimate of teacher effect on student progress²
 - 10 b) narrative descriptions of specific examples of effectiveness with students
 - 11 c) letters from parents
- 12 3. Record of attendance for the last five years
- 13 4. Letter from the principal summarizing reasons for recommendation of tenure
- 14 5. Other indicators of effectiveness may be included

15 The following additional guidelines will apply:

- 16 1. The decision to grant tenure is solely within the discretion of the Board of Education.³
- 17 2. The director of schools will recommend persons eligible for tenure at a board meeting in ample
 18 time for the director of schools to provide notice of non-renewal to each teacher not granted
 19 tenure within five (5) business days following the last instructional day for the school year.⁴
- 20 3. Only those teachers who receive a majority vote of the membership of the Board will be
 21 granted tenure.
- 22 4. Teachers who earn tenure will be honored by the Board in a special ceremony, either at a board
 23 meeting or in some other special public event.
- 24 5. A teacher who is eligible for tenure, but tenure is denied, shall not be rehired beyond the
 25 contract year.
- 26 6. No person who has been denied tenure by the Board of Education shall be employed in the
 27 school system in any position which requires a license.
- 28 7. A background check within six (6) months prior to tenure being granted.

29 **Teacher Returning to Employment**

30 A teacher who has attained tenure status in the school system and later resigns shall serve a two-year
 31 probationary period upon reemployment, unless the probationary period is waived by the Board upon
 32 request of the director of schools. Upon completion of the two-year probationary period, the teacher

- 1 shall either be recommended to the Board by the director for tenure or non-renewed. If tenure is not
2 granted, the teacher cannot continue in employment.⁴

Legal References:

1. Tenn. Code Ann. § 49-2-301(b)(1)(J)
2. Tenn. Code Ann. § 49-1-606(a)
3. Tenn. Code Ann. § 49-2-203(1)
4. Tenn. Code Ann. § 49-5-504 (b); Tenn. Code Ann. § 49-5-409;
Public Acts of 2015, Chapter No. 232

6.319 ALTERNATIVE EDUCATION – 2nd Reading

Per TSBA Director of Policy & Staff Attorney, “Public Chapter 229 creates another exception regarding assignment to an alternative school or program.

Now, a Director of Schools is not required to assign a student to the alternative school or program if:

- (1) The student committed an offense of violence or threatened violence or an offense that threatened the safety of other students in the school; **OR**
- (2) The location of the alternative school or program is on the same grounds from which the student was disciplined.”

TSBA has provided model language to update our policy to include this exception.

Clarification on wording of the description (above) was requested at the 1st Reading. Either reason listed above is reason for not assigning a suspended or expelled student to an alternative school or program.

There were no changes requested by the Board on the policy itself upon 1st Reading.

Franklin Special Board of Education

Monitoring: Review: Annually, in March	Descriptor Term: Alternative Education	Descriptor Code: 6.319	Issued Date: Proposed
		Rescinds: 6.319	Issued: 10/19/20

1 *General*¹

2 The Board shall have provisions for an alternative school program for students in grades seven through
3 eight (7-8) who have been suspended or expelled from **the** regular school programs. In addition, the
4 board may provide for an alternative school program for grades one through six (1-6) as necessary.

5 An alternative program is a short-term intervention program designed to provide educational services
6 outside the regular school program for students who have been suspended or expelled. Alternative
7 programs may be located in a separate facility from the regular school program or be a self-contained
8 program within a school. Alternative programs shall include, but are not limited to, the following: in-
9 school suspension, Saturday or before/after school suspension, and county-wide alternative learning
10 center.

11 The alternative school and/or program shall be operated in accordance with state laws and the rules of
12 the State Board of Education, and instruction shall proceed as nearly as practicable in accordance with
13 the instructional programs at the student's home school. The Director of Schools shall develop
14 procedures that provide appropriate educational opportunities for all students assigned to the alternative
15 education program. These educational opportunities shall adhere to Tennessee's academic standards.²

16 **ASSIGNMENT**

17 Students who have been suspended for more than ten (10) days or expelled shall be assigned to the
18 alternative school or program if there is staff and space available.³ Availability of staff and space shall
19 be determined at the time the disciplinary decision is rendered. The Director of Schools/designee shall
20 make this determination by evaluating factors including, but not limited to, the following:

- 21 1. Level of supervision available;
- 22 2. Safety considerations; and
- 23 3. Type of infraction.

26 ~~Students who have committed zero tolerance offenses are not required to be assigned to alternative~~
27 ~~schools or programs.~~⁴

28 **The Director of Schools/designee is not required to assign a student to the alternative school or program**
29 **if the student committed one of the following:**

- 30 1. A zero tolerance offense;⁴ or

31

1 2. An offense of violence or threatened violence, or an offense that threatened the safety of other
2 students at the school, if the location of the alternative school or program is on the same grounds
3 as the school from which the student was disciplined.⁵

4 Consideration to assign these students to the alternative school or program will be determined by the
5 Director of Schools/designee on a case-by-case basis.

6 Prior to the assignment of the student to an alternative school program, the director of schools/designee
7 shall provide written notice to the student's parent/guardian stating the reason for the student's
8 placement.⁶

9 Placement in an alternative education setting shall be reserved for students who significantly disrupt the
10 educational process. If a student has an active Individualized Education Plan, a 504 plan, or is suspected
11 of having a disability, all state and federal laws, and rules and regulations related to special education
12 shall be followed. The Director of Schools/designee shall develop procedures regarding placement of
13 students in the program, taking in to consideration the impact of exclusionary discipline practices.^{6,7}

14 ~~Attendance in alternative school programs shall be mandatory, and students attending an alternative~~
15 ~~school shall provide their own transportation.~~

16 The Director of Schools/designee shall monitor and regularly evaluate the academic progress of each
17 student enrolled in the alternative school.

18 **REMOVAL^{7,8}**

19 A student may be removed from the alternative school or program if:

- 20 1. He/she violates the rules of the alternative school or program; or
- 21
- 22 2. He/she is not benefitting from the assignment and all interventions have been exhausted
- 23 unsuccessfully.

24 **ADDITIONAL OFFENSES^{8,9}**

25 Any new disciplinary offense committed during a student's original suspension or expulsion period
26 shall be treated as a new and separate offense. These offenses shall not constitute an extension of the
27 original suspension or expulsion.

28 **TRANSITION PLANS^{9,10}**

29 The Director of Schools/designee shall develop procedures regarding the implementation of transition
30 plans for the integration of students assigned to the alternative school.

Legal References

1. TCA 49-6-3402;TRR/MS 0520-01-02-.09
2. TRR/MS 0520-01-02-.09(9)(a)
3. TCA 49-6-3402(c)(1)(A)
4. TRR/MS 0520-01-02-.09(6)(a); TCA 49-6-3402(c)(1)(B)
5. Public Acts of 2021, Chapter No. 229
6. TRR/MS 0520-01-02-.09(9)(i)
7. TRR/MS 0520-01-02-.09(9)(h)
8. TCA 49-6-3402(c)(2)(A)
9. TRR/MS 0520-01-02-.09(9)(g)(2)
10. TRR/MS 0520-01-02-.09(9)(m)

Cross References

Special Education 4.202
Suspension/Expulsion/Remand 6.316
Student Disciplinary Hearing Authority 6.317
Students with Disabilities - Special Education Services 6.500

Franklin Special Board of Education			
Monitoring: Review: Annually, in March	Descriptor Term: Alternative Education	Descriptor Code: 6.319	Issued Date: 10/19/20
		Rescinds: 6.319	Issued: 06/11/18

1 *General*¹

2 The board shall have provisions for an alternative school program for students in grades seven through
3 eight (7-8) who have been suspended or expelled from regular school programs. In addition, the board
4 may provide for an alternative school program for grades one through six (1-6) as necessary.

5 An alternative program is a short-term intervention program designed to provide educational services
6 outside the regular school program for students who have been suspended or expelled. Alternative
7 programs may be located in a separate facility from the regular school program or be a self-contained
8 program within a school. Alternative programs shall include, but are not limited to, the following: in-
9 school suspension, Saturday or before/after school suspension, and county-wide alternative learning
10 center.

11 The alternative school and/or program shall be operated in accordance with state laws and the rules of
12 the State Board of Education, and instruction shall proceed as nearly as practicable in accordance with
13 the instructional programs at the student’s home school. The director of schools shall develop procedures
14 that provide appropriate educational opportunities for all students assigned to the alternative education
15 program. These educational opportunities shall adhere to Tennessee’s academic standards.²

16 **ASSIGNMENT**

17 Students who have been suspended for more than ten (10) days or expelled shall be assigned to the
18 alternative school or program if there is staff and space available.³ Availability of staff and space shall
19 be determined at the time the disciplinary decision is rendered. The Director of Schools/designee shall
20 make this determination by evaluating factors including, but not limited to, the following:

- 21 1. Level of supervision available;
- 22
- 23 2. Safety considerations; and
- 24
- 25 3. Type of infraction.

26 Students who have committed zero tolerance offenses are not required to be assigned to alternative
27 schools or programs.⁴

28 Prior to the assignment of the student to an alternative school program, the director of schools/designee
29 shall provide written notice to the student’s parent/guardian stating the reason for the student’s
30 placement.

1 Placement in an alternative education setting shall be reserved for students who significantly disrupt the
 2 educational process. If a student has an active Individualized Education Plan, a 504 plan, or is suspected
 3 of having a disability, all state and federal laws, and rules and regulations related to special education
 4 shall be followed. The director of schools/designee shall develop procedures regarding placement of
 5 students in the program, taking in to consideration the impact of exclusionary discipline practices.⁶

6 Attendance in alternative school programs shall be mandatory, and students attending an alternative
 7 school shall provide their own transportation.

8 The director of schools/designee shall monitor and regularly evaluate the academic progress of each
 9 student enrolled in the alternative school.

10 **REMOVAL⁷**

11 A student may be removed from the alternative school or program if:

- 12 1. He/she violates the rules of the alternative school or program; or
- 13
- 14 2. He/she is not benefitting from the assignment and all interventions have been exhausted
- 15 unsuccessfully.

16 **ADDITIONAL OFFENSES⁸**

17 Any new disciplinary offense committed during a student's original suspension or expulsion period
 18 shall be treated as a new and separate offense. These offenses shall not constitute an extension of the
 19 original suspension or expulsion.

20 **TRANSITION PLANS⁹**

21 The director of schools/designee shall develop procedures regarding the implementation of transition
 22 plans for the integration of students assigned to the alternative school.

Legal References

1. TCA 49-6-3402(a); Public Acts of 2020, Chapter No. 603; TRR/MS 0520-01-02-.09
2. TRR/MS 0520-01-02-.09(9)(a)
3. Public Acts of 2020, Chapter No. 603
4. Public Acts of 2020, Chapter No. 603; TRR/MS 0520-01-02-.09(6)(a)
5. TRR/MS 0520-01-02-.09(9)(i)
6. TRR/MS 0520-01-02-.09(9)(h)
7. Public Acts of 2020, Chapter No. 603
8. TRR/MS 0520-01-02-.09(9)(g)(2)
9. TRR/MS 0520-01-02-.09(m)

Cross References

Special Education 4.202
 Suspension/Expulsion/Remand 6.316
 Student Disciplinary Hearing Authority 6.317
 Students with Disabilities - Special Education Services 6.500

3.205 SECURITY – *1st Reading*

Districts must now include cybersecurity in their safety plans. This will be included in the state-level template; districts are tasked with identifying how to keep these networks and technologies safe from cyberattacks and other cybersecurity threats and incidents. TSBA has recommended language to include a provision on this topic, as well our review of the policy to bring it up to date. A review and update of the policy is based on the TSBA model policy and adapted for our district.

Franklin Special Board of Education

Monitoring: Review: Annually, in October	Descriptor Term: <b style="text-align: center;">Security	Descriptor Code: 3.205	Issued Date: <i>Proposed</i>
		Rescinds: 3.205	Issued: 08/19/99

1 **General¹**

2 The Director of Schools shall establish procedures ~~as required to adequately to~~ protect school property
3 which shall include, but not be limited to:

- 4 1. ~~All employees~~ Closing and securing ~~their~~ **teacher** work areas when ~~being~~ left unattended or at
5 the end of the day;
- 6 2. Denying students permission to use the classrooms, laboratories, gymnasiums or other school
7 facilities, or equipment without appropriate ~~faculty~~ supervision;
- 8 3. Controlling the issuance of ~~building keys and master keys; and~~
- 9 4. Developing programs which contribute to the proper care and use of school facilities and
10 equipment; ~~and~~
- 11 5. Ensuring that equipment purchased with federal funds is managed as directed by federal law.²

12 The principal shall call law enforcement officials in cases involving illegal entry, **building damage**,
13 theft or vandalism. The principal shall ~~submit a written report to~~ notify the Director of Schools ~~within~~
14 **as soon as practical, but no longer than twenty-four** (24) hours after ~~each a~~ case of vandalism, theft,
15 building damage and/or illegal entry.

16 ~~Interrogation should be a cooperative effort between the school personnel and the law enforcement~~
17 ~~authorities.~~

18 ~~The principal shall use his judgment as to when to engage law enforcement authorities in cases~~
19 ~~involving theft or vandalism, or in the repossessing of property stolen from school premises.~~

20 The Director/**designee**, ~~or his/her representative~~, is authorized to sign a criminal complaint and ~~to~~ press
21 charges. ~~against perpetrators of vandalism against school property. The principal of a school is~~
22 ~~authorized to sign criminal complaints for incidents occurring in the school to which he/she is~~
23 ~~assigned.~~ **The Director of Schools shall report all signing of such complaints to the Board.**

24 **LAW ENFORCEMENT SERVICES¹**

25 **The Board may enter into collaborative partnerships with appropriate law enforcement agencies.**
26 **Partnerships may include, but not be limited to, education and recreational programs, delinquency**
27 **prevention, and mentoring initiatives.**

The Board may enter into a memorandum of understanding (MOU) with the chief of a law enforcement agency to provide school policing. The MOU shall address, at a minimum, the following issues:

1. Any school resource officer (SRO) assigned under the MOU shall be in compliance with all laws, regulations, and rules of the Peace Officer Standards and Training Commission at the time of assignment and remain compliant throughout his/her assignment.
2. As a condition of assignment, any SRO shall participate in forty (40) hours of basic training in school policing within twelve (12) months of assignment. Every year thereafter, the SRO shall participate in a minimum of sixteen (16) hours of training specific to school policing. All training programs shall be approved by the Peace Officers Standards and Training Commission.³
3. Any SRO assigned under the MOU remains an employee of the law enforcement agency and is subject to that agency’s direction, control, supervision, and discipline.
4. No SRO shall be assigned to a school, or continue in such an assignment, without the consent of the Director of Schools.
5. In the event that more than one (1) SRO is assigned to a school district, the law enforcement agency shall designate one (1) of the SROs as the senior SRO. The duties of the senior SRO shall include, but not be limited to, the following:
 - a. Representing and carrying out the policies of the law enforcement agency assigning the SROs;
 - b. Supervising the SROs in the performance of their duties;
 - c. Consulting with the Director of Schools regarding the best use of the available resources for school policing; and
 - d. Resolving disputes between the SROs and students or staff members.
6. The MOU may be effective for any length of time, including continuing until terminated by the parties, and may contain any reasonable notice requirement for the termination of the MOU. However, the MOU shall contain a provision allowing the Director of Schools to suspend the active participation of any SROs in the event that the Director of Schools believes that such suspension is best for the health, safety, or wellbeing of the students or staff members.

CYBERSECURITY⁴

The Director of Schools/designee shall develop an administrative procedure regarding the district’s cybersecurity plan to identify cybersecurity risks, implement mitigation planning, and protect cyberinfrastructure against cyberattacks and other cybersecurity threats and incidents.

Legal References

1. TCA 49-6-805(3)
2. 2 CFR § 200.313
3. TCA 49-6-4217
4. Public Acts of 2021, Chapter No. 335

Cross References

- Visitors to the Schools/District Properties Security Management 1.501
- Inventories 2.702
- Care of School Property 6.311

1

Franklin Special Board of Education

Monitoring: Review: Annually, in October	Descriptor Term: <h2 style="text-align: center;">Security</h2>	Descriptor Code: 3.205	Issued Date: 08/19/99
		Rescinds: 3.205	Issued: 09/14/98

- 1 The director of schools shall establish procedures as required to adequately protect school property
2 which shall include, but not be limited to:
- 3 1. All employees closing and securing their work areas when being left unattended or at the end of
4 the day;
 - 5 2. Denying students permission to use the classrooms, laboratories, gymnasiums or other school
6 facilities or equipment without appropriate faculty supervision;
 - 7 3. Controlling the issuance of building keys and master keys; and
 - 8 4. Developing programs which contribute to the proper care and use of school facilities and
9 equipment.
- 10
- 11 13 The principal shall call law enforcement officials in cases involving illegal entry, theft or vandalism.
12 Interrogation should be a cooperative effort between the school personnel and the law enforcement
13 authorities.
- 14 16 The principal shall use his judgment as to when to engage law enforcement authorities in cases
15 involving theft or vandalism, or in the repossessing of property stolen from school premises.
- 16 18 The principal shall submit a written report to the director of schools within 24 hours after each case of
17 vandalism, theft, building damage and illegal entry.
- 18 20 The director, or his/her representative, is authorized to sign a criminal complaint and to press charges
19 against perpetrators of vandalism against school property. The principal of a school is authorized to
20 sign criminal complaints for incidents occurring in the school to which he/she is assigned.
21
22

3.600 INSURANCE MANAGEMENT – *1st Reading*

This revision request is to further outline the stipulations of the post-retirement benefit for retirees of paying the cost of health insurance at retirement until the age of 65 who were employed prior to 2009-2010 without a break in service. This better meets the intent of this benefit provided by the Board for this group of personnel.

Franklin Special Board of Education			
Monitoring: Review: Annually, in October	Descriptor Term: Insurance Management	Descriptor Code: 3.600	Issued Date: Proposed
		Rescinds: 3.600	Issued: 08/13/18

1 The insurance program shall provide coverages in a minimum of the following broad categories:

- 2 1. **Property:** Buildings and contents against fire, extended coverage, vandalism and malicious
3 mischief, boiler and machinery explosion; and vehicles;
- 4 2. **Liability:** Board members, Director of Schools, and employees resulting from discharging their
5 duties;
- 6 3. **Worker's compensation;** and
- 7 4. **Fidelity:** Blanket bond and fiscal agent's bond as required by statute. **1**

8 The Director of Schools shall continually review the insurance program to ensure that adequate
9 protection is being provided at a reasonable price.

10 **GROUP HEALTH**

11 The Board shall provide group health insurance for all full-time (30 hours or more per week)
12 employees. **1 2** The Director of Schools, after consultation with personnel, shall recommend carriers of
13 insurance for programs in which the Board makes partial or full payments. The Board shall approve all
14 insurance carriers.

15 An employee requesting a leave of absence may continue health insurance coverage upon payment of
16 the premium to the central office. If no arrangements are made for continuance of this coverage through
17 the central office, the insurance will terminate at the end of the month in which employee goes off the
18 payroll.

19 The Director of Schools/designee shall develop procedures to ensure the privacy of HIPAA protected
20 information. **2 3**

21 **ANNUITIES ^{3 4}**

22 Board-approved companies for tax-sheltered annuities shall include all companies presently having
23 contracts with employees.

24 The addition of a company to the list of board-approved companies shall be considered on written request
25 of agents of the company.

26 Written request for a change in annuity deductions shall be reported to the payroll office on or before
27 the first day of the month in which such change is to be effective.

1 RETIREES⁴

2 A post-retirement benefit shall be available to retirees which will pay the cost of health insurance at
3 retirement until the age of 65. This shall only apply to retirees and current employees who were employed
4 by ~~an~~ the LEA ~~within Tennessee~~ prior to 2009-2010 without a break in service. This benefit is available
5 provided that the employee:

- 6 1. Is eligible for ~~retirement~~ an unreduced or disability benefit under the eligibility standards as set
7 by the Tennessee Retirement System and the Benefits Administration through the State of
8 Tennessee: the employee should refer to these publications for specific guidelines.
- 9 2. Provides and works an appropriate notice prior to retirement (two (2) weeks for classified
10 employees; thirty (30) days for certified employees). This requirement may be waived due to
11 emergencies or other extraordinary circumstances.

12 Retired employees will be permitted to pay the difference in an individual plan and a family plan on a
13 monthly basis and continue coverage if they so desire.

14 STUDENTS

15 Group accident insurance with no board contribution is available to students on a voluntary basis.
16 Teachers shall be eligible to participate in the student accident insurance program.

Legal References

1. TCA 49-2-102; TCA 8-19-101 *et seq.*
2. TCA 49-2-209
3. 45 CFR § 164.32 *et seq.*
4. TCA 49-2-208
5. ~~TCA 49-5-906~~

Cross References

- Payroll Procedures 2.802
Salary Deductions 2.803

Franklin Special Board of Education			
Monitoring: Review: Annually, in October	Descriptor Term: Insurance Management	Descriptor Code: 3.600	Issued Date: 08/13/18
		Rescinds: 3.600	Issued: 03/13/17

1 The insurance program shall provide coverages in a minimum of the following broad categories:

- 2 1. **Property:** Buildings and contents against fire, extended coverage, vandalism and malicious
3 mischief, boiler and machinery explosion; and vehicles;
- 4 2. **Liability:** Board members, director of schools and employees resulting from discharging their
5 duties;
- 6 3. **Worker's compensation;** and
- 7 4. **Fidelity:** Blanket bond and fiscal agent's bond as required by statute.

8 The director of schools shall continually review the insurance program to ensure that adequate protection
9 is being provided at a reasonable price.

10 **GROUP HEALTH**

11 The board shall provide group health insurance for all full-time (30 hours or more per week) employees.¹
12 The director of schools, after consultation with personnel, shall recommend carriers of insurance for
13 programs in which the board makes partial or full payments. The board shall approve all insurance
14 carriers.

15 An employee requesting a leave of absence may continue health insurance coverage upon payment of
16 the premium to the central office. If no arrangements are made for continuance of this coverage through
17 the central office, the insurance will terminate at the end of the month in which employee goes off the
18 payroll.

19 The director of schools/designee shall develop procedures to ensure the privacy of HIPAA protected
20 information.²

21 **ANNUITIES**³

22 Board-approved companies for tax-sheltered annuities shall include all companies presently having
23 contracts with employees.

24 The addition of a company to the list of board-approved companies shall be considered on written request
25 of agents of the company.

26 Written request for a change in annuity deductions shall be reported to the payroll office on or before
27 the first day of the month in which such change is to be effective.

1 RETIREES⁴

2 A post-retirement benefit shall be available to retirees which will pay the cost of health insurance at
3 retirement until the age of 65. This shall only apply to retirees and current employees who were employed
4 by an LEA within Tennessee prior to 2009-2010 without a break in service. This benefit is available
5 provided that the employee is eligible for retirement under the eligibility standards as set by the
6 Tennessee Retirement System and the Benefits Administration through the State of Tennessee: the
7 employee should refer to these publications for specific guidelines.

8 Retired employees will be permitted to pay the difference in an individual plan and a family plan on a
9 monthly basis and continue coverage if they so desire.

10 STUDENTS

11 Group accident insurance with no board contribution is available to students on a voluntary basis.
12 Teachers shall be eligible to participate in the student accident insurance program.

Legal References

1. TCA 49-2-209
2. 45 CFR § 164.306, 164.316
3. TCA 49-2-208
4. TCA 49-5-906

Cross References

Salary Deductions 2.803

4.2061 SPECIAL PROGRAMS – HOMEBOUND INSTRUCTION – *1st Reading*

This policy revision is from review due to a change to State Board of Education Regulation 0520-01-13-.01 for homebound instruction. Noted is the addition of specifying the *treating* physician to certify or recertify the homebound need. Duplicate language has been removed and references have been updated.

Franklin Special Board of Education

Monitoring: Review: Annually, in November	Descriptor Term: Special Programs Homebound Instruction	Descriptor Code: 4.2061	Issued Date: <i>Proposed</i>
		Rescinds: 4.2061	Issued: 10/08/18

1 HOMEBOUND INSTRUCTION

2 The homebound instruction program is for students who because of a medical condition are unable to
3 attend the regular instructional program.¹ The homebound instruction program shall consist of three (3)
4 hours of instruction per week **while school is in session** for a period of time determined, on a case-by-
5 case basis, by the district.

6 To qualify for the homebound program, a student shall have a medical condition that will require the
7 student to be absent for a minimum of ten (10) consecutive instructional days, or for an aggregate of at
8 least ten (10) instructional days for a student who has a chronic medical condition. The student shall be
9 certified by a **his/her treating** physician as having a medical condition that prevents him/her from
10 attending the regular instructional program. The services provided to the homebound student shall reflect
11 the student's capabilities and be determined by the homebound instructor, after consultation with
12 appropriate professional staff of the student's assigned school.

13 Recertification shall be obtained after the expiration of each period of homebound instruction if the
14 student's **treating** physician certifies, in writing, that the student has a medical condition that prevents
15 him/her from returning to the regular instructional program.

16 ~~HOMEBOUND PROGRAM FOR PREGNANT STUDENTS~~

17 ~~The homebound instruction program for pregnant students shall consist of three (3) hours of instruction~~
18 ~~per week for a period of six (6) weeks.~~

19 ~~The student's physician shall recommend, in writing, the six-week period for which the student shall be~~
20 ~~eligible for homebound instruction.~~

21 ~~A homebound instruction program for longer than the six (6) week period shall only be provided to a~~
22 ~~student who is certified in writing by her physician as having health complications arising from the~~
23 ~~pregnancy that prevent her from returning to regular classes.~~

Legal References

1. TCA 49-10-1101; TRR/MS 0520-01-02-.10

Cross References

Virtual Education Program 4.212
Student Communicable Diseases 6.403
Acquired Immune Deficiency Syndrome 6.404

Franklin Special Board of Education			
Monitoring: Review: Annually, in November	Descriptor Term: Special Programs Homebound Instruction	Descriptor Code: 4.2061	Issued Date: 10/08/18
		Rescinds: 4.2061	Issued: 06/12/17

1 HOMEBOUND INSTRUCTION

2 The homebound instruction program is for students who are unable to attend the regular instructional
3 program, because of a medical condition.¹ The homebound instruction program shall consist of three (3)
4 hours of instruction per week for a period of time determined, on a case-by-case basis, by the district.

5 To qualify for the homebound program, a student shall have a medical condition that will require the
6 student to be absent for a minimum of ten (10) consecutive instructional days, or for an aggregate of at
7 least ten (10) instructional days for a student who has a chronic medical condition. The student shall be
8 certified by a physician as having a medical condition that prevents him/her from attending the regular
9 instructional program. The services provided to the homebound student shall reflect the student’s
10 capabilities and be determined by the homebound instructor, after consultation with appropriate
11 professional staff of the student's assigned school.

12 Recertification shall be obtained after the expiration of each period of homebound instruction if the
13 student’s physician certifies, in writing, that the student has a medical condition that prevents him/her
14 from returning to the regular instructional program.

15 HOMEBOUND PROGRAM FOR PREGNANT STUDENTS^{1,2}

16 The homebound instruction program for pregnant students shall consist of three (3) hours of instruction
17 per week for a period of six (6) weeks.²

18 The student's physician shall recommend, in writing, the six-week period for which the student shall be
19 eligible for homebound instruction.

20 A homebound instruction program for longer than the six (6) week period shall only be provided to a
21 student who is certified in writing by her physician as having health complications arising from the
22 pregnancy that prevent her from returning to regular classes.

Legal References

1. TCA 49-10-1101; Public Acts of 2018, Chapter No. 625
2. TRR/MS 0520-01-02-.10

Cross References

- Student Communicable Diseases 6.403
Acquired Immune Deficiency Syndrome 6.404

4.400 TEXTBOOKS AND INSTRUCTIONAL MATERIALS –

New title – 1st Reading

4.401 TEXTBOOKS – *Deletion – 1st Reading*

TSBA has provided a model policy for direction on **combining** the current policies for instructional materials (4.400) and textbooks (4.401) to clarify the relationship between textbooks and instructional materials.

With approval of this update, the title of Policy 4.400 changes from “Instructional Materials” and is rewritten to combine policies, and Policy 4.401, “Textbooks”, will be deleted.

Also included in the rewriting of this policy under the “Selection” heading is the provision for seeking a waiver to use materials that are not included on the list approved by the State Textbook Commission, based on a new State Board of Education regulation. To date we have selected materials on the State list and have not requested a waiver.

Franklin Special Board of Education

Monitoring: Review: Annually, in November	Descriptor Term: Textbooks and Instructional Materials	Descriptor Code: 4.400	Issued Date: Proposed
		Rescinds: 4.400, 4.401	Issued: 07/21/14

1 **General**

2 All classrooms shall be equipped with the textbooks and instructional materials needed to provide quality
3 learning experiences for students **in accordance with state law.**¹ The Board shall provide a wide range of
4 textbooks and instructional materials that cover all levels of difficulty, generate critical thinking, and
5 support the educational programs.

6 **SELECTION²**

7 The responsibility to select textbooks and instructional materials, as recommended by the State Textbook
8 Commission, rests with the local textbook selection committees, subject to approval by the Board. **Use
9 of textbooks and instructional materials not on the list approved by the State Textbook Commission is
10 permissible if the Board submits a waiver to the State Board of Education and such waiver is approved.**

11 The Director of Schools shall establish a procedure for providing citizens of the community with an
12 opportunity to examine proposed textbooks and instructional materials prior to their final
13 adoption,³ including public notice of the time and location at which textbooks and instructional materials
14 may be examined. Once approved by the Board, the Director of Schools/designee shall post the list of
15 all approved textbooks and instructional materials on the school district's website and send a copy of the
16 list to the Commissioner of Education.²

17 **DISTRIBUTION**

18 The Director of Schools shall designate an employee to be responsible for the purchase and distribution
19 of textbooks and instructional materials in each school. Students shall receive these items at no cost.

20 **CARE OF TEXTBOOKS AND INSTRUCTIONAL MATERIALS⁴**

21 Textbooks and instructional materials are property of the Board and shall be returned at the end of the
22 school year, upon completion of the course, or upon withdrawal from a course or school.
23 Parent(s)/guardian(s) are to sign an agreement stating they shall be responsible for the textbooks and
24 instructional materials received and used by their children. The Director of Schools shall be responsible
25 for developing an administrative procedure regarding the replacement of lost or damaged textbooks and
26 instructional materials.

27 **REVIEW OF TEXTBOOKS AND INSTRUCTIONAL MATERIALS³**

28 A list of textbooks and instructional materials shall be revised annually by principals under the direction
29 of the Director of Schools.

1 Upon request, parent(s)/guardian(s) shall have the ability to inspect any textbooks and instructional
2 materials including, but not limited to, teaching materials, teaching aids, handouts, and tests that are
3 developed by and graded by their child's teacher.

4 **COMPLAINTS & RECONSIDERATION**

5 The Director of Schools shall develop forms and procedures to enable citizens to give input, feedback,
6 or file complaints regarding the selection or content of approved textbooks. Following the conclusion
7 of this administrative process, a complainant may appeal an outcome to the Board.

8 The Director of Schools shall develop procedures for the inspection of materials and distribute these
9 procedures to each principal.

Legal References

1. TCA 49-6-2207; TCA 49-2-203(a)(3)
2. TCA 49-6-2207(c), (e), (f); TCA 49-6-2202(d);
TRR/MS 0520-01-18-.02
3. 20 USCA § 1232h(a); TCA 49-6-7003
4. TCA 49-3-310(1)(B); TRR/MS 0520-01-02-.16(2)

Cross Reference

Surplus Property Sales 2.403
Reconsideration of Instructional Materials and Textbooks
4.403
Controversial Materials 4.801
Student Fees and Fines 6.709

Franklin Special Board of Education

Monitoring: Review: Annually, in November	Descriptor Term: Instructional Materials	Descriptor Code: 4.400	Issued Date: 07/21/14
		Rescinds: 4.400	Issued: 11/20/00

1 All classrooms and learning centers shall be equipped with the instructional materials needed to provide
2 quality learning experiences for students.

3 The Board seeks to provide a wide range of instructional materials that cover all levels of difficulty,
4 generate critical thinking, and support the educational programs. The director of schools shall develop
5 procedures to review and reconsider instructional materials that are allegedly inappropriate.

6 A list of textbooks and instructional materials shall be revised annually by building administrators under
7 the direction of the director of schools.

8 Upon request, parents/guardians shall have the ability to inspect the following items: instructional
9 materials; teaching materials; teaching aids; handouts; and tests that are developed by and graded by
10 their child's teacher. The director of schools shall develop procedures for the inspection of materials
11 and distribute these procedures to each principal.¹

Legal References

1. 20 USCS § 1232h(a); TCA 49-6-7003

Franklin Special Board of Education			
Monitoring: Review: Annually, in November	Descriptor Term: Textbooks	Descriptor Code: 4.401	Issued Date: 07/21/14
		Rescinds: 4.401	Issued: 01/13/14

1 **SELECTION**¹

2 The selection of textbooks shall be completed according to the laws and policies required by the State
3 of Tennessee and the State Textbook Commission. The responsibility for textbook selection rests with
4 the local textbook selection committees subject to approval by the Board. The director of schools shall
5 establish a procedure for providing the citizens of the community with an opportunity to examine
6 proposed textbooks prior to their final adoption,² including public notice of time and location at which
7 textbooks may be examined. Once the proposed textbooks have been approved by the Board, the director
8 of schools shall post the list of all approved textbooks and instructional materials on the school system’s
9 website and send a copy of the list to the commissioner of education.

10 **COMPLAINTS & RECONSIDERATION**

11 The director of schools shall develop forms and procedures to enable citizens to give input, feedback, or
12 file complaints regarding the selection or content of approved textbooks. Following the conclusion of
13 this administrative process, a complainant may appeal an outcome to the Board.

14 **DISTRIBUTION**

15 The director of schools shall designate an employee to be responsible for the purchase and distribution
16 of textbooks in each school. The principal shall be responsible for seeing that each student receives the
17 required textbooks at no cost to the student.

18 **CARE OF TEXTBOOKS – moves to Procedures Manual**

19 Textbooks are property of the Board and shall be returned at the end of the school year, upon completion
20 of the course or upon withdrawal from a course or school. Parents are to sign an agreement stating they
21 will be responsible for the textbooks received and used by their children.

22 The following reimbursement schedule shall be used as a guide for collecting fines for lost or destroyed
23 books:

24	Age of Book	Amount Collected
25	1 - 2 years	100% of replacement cost
26	3 - 4 years	75% of replacement cost
27	5 or more years	50% of replacement cost

28 The Board shall approve and periodically review a schedule of fines for damaged books. In cases where
29 the book is damaged to the extent it is no longer useable, the amount collected shall conform to the

1 reimbursement schedule for lost books. A fine may only be assessed in cases where the pupil or parent
2 damages, loses or defaces the textbook either through willful intent or neglect.⁴

3 Following an interview with parties and an investigation, if needed, the principal may assess the
4 appropriate fine and notify the parents in writing.

5 The principal may include with the notice a provision stating that failure to pay the fine imposed within
6 a reasonable time may result in the imposition of one of the following sanctions:³

- 7 1. Refusal to issue any additional textbooks until restitution is made;
- 8 2. Withholding of all report cards, diplomas, certificates of progress, or transcripts until restitution
9 is made; or
- 10 3. Not allowing the pupil to take interim or final examinations or to earn course credit in the
11 course for which the textbook is prescribed until restitution is made.

12 The principal may waive the assessment of fines when in his/her judgment the student is the victim of
13 uncontrollable circumstances and not responsible for the damages.

14 **INSPECTION**

15 A list of textbooks used by the schools shall be revised annually by building administrators under the
16 direction of the director of schools. Textbooks shall be available for inspection by parents/guardians
17 upon request, and the director of schools shall develop procedures for the inspection of materials and
18 distribute these procedures to each principal.⁵

Legal References

1. TCA 49-6-2207(c), (e)-(f); TCA 49-6-2202(d)
2. 20 USCS § 1232h(a); TCA 49-6-7003
3. TCA 49-3-310(1)(B)
4. TCA 49-3-310(1)(C)
5. 20 USCA § 1232h(a); TCA 49-6-7003

Cross References

Personal Property Sales 2.403
Reconsideration of Instructional Materials 4.403
Controversial Materials 4.801
Student Fees and Fines 6.709

5.3023 COVID-19 SICK LEAVE – *New Policy 1st Reading*

The previous adoption of this policy expired as of June 30th, and deleted at the July meeting.

Due to the fact that many personnel have been negatively impacted again this year by COVID-19, many have requested the reinstatement of a COVID Sick Leave policy.

The administration requests that this policy is reinstated and retroactive back to July 1, 2021, and that it carry through December 17, 2021 for an employee being unable to work because the employee has a confirmed diagnosis of COVID-19.

Franklin Special Board of Education			
Monitoring: Review: After December 17, 2021	Descriptor Term: COVID-19 Sick Leave	Descriptor Code: 5.3023	Issued Date: Proposed
		Rescinds: Deletion 5.3023	Issued: 07/19/21

- 1 Employees are entitled to up to ten (10) days of paid COVID-19 leave between July 1, 2021 and
- 2 December 17, 2021 if they are unable to work because the employee has a confirmed diagnosis of
- 3 COVID-19. The request for COVID leave must be accompanied with evidence of a positive test result.
- 4 This additional leave will expire December 17, 2021.

Cross References

Sick Leave 5.302

Franklin Special Board of Education

Monitoring: Review: After June 30, 2021	Descriptor Term: COVID-19 Sick Leave	Descriptor Code: DELETED	Issued Date: 07/19/21
		Rescinds: 5.3023	Issued: 01/11/12

1 Employees are entitled to up to ten (10) days of paid 2021 COVID-19 leave between January 1, 2021
2 and June 30, 2021 if they are unable to work or telework because the employee:

- 3 1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 4 2. Has been advised by a health care provider to self-quarantine related to COVID-19; or
- 5 3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis.

6 This additional leave will expire on June 30, 2021.

Cross References

Sick Leave 5.302

5.3051 FFCRA LEAVE – *1st Reading for Deletion*

As written into the policy, the expiration date of this policy was December 31, 2020 coinciding with the expiration of the Families First Corona Virus Response Act. This request is to delete the policy.

Franklin Special Board of Education			
Monitoring: Review: Annually, in January	Descriptor Term: FFCRA LEAVE	Descriptor Code: 5.3051	Issued Date: Proposed
		Rescinds: 5.3051	Issued: 04/13/20

1 *General*¹

2 Under the Families First Coronavirus Response Act (FFCRA), this policy will be in effect from April 1,
3 2020 until December 31, 2020.

4 The Director of Schools/designee shall post notice of FFCRA requirements and create any necessary
5 administrative procedures. Employees should seek clarification from the Human Resources Supervisor
6 if they have questions regarding the total amount of leave and pay available to them.

7 **PAID SICK LEAVE**

8 Employees are entitled to up to two (2) weeks of paid sick leave if they are unable to work or telework
9 because the employee:²

- 10 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 11
- 12 2. has been advised by a health care provider to self-quarantine related to COVID-19;
- 13
- 14 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- 15
- 16 4. is caring for an individual subject to or advised to quarantine or isolate due to COVID-19. The
17 individual must be someone with a personal relationship to the employee;
- 18
- 19 5. is caring for his/her son or daughter whose school or place of care is closed, or person who
20 regularly provides child care is unavailable, for reasons related to COVID-19 and no other
21 suitable person is available to care for the child during the requested period of leave. Son or
22 daughter is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child
23 of a person standing *in loco parentis*, who is under 18 years of age; or 18 years of age or older
24 who is incapable of self-care because of a mental or physical disability; or
- 25
- 26 6. is experiencing any other substantially similar condition specified by the Secretary of Health
27 and Human Services, in consultation with the Secretaries of Labor and Treasury.

28 This paid leave may be taken if there is work available for the employee to complete and the employee
29 is unable to work or telework for one of the above reasons. Such leave is in addition to any paid leave
30 that an employee may already be entitled to (e.g. existing sick leave). Employees are not required to
31 exhaust any other paid leave benefit in order to utilize this new category of paid sick leave.

1 **EXPANDED FMLA LEAVE**

2 Full-time or part-time employees who have been on the payroll for thirty (30) calendar days prior to the
 3 beginning of the leave are eligible for expanded FMLA leave (EFMLEA). This includes employees who
 4 were laid off or terminated after March 1, 2020, who had worked for the district for at least thirty (30)
 5 of the prior sixty (60) calendar days and were subsequently rehired or otherwise employed by the
 6 district.³

7 Under the FFCRA, an employee qualifies for EFMLEA leave if the employee is unable to work or
 8 telework due the need to care for his/her son or daughter because of a school or child care facility closure
 9 or because the person who regularly provides child care (i.e. this could include a family member or a
 10 neighbor) is unavailable for reasons related to COVID-19.⁴ In these circumstances, a son or daughter is
 11 defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing
 12 *in loco parentis*, who is under 18 years of age; or 18 years of age or older who is incapable of self-care
 13 because of a mental or physical disability.

14 Qualifying employees may take twelve (12) weeks of EFMLEA leave.⁵ The amount of leave available
 15 may be impacted by any prior use of FMLA.⁶

16 The first ten (10) days of EFMLEA leave shall be unpaid, however, an employee may choose to take
 17 any existing leave benefit during this time. After ten (10) days, EFMLEA leave is paid at two-thirds
 18 (2/3) the rate of the employee’s regular rate of pay, unless he/she chooses to utilize accrued sick leave
 19 or annual leave to cover those days or the amount is capped per federal law.⁷

Legal References

1. Families First Coronavirus Response Act, Pub. L. No. 116-127, §§ 3102, 5101, et seq. (2020)
2. 29 CFR § 826.20(a); 29 CFR § 826.21; 29 CFR § 826.30(a)
3. 29 CFR § 826.30(b); Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 3605 (2020)
4. 29 CFR § 826.20(b)
5. 29 CFR § 826.23
6. 29 CFR § 826.23(b); 29 CFR § 826.70
7. 29 CFR § 826.24

Cross References

Sick Leave 5.302
 Family and Medical Leave 5.305

Franklin Special Board of Education			
Monitoring: Review: Annually, in January	Descriptor Term: FFCRA LEAVE	Descriptor Code: 5.3051	Issued Date: 04/13/20
		Rescinds:	Issued:

1 *General*¹

2 Under the Families First Coronavirus Response Act (FFCRA), this policy will be in effect from April 1,
3 2020 until December 31, 2020.

4 The Director of Schools/designee shall post notice of FFCRA requirements and create any necessary
5 administrative procedures. Employees should seek clarification from the Human Resources Supervisor
6 if they have questions regarding the total amount of leave and pay available to them.

7 **PAID SICK LEAVE**

8 Employees are entitled to up to two (2) weeks of paid sick leave if they are unable to work or telework
9 because the employee:²

- 10 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 11
- 12 2. has been advised by a health care provider to self-quarantine related to COVID-19;
- 13
- 14 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- 15
- 16 4. is caring for an individual subject to or advised to quarantine or isolate due to COVID-19. The
17 individual must be someone with a personal relationship to the employee;
- 18
- 19 5. is caring for his/her son or daughter whose school or place of care is closed, or person who
20 regularly provides child care is unavailable, for reasons related to COVID-19 and no other
21 suitable person is available to care for the child during the requested period of leave. Son or
22 daughter is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child
23 of a person standing *in loco parentis*, who is under 18 years of age; or 18 years of age or older
24 who is incapable of self-care because of a mental or physical disability; or
- 25
- 26 6. is experiencing any other substantially similar condition specified by the Secretary of Health
27 and Human Services, in consultation with the Secretaries of Labor and Treasury.

28 This paid leave may be taken if there is work available for the employee to complete and the employee
29 is unable to work or telework for one of the above reasons. Such leave is in addition to any paid leave
30 that an employee may already be entitled to (e.g. existing sick leave). Employees are not required to
31 exhaust any other paid leave benefit in order to utilize this new category of paid sick leave.

1 **EXPANDED FMLA LEAVE**

2 Full-time or part-time employees who have been on the payroll for thirty (30) calendar days prior to the
3 beginning of the leave are eligible for expanded FMLA leave (EFMLEA). This includes employees who
4 were laid off or terminated after March 1, 2020, who had worked for the district for at least thirty (30)
5 of the prior sixty (60) calendar days and were subsequently rehired or otherwise employed by the
6 district.³

7 Under the FFCRA, an employee qualifies for EFMLEA leave if the employee is unable to work or
8 telework due the need to care for his/her son or daughter because of a school or child care facility closure
9 or because the person who regularly provides child care (i.e. this could include a family member or a
10 neighbor) is unavailable for reasons related to COVID-19.⁴ In these circumstances, a son or daughter is
11 defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing
12 *in loco parentis*, who is under 18 years of age; or 18 years of age or older who is incapable of self-care
13 because of a mental or physical disability.

14 Qualifying employees may take twelve (12) weeks of EFMLEA leave.⁵ The amount of leave available
15 may be impacted by any prior use of FMLA.⁶

16 The first ten (10) days of EFMLEA leave shall be unpaid, however, an employee may choose to take
17 any existing leave benefit during this time. After ten (10) days, EFMLEA leave is paid at two-thirds
18 (2/3) the rate of the employee's regular rate of pay, unless he/she chooses to utilize accrued sick leave
19 or annual leave to cover those days or the amount is capped per federal law.⁷

Legal References

1. Families First Coronavirus Response Act, Pub. L. No. 116-127, §§ 3102, 5101, et seq. (2020)
2. 29 CFR § 826.20(a); 29 CFR § 826.21; 29 CFR § 826.30(a)
3. 29 CFR § 826.30(b); Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 3605 (2020)
4. 29 CFR § 826.20(b)
5. 29 CFR § 826.23
6. 29 CFR § 826.23(b); 29 CFR § 826.70
7. 29 CFR § 826.24

Cross References

Sick Leave 5.302
Family and Medical Leave 5.305

6.402 PHYSICAL EXAMINATIONS AND IMMUNIZATIONS – *1st Reading*

State law now includes an additional vaccine exemption in TCA 49-6-5001.

If in the future any COVID-19 or variant vaccine is required for students, an exemption will be granted for individuals whose religious tenets and practices conflict with vaccination.

This is in addition to exemption provided by TCA 49-6-5001 due to medical reasons if the student has a written statement from his or her doctor excusing him/her from such immunization.

TSBA has provided updated language for this additional exemption.

Franklin Special Board of Education			
Monitoring: Review: Annually, in April	Descriptor Term: Physical Examinations and Immunizations	Descriptor Code: 6.402	Issued Date: Proposed
		Rescinds: 6.402	Issued: 02/08/21

1 **PHYSICAL EXAMINATIONS¹**

2 The principal shall ensure that there is a complete physical examination of each student prior to²:

- 3 1. Entering school for the first time. This applies to Pre-K, Kindergarten, and other students for
4 whom there is no health record; and
5
6 2. Participation as a member of any athletic team or in any other strenuous physical activity
7 program.³

8 Cost of the examination shall be covered by the parent/guardian of the student. These records shall be
9 on file in the principal's office.

10 Screening tests as required by the Tennessee Department of Education and the Department of Health
11 will be conducted. Parent(s)/guardian(s) will receive written notice of any screening result that indicates
12 a condition that might interfere with their student's progress.

13 The school district will not conduct physical examinations of a student without parental consent or by
14 court order, unless the health or safety of the student or others is in question.⁴³

15 **IMMUNIZATIONS**

16 No students entering school, including those entering kindergarten, those from out-of-state, and those
17 from nonpublic schools, will be permitted to enroll without proof of immunization as determined by the
18 Commissioner of Public Health.^{2,5}⁴ It is the responsibility of the parent(s)/guardian(s) to have their
19 children immunized and to provide such proof by submitting a TN Immunization Certificate to the
20 principal of the school which the student is to attend.⁵⁴

21 Exceptions will be granted to any student whose parent/guardian files with school authorities a signed,
22 written statement that such measures conflict with the one of the following:

- 23 1. His/her religious tenets and practices **if** in the absence of an epidemic or immediate
24 threat **hereof** of an epidemic. This exemption will continue to be an option in the event of a
25 **COVID-19 or any variant outbreak,**⁶⁵ or
26
27 2. Due to medical reasons if the student has a written statement from his/her doctor excusing
28 him/her from such immunization.⁷⁶

29 Proof of religious exemptions will be in writing and accompanied by a Tennessee Immunization
30 Certificate documenting proof of a health examination by a licensed medical doctor (MD) or doctor of

- 1 osteopathic medicine (DO). Proof of medical exemptions will be documented on a Tennessee
- 2 Immunization Certificate signed by a physician (MD or DO) or the health department.
- 3 A list of transfer students shall be kept at each school in order that their records may be monitored by
- 4 the Department of Health.

Legal References

1. 20 USCA § 1232h(c)
2. TRR/MS 0520-01-13-.01(1)(a)
3. Tennessee School Health Screening Guidelines, https://www.tn.gov/content/dam/tn/education/csh/csh_school_health_screening_guidelines.pdf; 20 USCA § 1232h(c)(2)(C)
4. TCA 49-6-5001(a),(c)
5. TCA 49-6-5001(b)(2); Public Acts of 2021, Chapter No. 513
6. TCA 49-6-5001(c)(2)

Cross References

Promoting Student Welfare 6.400
Vaccination(s) Refusal Due to Personal Religious Beliefs 6.402.1

Franklin Special Board of Education

Monitoring: Review: Annually, in April	Descriptor Term: Physical Examinations and Immunizations	Descriptor Code: 6.402	Issued Date: 02/08/21
		Rescinds: 6.402	Issued: 10/08/12

1 **PHYSICAL EXAMINATIONS¹**

2 The principal shall ensure that there is a complete physical examination of each student prior to:

- 3 1. Entering school for the first time.² This applies to Pre-K, Kindergarten, and other students for
4 whom there is no health record; and
5
- 6 2. Participation as a member of any athletic team or in any other strenuous physical activity
7 program.³

8 Cost of the examination shall be covered by the parent/guardian of the student. These records shall be
9 on file in the principal's office.

10 Screening tests as required by the Tennessee Department of Education and the Department of Health
11 will be conducted. Parent(s)/guardian(s) will receive written notice of any screening result that indicates
12 a condition that might interfere with their student's progress.

13 The school district will not conduct physical examinations of a student without parental consent or by
14 court order, unless the health or safety of the student or others is in question.⁴

15 **IMMUNIZATIONS**

16 No students entering school, including those entering kindergarten, those from out-of-state, and those
17 from nonpublic schools, will be permitted to enroll without proof of immunization as determined by the
18 Commissioner of Public Health.^{2,5} It is the responsibility of the parent(s)/guardian(s) to have their
19 children immunized and to provide such proof by submitting a TN Immunization Certificate to the
20 principal of the school which the student is to attend.⁵

21 Exceptions will be granted to any student whose parent/guardian files with school authorities a signed,
22 written statement that such measures conflict with the one of the following:

- 23 1. His/her religious tenets and practices, in the absence of an epidemic or immediate threat thereof;⁶
24 or
25
- 26 2. Due to medical reasons if the student has a written statement from his/her doctor excusing
27 him/her from such immunization.⁷

28 Proof of religious exemptions will be in writing and accompanied by a Tennessee Immunization
29 Certificate documenting proof of a health examination by a licensed medical doctor (MD) or doctor of

- 1 osteopathic medicine (DO). Proof of medical exemptions will be documented on a Tennessee
- 2 Immunization Certificate signed by a physician (MD or DO) or the health department.
- 3 A list of transfer students shall be kept at each school in order that their records may be monitored by
- 4 the Department of Health.

Legal References

1. 20 USCA § 1232h(c)
2. TRR/MS 0520-01-03-.08(2)(a)
3. TRR/MS 0520-01-03-.08(2)(b)
4. Tennessee School Health Screening Guidelines, https://www.tn.gov/content/dam/tn/education/csh/csh_school_health_screening_guidelines.pdf
5. TCA 49-6-5001(a),(c)
6. TCA 49-6-5001(b)(2)
7. TCA 49-6-5001(c)(2)

Cross References

Promoting Student Welfare 6.400
Vaccination(s) Refusal Due to Personal Religious Beliefs 6.402.1

	FES					JES					LES					MES					PGES			
	Female	Male	Teachers	Avg		Female	Male	Teachers	Avg		Female	Male	Teachers	Avg		Female	Male	Teachers	Avg		Female	Male	Teachers	Avg
Pre-Kindergarten (P3)	1	3	2	2.0		2	3	1	5.0		3	2	1	5.0		1	3	1	4.0		1	1	1	0
Pre-Kindergarten (P4)	16	14	1	30.0		8	9	1	17.0		6	11	1	17.0		6	13	1	19.0		10	13	1	23
Kindergarten	25	32	3	19.0		32	31	4	15.8		42	44	5	17.2		43	49	5	18.4		26	29	3	18.33
Pre-First	0	0	0	0.0		0	0	0	0.0		0	0	0	0.0		0	0	0	0.0		0	0	0	0
Grade 1	27	25	3	17.3		24	35	4	14.8		60	44	6	17.3		48	51	5	19.8		33	32	4	16.25
Grade 2	41	29	4	17.5		20	24	4	11.0		42	41	5	16.6		41	55	5	19.2		23	33	4	14
Grade 3	25	23	3	16.0		31	23	3	18.0		24	45	4	17.3		48	44	5	18.4		29	44	4	18.25
Grade 4	37	18	3	18.3		24	26	3	16.7		43	50	5	18.6		51	45	5	19.2		39	26	4	16.25
Total Students	172	144		316		141	151		292		220	237		457		238	260		498		161	178		339

Asian	9		3%			33		12%			18		4%			55		12%			10		3%	
Black	35		12%			65		24%			36		8%			47		10%			21		7%	
Hispanic-All Races	36		13%			65		24%			139		32%			77		16%			132		42%	
Native American	1		0%			1		0%			0		0%			2		0%			2		1%	
Hawaiian/Pacific Islander	1		0%			1		0%			5		1%			5		1%			0		0%	
White	200		71%			105		39%			237		54%			289		61%			149		47%	
TOTAL WITHOUT PRE-K	282					270					435					475					314			

	FIS					FMS					PGMS												
	Female	Male	Teachers	Avg		Female	Male	Teachers	Avg		Female	Male	Teachers	Avg									
Grade 5	130	152	12	23.5												35	37	4	18				
Grade 6	126	134	12	21.7												36	35	4	17.75				
Grade 7						126	131	13	19.8							32	57	4	22.25				
Grade 8						113	142	12	21.3							54	47	4	25.25				
Total Students	256	286		542		239	273		512							157	176		333				

Grade	Average Size
K-3	17.0
4-6	18.9
7-8	22.1

Asian	37		7%			27		5%								14		4%						
Black	80		15%			96		19%								17		5%						
Hispanic-All Races	124		23%			137		27%								119		36%						
Native American	3		1%			4		1%								3		1%						
Hawaiian/Pacific Islander	0		0%			2		0%								2		1%						
White	298		55%			246		48%								178		53%						
TOTAL WITHOUT PRE-K	542					512										333								
TOTAL WITHOUT PRE-K	3163				TOTAL WITH PRE-K	3289				TOTAL PRE-K	126													

FSSD Demographics - 9/3/2021

FRANKLIN SPECIAL SCHOOL DISTRICT
Investment Report
July 31, 2021

Local Government Investment Pool

Interest Rate for July: .02%

General Investment Account	
Beginning Balance	\$ 7,280,816.26
Interest	102.91
Withdrawals	(1,900,000.00)
Deposits	
Total Invested	\$ 5,380,919.17

Debt Service Investment Account	
Beginning Balance	\$ 351,165.87
Interest	5.96
Withdrawals	-
Deposits	
Total Invested	\$ 351,171.83

Capital Projects Investment Account	
Beginning Balance	\$ 2.69
Interest	-
Withdrawals	-
Deposits	-
Total Invested	\$ 2.69

Construction Investment Account	
Beginning Balance	\$ 31,225,225.86
Interest	500.34
Withdrawals	(3,429,405.17)
Deposits	-
Total Invested	\$ 27,796,321.03

FRANKLIN SPECIAL SCHOOL DISTRICT
Investment Report
July 31, 2021

First Tennessee Bank

General Purpose Checking	
Beginning Balance	\$ 2,252,954.10
Receipts	2,269,644.34
Receipts - Loan from First Horizon (Tax Anticipation)	
Receipts - Loan	
Interest	145.78
Transfer from Investments	1,900,000.00
Transfer to Investments	
Pmt of Tax Anticipation Loan First Horizon	
Pmt of Loan to - Debt	
Disbursements	(5,235,225.22)
Ending Balance	\$ 1,187,519.00
Debt Service Checking	
Beginning Balance	\$ 661,912.41
Receipts	30,756.62
Receipts - Loan Payment fr GP	
Interest	57.31
Transfer from Investments	
Transfer to Investments	
Loan to Capital Proj	
Disbursements	
Ending Balance	\$ 692,726.34
Capital Projects Checking	
Beginning Balance	\$ 164,332.61
Receipts	43,866.63
Interest	14.53
Loan fr Debt Service	
Transfer from GP Loan	
Reimb fr GP-Exp	
Disbursements	(14,499.95)
Ending Balance	\$ 193,713.82
Construction Checking	
Beginning Balance	\$ 39,062.06
Receipts	
Interest	33.58
Transfer fr LGIP	3,429,405.17
Transfer to LGIP	
Disbursements	(3,428,824.17)
Ending Balance	\$ 39,676.64

Fnd T	Acct	Obj	Prj	Loc	Frg	Acct	2021-22		2021-22		2021-22		2021-22		Uncollected Balance
							Original Budget	Budget Revisions	Revised Budget	Monthly Activity	FYTD Activity	August 2021-22 Monthly Activity			
141						General Purpose									
141	R	46981				Safe Schools	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	47143				Ed Of Handicap IDEA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	47145				IDEA Preschool	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	47304				Remote Technology Grant	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	47590				Other Federal Through State	0.00	0.00	0.00	739.92	2,522.81	2,522.81	-2,522.81	0.00	0.00
141	R	48130				CONTRIBUTIONS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	48990				Other-Citizens Group	5,000.00	0.00	5,000.00	0.00	0.00	0.00	5,000.00	0.00	0.00
141	R	49700				Insurance Recovery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
141	R	49800				Transfers In	55,000.00	0.00	55,000.00	0.00	0.00	0.00	55,000.00	0.00	0.00
141						General Purpose	56,687,558.00	0.00	56,687,558.00	2,202,493.75	2,298,885.56	2,298,885.56	54,388,672.44		

Fnd	T	Acct	Obj	Pri	Loc	Prg	Acct	2021-22		August 2021-22		2021-22	Encumbered	Unencumbered	
								Original Budget	Revised Budget	Monthly Activity	FYTD Activity				Amount
141							General Purpose								
141	E	71100					Regular Education Program	27,161,989.00	27,161,989.00	1,268,637.52	1,877,871.53	186,675.16	25,097,442.31		
141	E	71150					Alternative Schools	89,000.00	89,000.00	0.00	0.00	0.00	89,000.00		
141	E	71200					Special Education Program	6,151,982.00	6,151,982.00	195,321.16	240,933.32	59,673.19	5,851,375.49		
141	E	72110					Attendance	0.00	0.00	0.00	0.00	0.00	0.00		
141	E	72120					Health Services	246,791.00	246,791.00	2,652.71	11,317.48	829.74	234,643.78		
141	E	72130					Other Student Support	1,018,757.00	1,018,757.00	58,690.30	67,294.30	13,205.03	938,257.67		
141	E	72210					Regular Instruction Program	2,932,547.00	2,932,547.00	146,273.99	211,750.87	25,272.57	2,695,523.56		
141	E	72250					Special Education Instruction	1,384,290.00	1,384,290.00	67,469.67	95,119.77	65,762.42	1,223,407.81		
141	E	72250					TECHNOLOGY	1,188,218.00	1,188,218.00	124,479.70	282,517.76	8,177.65	897,522.59		
141	E	72310					Board Of Education Services	1,515,880.00	1,515,880.00	66,639.92	325,681.18	287,254.77	902,944.05		
141	E	72320					Director of Schools	490,988.00	490,988.00	36,932.49	56,388.00	13,912.70	420,687.30		
141	E	72410					Office Of The Principal	3,674,138.00	3,674,138.00	278,532.36	433,877.61	56,264.17	3,183,996.22		
141	E	72510					Fiscal Services	719,965.00	719,965.00	60,856.28	92,446.15	464.42	627,054.43		
141	E	72520					Human Resources	360,539.00	360,539.00	26,624.32	41,319.84	3,540.23	315,678.93		
141	E	72610					Operation Of Plant	3,513,915.00	3,513,915.00	282,149.54	558,525.61	132,642.72	2,822,746.67		
141	E	72620					Maintenance Of Plant	742,036.00	742,036.00	56,032.21	96,131.56	73,230.91	572,673.53		
141	E	72710					Transportation	2,059,958.00	2,059,958.00	83,819.65	173,319.16	121,926.27	1,764,712.57		
141	E	72810					Central And Other	142,304.00	142,304.00	13,430.33	23,066.48	11,573.97	107,563.55		
141	E	73100					Food Supplies	0.00	0.00	0.00	0.00	0.00	0.00		
141	E	73300					Community Service	358,335.00	358,335.00	0.00	1,009.57	0.00	357,325.43		
141	E	73400					Early Childhood Education	502,026.00	502,026.00	18,828.02	22,891.84	380.91	478,753.25		
141	E	81300					Education Debt Service	0.00	0.00	0.00	0.00	0.00	0.00		
141	E	82130					Principal	216,700.00	216,700.00	36,454.00	36,454.00	182,453.00	-2,207.00		
141	E	82230					Interest	42,265.00	42,265.00	1,000.00	1,000.00	4,817.00	36,448.00		
141	E	82330					Other Debt Service	0.00	0.00	0.00	0.00	0.00	0.00		
141	-						General Purpose	54,512,623.00	54,512,623.00	2,824,824.17	4,648,916.03	1,248,056.83	48,615,650.14		

Fnd T Acct	Obj Prj	Loc	Prg	Acct	2021-22 Original Budget	2021-22 Budget Revisions	2021-22 Revised Budget	August 2021-22 Monthly Activity	2021-22 FYTD Activity	Uncollected Balance
Federal Programs										
142										
142 R 47141				Title I Part A	395,094.00	0.00	395,094.00	0.00	0.00	395,094.00
142 R 47143				Ed Of Handicap IDEA	833,012.00	0.00	833,012.00	0.00	0.00	833,012.00
142 R 47145				IDEA Preschool	24,256.00	0.00	24,256.00	0.00	0.00	24,256.00
142 R 47146				Title III Part A	41,576.00	0.00	41,576.00	0.00	0.00	41,576.00
142 R 47147				Title IV Safe & Drug-Free Scho	27,549.00	0.00	27,549.00	0.00	0.00	27,549.00
142 R 47149				Title X McKinney-Vento	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47189				Title II Part A	102,210.00	0.00	102,210.00	0.00	0.00	102,210.00
142 R 47301				ESSER Grant	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47303				LEA Reopening Grant	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47306				Emergency Loss of Income Grant	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47307				ESSER 2.0	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47309				Literacy Training Teacher Stip	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47311				First To The Top	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47590				Other Federal Through State	0.00	0.00	0.00	0.00	0.00	0.00
142 R 47990				Other Direct Federal Revenue	0.00	0.00	0.00	0.00	0.00	0.00
142 R 49800				Transfers In	0.00	0.00	0.00	0.00	0.00	0.00
142				Federal Programs	1,423,697.00	0.00	1,423,697.00	0.00	0.00	1,423,697.00

Fnd T	Acct	Obj	Prj	Loc	Prg	Acct	2021-22	2021-22	2021-22	August 2021-22	2021-22	Uncollected	
							Original Budget	Budget Revisions	Revised Budget	Monthly Activity	FYTD Activity	Balance	
143							Food Service						
143 R	43521						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	43522						49,000.00	0.00	49,000.00	2,212.25	2,212.25	46,787.75	
143 R	43523						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	43525						150,000.00	0.00	150,000.00	5,950.75	5,950.75	144,049.25	
143 R	43990						65,000.00	0.00	65,000.00	8,516.37	8,660.37	56,339.63	
143 R	44530						1,000.00	0.00	1,000.00	161.00	900.50	99.50	
143 R	44560						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	44570						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	44990						0.00	0.00	0.00	190.54	190.54	-190.54	
143 R	46520						10,000.00	0.00	10,000.00	0.00	0.00	10,000.00	
143 R	46980						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	47111						1,235,000.00	0.00	1,235,000.00	0.00	0.00	1,235,000.00	
143 R	47112						149,670.00	0.00	149,670.00	0.00	0.00	149,670.00	
143 R	47113						642,000.00	0.00	642,000.00	0.00	0.00	642,000.00	
143 R	47114						16,000.00	0.00	16,000.00	197,446.23	258,817.22	-242,817.22	
143 R	47115						0.00	0.00	0.00	0.00	0.00	0.00	
143 R	47590						140,000.00	0.00	140,000.00	6,989.36	6,989.36	133,010.64	
143 -							2,457,670.00	0.00	2,457,670.00	221,466.50	283,720.99	2,173,949.01	

Fnd T	Acct	Obj	Pri	Loc	Prq	Acct	2021-22		August 2021-22	2021-22	Encumbered	Unencumbered
							Original Budget	Revised Budget	Monthly Activity	FYTD Activity	Amount	Balance
143												
143	E	73100					2,459,137.00	180,183.69	222,308.62	1,600,807.96	536,020.42	
								180,183.69	222,308.62	1,600,807.96	536,020.42	
143	-						2,459,137.00	180,183.69	222,308.62	1,600,807.96	536,020.42	

Food Service

Food Supplies

Food Service

Fnd T	Acct	Obj	Prj	Loc	Prg	Acct	2021-22		2021-22		2021-22		Uncollected	
							Original Budget	Budget Revisions	Revised Budget	August 2021-22 Monthly Activity	FYTD Activity	Balance		
146							Community Service (MAC)							
146	R	43581					1,164,691.00	0.00	1,164,691.00	86,682.64	168,780.97	995,910.03		
							Community Services Fees							
146	R	43584					24,769.00	0.00	24,769.00	12,730.00	18,880.00	5,889.00		
							Registration Fees-School Year							
146	R	43585					8,067.00	0.00	8,067.00	0.00	175.00	7,892.00		
							Registration Fees-Summer							
146	R	43990					0.00	0.00	0.00	0.00	0.00	0.00		
							Other Charges For Services							
146	R	44120					33,912.00	0.00	33,912.00	2,826.00	8,478.00	25,434.00		
							Lease/Rentals							
146	R	44170					31,000.00	0.00	31,000.00	0.00	0.00	31,000.00		
							Miscellaneous Refunds							
146	R	44570					4,500.00	0.00	4,500.00	0.00	0.00	4,500.00		
							Contributions & Gifts							
146	R	44990					0.00	0.00	0.00	0.00	0.00	0.00		
							Other Local Revenue							
146	R	46590					80,231.00	0.00	80,231.00	0.00	0.00	80,231.00		
							Other State Education Funds							
146							1,347,170.00	0.00	1,347,170.00	102,238.64	196,313.97	1,150,856.03		
							Community Service (MAC)							

Fnd T Acct	Obj	Pri	Loc	Proj	Acct	2021-22		August 2021-22		2021-22	Encumbered	Unencumbered
						Original Budget	Revised Budget	Monthly Activity	FYTD Activity			
146					Community Service (MAC)							
146 E	73300				Community Service	1,341,799.00	1,341,799.00	107,532.25	157,639.19	10,265.62	1,173,894.19	
146 E	99100				Operating Transfer	0.00	0.00	0.00	0.00	0.00	0.00	
146					Community Service (MAC)	1,341,799.00	1,341,799.00	107,532.25	157,639.19	10,265.62	1,173,894.19	

Fnd T Acct	Obj Prj	Loc	Pkg	Acct	2021-22		2021-22		August 2021-22		2021-22		Uncollected Balance
					Original Budget	Budget Revisions	Revised Budget	Monthly Activity	FYTD Activity				
Debt Service													
156 R	40610				6,540,270.00	0.00	6,540,270.00	0.00	0.00	0.00	0.00	0.00	6,540,270.00
156 R	40620				50,000.00	0.00	50,000.00	5,362.93	5,362.93	5,362.93	5,362.93	0.00	44,637.07
156 R	40630				10,500.00	0.00	10,500.00	362.86	362.86	362.86	362.86	0.00	10,137.14
156 R	40640				20,000.00	0.00	20,000.00	1,836.86	1,836.86	1,836.86	1,836.86	0.00	18,163.14
156 R	44110				1,000.00	0.00	1,000.00	65.10	65.10	128.37	128.37	0.00	871.63
156 R	44390				0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
156 R	49800				0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
156 -					6,621,770.00	0.00	6,621,770.00	7,627.75	7,627.75	7,627.75	7,627.75	0.00	6,614,078.98

Fnd T	Acct	Obj	Prj	Loc	Prg	Acct	2021-22 Original Budget	2021-22 Budget Revisions	2021-22 Revised Budget	August 2021-22 Monthly Activity	2021-22 FYTD Activity	Uncollected Balance
177						Capital Projects						
177	R	40210				Local Option Sales Tax	0.00	0.00	0.00	0.00	0.00	0.00
177	R	40390				Other Statutory Local Tax	950,000.00	0.00	950,000.00	73,480.94	73,480.94	876,519.06
177	R	44110				Interest Earned	200.00	0.00	200.00	480.64	1,029.09	-829.09
177	R	44530				Sale of Equipment	0.00	0.00	0.00	0.00	0.00	0.00
177	R	44570				Contributions & Gifts	0.00	0.00	0.00	0.00	0.00	0.00
177	R	44990				Other Local Revenue	0.00	0.00	0.00	0.00	0.00	0.00
177	R	46530				Energy Efficient Schools Grant	0.00	0.00	0.00	0.00	0.00	0.00
177	R	48130				CONTRIBUTIONS	0.00	0.00	0.00	0.00	0.00	0.00
177	R	49100				Bonds Issued	0.00	0.00	0.00	0.00	0.00	0.00
177	-					Capital Projects	950,200.00	0.00	950,200.00	73,961.58	74,510.03	875,689.97

177
 Capital Projects

End T Acct	Obj	Prj	Loc	Prg	Acct	2021-22 Original Budget	2021-22 Revised Budget	August 2021-22 Monthly Activity	2021-22 FYTD Activity	Encumbered Amount	Unencumbered Balance
177 E	81300	---	----	---	Education Debt Service	0.00	0.00	0.00	0.00	0.00	0.00
177 E	82130	---	----	---	Principal	0.00	0.00	0.00	0.00	0.00	0.00
177 E	82230	---	----	---	Interest	0.00	0.00	0.00	0.00	0.00	0.00
177 E	82330	---	----	---	Other Debt Service	181,110.00	181,110.00	35,000.00	35,000.00	0.00	146,110.00
177 E	91300	---	----	---	Education Capital Projects	21,737,392.00	21,737,392.00	2,109,477.94	5,538,572.06	7,342,154.04	8,856,665.90
177 E	99100	---	----	---	Operating Transfer	0.00	0.00	0.00	0.00	0.00	0.00
177 -	-----	---	----	---	Capital Projects	21,918,502.00	21,918,502.00	2,144,477.94	5,573,572.06	7,342,154.04	9,002,775.90

End T Acct	Obj	Pri	Loc	Prg	Acct	2021-22 Original Budget	2021-22 Revised Budget	August 2021-22 Monthly Activity	2021-22 FYTD Activity	Encumbered Amount	Unencumbered Balance
						87,821,171.00	87,821,171.00	5,335,809.77	10,759,774.32	10,536,353.27	66,525,043.41
Grand Expense Totals											

Number of Accounts: 4399

***** End of report *****

FRANKLIN SPECIAL SCHOOL DISTRICT

Comparison of Sales Tax Revenue

FY 2020-21 to FY 2021-22

		Actual Revenue -		\$ Change		% Change	
Received	For the	Sales Tax		Month-to-	Year-to-	Month-to-	Year-to-
During	Month of	FY 2020-2021	FY 2021-2022	Month	Date	Month	Date
Aug	May	\$ 486,669	\$ 596,966	\$ 110,297	\$ 110,297	22.7%	22.7%
Sep	June	533,432	620,365	\$ 86,933	\$ 197,230	16.3%	19.3%
Oct	July	523,021					
Nov	Aug	532,701					
Dec	Sept	544,613					
Jan	Oct	555,813					
Feb	Nov	562,186					
Mar	Dec	816,850					
Apr	Jan	555,149					
ADA Adjustment		(306,074)					
May	Feb	462,905					
June	March	561,919					
July	April	593,537					
Total YTD		\$ 6,422,720	\$ 1,217,331	\$ 197,230			
FY 2021-2022 Budgeted Total			\$ 6,500,000				
Actual Over (Under) Budget			\$ (5,282,669)				
% of Budget Received YTD			18.7%				