

ELIZABETHTON CITY SCHOOLS BOARD OF EDUCATION

Called Board Meeting

Tuesday, July 14, 2020, @ 7:45 PM

Board Members

Eddie Pless | Phil Isaacs | Danny O'Quinn | Mike Wilson | Jamie Schaff | Gracie Fields
(Student Liaison)

The Elizabethton Board of Education will meet on Tuesday, July 14, 2020, at 7:45 PM in the Mack Pierce Board Room, 804 South Watauga Ave , Elizabethton, TN 37643.

1. **Call Meeting to Order**
2. **Time for citizens to speak.**
 - A. Robin Mottern asked to address the Board:

Robin Mottern
760 Ridgefield Road
Elizabethton, Tennessee 37643
3. **Approve the Contracts between Elizabethton City Schools and GoinsRashCain, Inc. (GRC) as Construction Manager for restroom and roof renovations at T. A. Dugger, Jr. High School.**
4. **Approve the Guaranteed Maximum Price Amendment between Elizabethton City Schools and GoinsRashCain, Inc. (GRC) for the completion of the hardening of entrances at Elizabethton High School, Harold McCormick Elementary School, and East Side Elementary School in an amount not to exceed \$343,600.00.**
5. **Approve a date to begin the Navy National Defense Cadet Corps (NNDCC) program at Elizabethton High School.**
6. **Approve the 20-21 Organizational Chart for Central Office Employees.**
7. **Approve the Elizabethton City Schools 2020-2021 Re-Opening Plan (COVID-19).**



AIA® Document A133™ – 2009

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 Twenty-ninth day of June in the year Two Thousand Twenty
(*In words, indicate day, month and year.*)
July 2, 2020

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

Elizabethton City Schools
804 Watauga Avenue
Elizabethton, Tennessee 37643
Telephone No: 423-547-8000

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

GoinsRashCain, Inc.
(dba GRC Construction)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

for the following Project:
(*Name and address or location*)

Re-Roofing Existing Building:
T A Dugger Junior High School
306 West 'E' Street
Elizabethton, Tennessee 37643
TWA Project No. #020-001.2

The Architect:
(*Name, legal status and address*)

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner's Designated Representative:
(*Name, address and other information*)

Mr. Richard VanHuss, Director of Schools
Elizabethton City Schools
804 Watauga Avenue
Elizabethton, Tennessee 37643

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™–2007, 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.

Telephone No: 423-547-8000

The Construction Manager's Designated Representative:
(Name, address and other information)

Mr. Pat Breeding, President
GoinsRashCain, Inc. (GRC)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

The Architect's Designated Representative:
(Name, address and other information)

Mr. Thomas Weems, AIA, ACHA
Thomas Weems, Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner and Construction Manager agree as follows.

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(Paragraph Deleted)

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 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 the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

§ 1.2 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.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

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ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. 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.

§ 2.1 Preconstruction Phase

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

§ 2.1.2 Consultation

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. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; 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.

§ 2.1.3 When Project requirements in Section 3.1.1 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 could 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.

§ 2.1.4 Phased Construction

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

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 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, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 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

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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.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. 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.

§ 2.1.9 Notices and 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 for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .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, allowances, contingency, 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.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.

§ 2.2.6 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

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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.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 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.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by 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 and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 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 prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, 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 Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 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 to the Owner and Architect.

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§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 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. The Construction Manager shall also 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.

§ 2.3.2.8 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 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 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.

§ 3.1.2 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. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 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 Section 6.1.1, (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.

§ 3.1.4 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.

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§ 3.1.4.1 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.

§ 3.1.4.2 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 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 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.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to 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.

§ 3.1.4.4 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.

§ 3.2 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 A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 **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.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B104™-2017, Standard Form of Agreement Between Owner and Architect, 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 a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

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

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

\$0.00

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within 6 (six) 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.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

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§ 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid 60 (sixty) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

2 % TwoPercent Annually

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager’s performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager’s Fee.

§ 5.1.1 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.)

Percentage based fee of Five Percent (5%) of the Cost of Construction.

§ 5.1.2 The method of adjustment of the Construction Manager’s Fee for changes in the Work:

5% (Five percent) of the Cost of the Work

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

10% (Ten percent) of the Cost of the Work, if Work is Performed by a Sub Contractor the General Contractor is Allowed an Additional 7% (Seven percent).

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

§ 5.1.5 Unit prices, if any:

(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

(Insert specific provisions if the Construction Manager is to participate in any savings.)

Any and all savings will be returned to the Owner.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 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

Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 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 Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of AIA Document A201–2007 and the term “costs” as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 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 5.1.2 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 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or on the road, 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.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

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(Paragraph Deleted)

§ 6.3 Subcontract Costs

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

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 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.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling 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.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 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.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums, for that portion of insurance and bonds required by the Contract Documents, that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

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

§ 6.6.3 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.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner’s prior approval.

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

(Paragraph Deleted)

§ 6.6.9 Subject to the Owner’s prior approval, 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.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 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 Section 10.4 of AIA Document A201–2007.

§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 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 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 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 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of 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 to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 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 them 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

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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.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term “related party” includes any member of the immediate family of any person identified above.

§ 6.10.2 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner’s auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager’s records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 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.

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

One Calendar Month

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the Tenth day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the Twenty fifth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 15 (Fifteen) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of

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those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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 for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of Five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of Five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior 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.

§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.

§ 7.2 Final Payment

§ 7.2.1 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 Section 12.2.2 of AIA Document A201-2007, 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.

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:

Thirty (30) Days

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, 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 Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be 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 Section 15.2 of A201-2007. 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.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Builder's Risk Insurance NIC	
Performance and Payment Bond	

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. 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

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as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, 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.)

]

] Litigation in a court of competent jurisdiction Carter County

] Other: *(Specify) in Carter County, Tennessee*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 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 Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:

- .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 5.1 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.

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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall,

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as a condition of receiving the payments referred to in this Article 10, 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.

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.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions: None

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ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 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.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

- .4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

- .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

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

OWNER*(Signature)*

Mr. Richard VanHuss, Director of Schools
Elizabethton City Schools

(Printed name and title)



CONSTRUCTION MANAGER*(Signature)*

Mr. Pat Breeding, President
GoinsRashCain, Inc.(GRC)

(Printed name and title)

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**ADDENDUM TO AIA DOCUMENT A133 – 2009,
STANDARD FORM OF AGREEMENT BETWEEN OWNER
AND CONSTRUCTION MANAGER AS CONSTRUCTOR**

The other conditions and services set forth below shall, modify, delete from, add to and replace by substitution the above-referenced AIA Document A133 – 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor. For any article, paragraph, sub-paragraph, clause or language of the Subcontract Agreement (or any document incorporated by the Subcontract Agreement) deleted, modified, added to or otherwise changed by this Addendum, the unaltered provisions of that article, paragraph, sub-paragraph, clause or language shall remain in full force or effect. If, however, and to the extent the conditions set forth below are inconsistent with the Subcontract Agreement or any other Documents, including but not limited to any incorporated documents, the conditions set forth below shall supersede and control.

“Neither Construction Manager nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in the Agreement or unless authorized in writing by Owner’s representative.”

“Construction Manager will, as soon as practicable, notify Owner’s representative of any issue which could adversely impact Owner’s interests (e.g. errors, obvious design issues, increased costs, potential conflicts of interest, etc.)”

“Construction Manager stipulates that Owner is a political subdivision of the state of Tennessee, and, as such may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Tennessee. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except that which is specifically authorized by law.”

“Construction Manager or any of its agents or sub-consultants, whether skilled or unskilled, shall not, in any manner have, claim or acquire any lien upon the Project, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the state of Tennessee.”

“The Guaranteed Maximum Price shall include, without exception, all labor, materials, equipment, fees of any kind, and any other expenditures necessary to achieve the full and complete construction of the Project for school-ready occupancy and operation. Owner shall not be responsible for paying any other fees, costs or expenses of any kind in excess of the agreed to Guaranteed Maximum Price not authorized by Owner through a written Change Order.”

“Owner shall not be liable to Construction Manager or its subcontractors for any loss or damage to Construction Manager’s or its subcontractors’ work, materials, tools, equipment or supplies, however caused. Construction Manager and its subcontractors assume all loss or risk of loss for its work, regardless of whether Construction Manager or its subcontractors have been paid for such work. Owner is not responsible for providing any protection of Construction Manager’s or its subcontractors’ work or any protective service for Construction Manager or its subcontractors’ benefit.”

“Construction Manager and its subcontractors shall comply with all federal, state, municipal and local laws, ordinances, codes, laws, rules, regulations, standards, orders, notices and requirements, including but not limited to those relating to safety, discrimination of employment, fair employment practices, whether or not specifically provided for in this Agreement, without additional charge or expense to Owner, and shall also be responsible for, and correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of its work.”

“Construction Manager shall comply with provisions of Tennessee Code Annotated § 49-5-413(d) by requiring a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee who may have direct contact with school children or who will come on or about school property when children are present. Construction Manager shall not employ any person convicted of any offense identified in Tenn. Code Ann. §49-5-413(d)(3) in any capacity that would require him or her to have direct contact with school children or come on or about school property when children are present. Contractor shall ensure that subcontractors comply with the statutory requirements described in this paragraph.”

“The Architect, with the Construction Manager present, shall make a semi-final inspection and prepare a list of items requiring correction in order for the project to be complete. When these items have been corrected, the Architect, with the Construction Manager present, shall conduct a final inspection and shall determine to the best of his knowledge whether the project is in compliance with the Contract Documents, at which time the Architect and Construction Manager shall procure and forward to the Owner for the Owner’s review and record written warranties and related documents required by the Contract Documents, and shall issue a final certificate of payment upon compliance with the requirements of the Contract Documents.”

“Construction Manager and all subcontractors shall ensure that all materials incorporated in the Work must be new and unused and, when not specified in detail in the Contract Documents, all materials incorporated in the Work must be of the most suitable grade and quality for the purpose intended. **Further, Construction Manager and all subcontractors must** furnish, use, install, employ and protect each item of materials in strict compliance with the specifications, recommendations and instructions of the manufacturer or supplier, unless those specifications, recommendations or instructions deviate from accepted construction practices or the Contract Documents, in which case subcontractor shall inform Construction Manager who shall inform Owner and shall proceed as Owner directs. Construction Manager must coordinate and interrelate all Subcontracts to ensure the compatibility of materials and the validity of all warranties and guarantees that the Contract Documents require.”

“Final payment consisting of the unpaid balance of the Contract Price shall be made only after delivery of all guarantees, warranties, instruction manuals, test reports, performance

charts, diagrams, and similar documents required by the Contract Documents with respect to Construction Manager's Work."

"Constructor or Manager agrees to indemnify, hold harmless, protect and pay Owner and Owner's agents, representatives, and any affiliated or related entities against any and all claims, loss, liability, damage, cost, and expenses, including reasonable attorney fees and litigation cost, that is determined by a court of law to have occurred in whole or in part as a result of or due to the negligence or fault of Construction Manager, its agents, consultants, employees or representatives with regard to Construction Manager's responsibilities set forth in the Agreement and the Contract Documents."

OWNER (Signature)

Date: _____

Dr. Corey Gardenhour, Superintendent
Elizabethton City Schools



CONSTRUCTION MANAGER (Signature)

Date: July 2 2020

Pat Breeding, President
GoinsRashCain, Inc. (GRC)



AIA® Document A133™ – 2009

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 Twenty-ninth day of June in the year Two Thousand Twenty
(In words, indicate day, month and year.)
July 2, 2020

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

Elizabethton City Schools
804 Watauga Avenue
Elizabethton, Tennessee 37643
Telephone No: 423-547-8000

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

GoinsRashCain, Inc.
(dba GRC Construction)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

for the following Project:
(Name and address or location)

Interior Renovations For:
T A Dugger Junior High School
306 West 'E' Street
Elizabethton, Tennessee 37643
TWA Project No. #020-001.2

The Architect:
(Name, legal status and address)

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner's Designated Representative:
(Name, address and other information)

Mr. Richard VanHuss, Director of Schools
Elizabethton City Schools
804 Watauga Avenue
Elizabethton, Tennessee 37643

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™–2007, 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.

Telephone No: 423-547-8000

The Construction Manager's Designated Representative:
(Name, address and other information)

Mr. Pat Breeding, President
GoinsRashCain, Inc. (GRC)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

The Architect's Designated Representative:
(Name, address and other information)

Mr. Thomas Weems, AIA, ACHA
Thomas Weems, Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner and Construction Manager agree as follows.

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(Paragraph Deleted)

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 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 the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

§ 1.2 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.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

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ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. 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.

§ 2.1 Preconstruction Phase

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

§ 2.1.2 Consultation

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. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; 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.

§ 2.1.3 When Project requirements in Section 3.1.1 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 could 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.

§ 2.1.4 Phased Construction

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

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 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, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 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

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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.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. 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.

§ 2.1.9 Notices and 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 for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .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, allowances, contingency, 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.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.

§ 2.2.6 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

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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.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 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.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by 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 and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 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 prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, 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 Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 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 to the Owner and Architect.

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§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 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. The Construction Manager shall also 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.

§ 2.3.2.8 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 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 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.

§ 3.1.2 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. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 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 Section 6.1.1, (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.

§ 3.1.4 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.

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§ 3.1.4.1 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.

§ 3.1.4.2 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 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 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.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to 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.

§ 3.1.4.4 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.

§ 3.2 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 A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 **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.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B104™-2017, Standard Form of Agreement Between Owner and Architect, 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 a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

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

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

\$0.00

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within 6 (six) 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.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

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§ 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid 60 (sixty) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

2 % TwoPercent Annually

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager’s performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager’s Fee.

§ 5.1.1 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.)

Percentage based fee of Five Percent (5%) of the Cost of Construction.

§ 5.1.2 The method of adjustment of the Construction Manager’s Fee for changes in the Work:

5% (Five percent) of the Cost of the Work

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

10% (Ten percent) of the Cost of the Work, if Work is Performed by a Sub Contractor the General Contractor is Allowed an Additional 7% (Seven percent).

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

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.
(Insert specific provisions if the Construction Manager is to participate in any savings.)

Any and all savings will be returned to the Owner.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 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

Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 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 Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of AIA Document A201–2007 and the term “costs” as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 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 5.1.2 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 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or on the road, 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.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

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(Paragraph Deleted)

§ 6.3 Subcontract Costs

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

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 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.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling 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.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 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.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums, for that portion of insurance and bonds required by the Contract Documents, that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

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

§ 6.6.3 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.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

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§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

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

(Paragraph Deleted)

§ 6.6.9 Subject to the Owner's prior approval, 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.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 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 Section 10.4 of AIA Document A201–2007.

§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 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 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 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 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of 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 to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 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 them 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

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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.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term “related party” includes any member of the immediate family of any person identified above.

§ 6.10.2 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner’s auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager’s records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 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.

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

One Calendar Month

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the Tenth day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the Twenty fifth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 15 (Fifteen) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of

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those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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 for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of Five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of Five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior 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.

§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.

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§ 7.2 Final Payment

§ 7.2.1 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 Section 12.2.2 of AIA Document A201–2007, 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.

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:

Thirty (30) Days

§ 7.2.2 The Owner’s auditors will review and report in writing on the Construction Manager’s final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner’s auditors report to be substantiated by the Construction Manager’s final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner’s auditors, 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 Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 7.2.3 If the Owner’s auditors report the Cost of the Work as substantiated by the Construction Manager’s final accounting to be 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 Section 15.2 of A201–2007. 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.

§ 7.2.4 If, subsequent to final payment and at the Owner’s request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Builder’s Risk Insurance NIC	
Performance and Payment Bond	

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007. 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

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as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, 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.)

]

] Litigation in a court of competent jurisdiction Carter County

] Other: *(Specify) in Carter County, Tennessee*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 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 Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:

- .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 5.1 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.

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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall,

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as a condition of receiving the payments referred to in this Article 10, 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.

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.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions: None

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ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 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.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:
 - .4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:
 - .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

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

OWNER(Signature)

Mr. Richard VanHuss, Director of Schools
Elizabethton City Schools

(Printed name and title)



CONSTRUCTION MANAGER(Signature)

Mr. Pat Breeding, President
GoinsRashCain, Inc.(GRC)

(Printed name and title)

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**ADDENDUM TO AIA DOCUMENT A133 – 2009,
STANDARD FORM OF AGREEMENT BETWEEN OWNER
AND CONSTRUCTION MANAGER AS CONSTRUCTOR**

The other conditions and services set forth below shall, modify, delete from, add to and replace by substitution the above-referenced AIA Document A133 – 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor. For any article, paragraph, sub-paragraph, clause or language of the Subcontract Agreement (or any document incorporated by the Subcontract Agreement) deleted, modified, added to or otherwise changed by this Addendum, the unaltered provisions of that article, paragraph, sub-paragraph, clause or language shall remain in full force or effect. If, however, and to the extent the conditions set forth below are inconsistent with the Subcontract Agreement or any other Documents, including but not limited to any incorporated documents, the conditions set forth below shall supersede and control.

“Neither Construction Manager nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in the Agreement or unless authorized in writing by Owner’s representative.”

“Construction Manager will, as soon as practicable, notify Owner’s representative of any issue which could adversely impact Owner’s interests (e.g. errors, obvious design issues, increased costs, potential conflicts of interest, etc.)”

“Construction Manager stipulates that Owner is a political subdivision of the state of Tennessee, and, as such may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Tennessee. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except that which is specifically authorized by law.”

“Construction Manager or any of its agents or sub-consultants, whether skilled or unskilled, shall not, in any manner have, claim or acquire any lien upon the Project, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the state of Tennessee.”

“The Guaranteed Maximum Price shall include, without exception, all labor, materials, equipment, fees of any kind, and any other expenditures necessary to achieve the full and complete construction of the Project for school-ready occupancy and operation. Owner shall not be responsible for paying any other fees, costs or expenses of any kind in excess of the agreed to Guaranteed Maximum Price not authorized by Owner through a written Change Order.”

“Owner shall not be liable to Construction Manager or its subcontractors for any loss or damage to Construction Manager’s or its subcontractors’ work, materials, tools, equipment or supplies, however caused. Construction Manager and its subcontractors assume all loss or risk of loss for its work, regardless of whether Construction Manager or its subcontractors have been paid for such work. Owner is not responsible for providing any protection of Construction Manager’s or its subcontractors’ work or any protective service for Construction Manager or its subcontractors’ benefit.”

“Construction Manager and its subcontractors shall comply with all federal, state, municipal and local laws, ordinances, codes, laws, rules, regulations, standards, orders, notices and requirements, including but not limited to those relating to safety, discrimination of employment, fair employment practices, whether or not specifically provided for in this Agreement, without additional charge or expense to Owner, and shall also be responsible for, and correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of its work.”

“Construction Manager shall comply with provisions of Tennessee Code Annotated § 49-5-413(d) by requiring a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee who may have direct contact with school children or who will come on or about school property when children are present. Construction Manager shall not employ any person convicted of any offense identified in Tenn. Code Ann. §49-5-413(d)(3) in any capacity that would require him or her to have direct contact with school children or come on or about school property when children are present. Contractor shall ensure that subcontractors comply with the statutory requirements described in this paragraph.”

“The Architect, with the Construction Manager present, shall make a semi-final inspection and prepare a list of items requiring correction in order for the project to be complete. When these items have been corrected, the Architect, with the Construction Manager present, shall conduct a final inspection and shall determine to the best of his knowledge whether the project is in compliance with the Contract Documents, at which time the Architect and Construction Manager shall procure and forward to the Owner for the Owner’s review and record written warranties and related documents required by the Contract Documents, and shall issue a final certificate of payment upon compliance with the requirements of the Contract Documents.”

“Construction Manager and all subcontractors shall ensure that all materials incorporated in the Work must be new and unused and, when not specified in detail in the Contract Documents, all materials incorporated in the Work must be of the most suitable grade and quality for the purpose intended. **Further, Construction Manager and all subcontractors must** furnish, use, install, employ and protect each item of materials in strict compliance with the specifications, recommendations and instructions of the manufacturer or supplier, unless those specifications, recommendations or instructions deviate from accepted construction practices or the Contract Documents, in which case subcontractor shall inform Construction Manager who shall inform Owner and shall proceed as Owner directs. Construction Manager must coordinate and interrelate all Subcontracts to ensure the compatibility of materials and the validity of all warranties and guarantees that the Contract Documents require.”

“Final payment consisting of the unpaid balance of the Contract Price shall be made only after delivery of all guarantees, warranties, instruction manuals, test reports, performance

charts, diagrams, and similar documents required by the Contract Documents with respect to Construction Manager's Work."

"Constructor or Manager agrees to indemnify, hold harmless, protect and pay Owner and Owner's agents, representatives, and any affiliated or related entities against any and all claims, loss, liability, damage, cost, and expenses, including reasonable attorney fees and litigation cost, that is determined by a court of law to have occurred in whole or in part as a result of or due to the negligence or fault of Construction Manager, its agents, consultants, employees or representatives with regard to Construction Manager's responsibilities set forth in the Agreement and the Contract Documents."

OWNER (Signature)

Date: _____

Dr. Corey Gardenhour, Superintendent
Elizabethton City Schools



CONSTRUCTION MANAGER (Signature)

Date: July 2 2020

Pat Breeding, President
GoinsRashCain, Inc. (GRC)



Document A133™ – 2009

Standard Form of Agreement Between Owner and Construction Manager *where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price*

AGREEMENT made as of the Tenth day of June in the year Two Thousand and Twenty
(In words, indicate day, month and year.)
June 10, 2020

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

Elizabethton City Schools
804 Watauga Avenue
Elizabethton, Tennessee 37643
Telephone No: 423-547-8000

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

GoinsRashCain, Inc. (GRC)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

for the following Project:
(Name and address or location)

019-024 Elizabethton High School Protected Entrance
019-025 Harold McCormick Elementary School Protected Entrance
019-026 East Side Elementary School Protect Entrance

The Architect:
(Name, legal status and address)

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner's Designated Representative:
(Name, address and other information)

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™-2007, 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.

The Construction Manager's Designated Representative:
(Name, address and other information)

Mr. Pat Breeding, President
GoinsRashCain, Inc. (GRC)
130 Regional Park Drive
Kingsport, Tennessee 37660
Telephone No: 423-349-7760

The Architect's Designated Representative:
(Name, address and other information)

Mr. Thomas Weems, AIA, ACHA
Thomas Weems, Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone No: 423-952-2700

The Owner and Construction Manager agree as follows.

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
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- 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
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- 10 TERMINATION OR SUSPENSION
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- 12 SCOPE OF THE AGREEMENT

(Paragraph Deleted)

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 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 the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. 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.

§ 1.2 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.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

Init.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. 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.

§ 2.1 Preconstruction Phase

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

§ 2.1.2 Consultation

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. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; 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.

§ 2.1.3 When Project requirements in Section 3.1.1 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 could 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.

§ 2.1.4 Phased Construction

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

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 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, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 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.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. 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.

§ 2.1.9 Notices and 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 for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 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 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .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, allowances, contingency, 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.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and 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.

§ 2.2.6 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.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 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.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201-2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by 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 and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (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 Contract Time and 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 and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 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 prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, 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 Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 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 to the Owner and Architect.

§ 2.3.2.6 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 submittal schedule in accordance with Section 3.10 of A201-2007.

§ 2.3.2.7 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. The Construction Manager shall also 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.

§ 2.3.2.8 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 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 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.

§ 3.1.2 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. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 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 Section 6.1.1, (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.

§ 3.1.4 **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.

Init.

§ 3.1.4.1 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.

§ 3.1.4.2 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 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 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.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to 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.

§ 3.1.4.4 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.

§ 3.2 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 A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 **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.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B104™-2017, Standard Form of Agreement Between Owner and Architect, 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 a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

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

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

\$0.00

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within 6 (six) 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.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

Init.

§ 4.2 Payments

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

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid 60 (sixty) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

2 % TwoPercent Annually

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 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.)

Percentage based fee of Five Percent (5%) of the Cost of Construction.

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

5% (Five percent) of the Cost of the Work

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

10% (Ten percent) of the Cost of the Work, if Work is Performed by a Sub Contractor the General Contractor is Allowed an Additional 7% (Seven percent).

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

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.
(Insert specific provisions if the Construction Manager is to participate in any savings.)

Any and all savings will be returned to the Owner.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 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

Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 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 Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner’s prior consent on the basis of cost plus a fee), the terms “cost” and “fee” as used in Section 7.3.3.3 of AIA Document A201–2007 and the term “costs” as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 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 5.1.2 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 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager’s principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or on the road, 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.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

(Paragraph Deleted)

§ 6.3 Subcontract Costs

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

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 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.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling 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.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 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.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums, for that portion of insurance and bonds required by the Contract Documents, that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

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

§ 6.6.3 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.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

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§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

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

(Paragraph Deleted)

§ 6.6.9 Subject to the Owner's prior approval, 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.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 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 Section 10.4 of AIA Document A201–2007.

§ 6.7.3 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 negligence or failure to fulfill a specific responsibility of 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.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 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 6.8.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 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 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of 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 to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 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 them 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

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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.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 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, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, 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 Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

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

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 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.

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

One Calendar Month

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the Tenth day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the Twenty fifth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 15 (Fifteen) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of

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those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 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 the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 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 for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take 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 schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
2. Add 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 Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
3. Add the Construction Manager's Fee, less retainage of Five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
4. Subtract retainage of Five percent (5 %) from that portion of the Work that the Construction Manager self-performs;
5. Subtract the aggregate of previous payments made by the Owner;
6. Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
7. Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior 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.

§ 7.1.10 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 shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or 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.

§ 7.2 Final Payment

§ 7.2.1 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 Section 12.2.2 of AIA Document A201–2007, 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.

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:

Thirty (30) Days

§ 7.2.2 The Owner’s auditors will review and report in writing on the Construction Manager’s final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner’s auditors report to be substantiated by the Construction Manager’s final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner’s auditors, 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 Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 7.2.3 If the Owner’s auditors report the Cost of the Work as substantiated by the Construction Manager’s final accounting to be 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 Section 15.2 of A201–2007. 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.

§ 7.2.4 If, subsequent to final payment and at the Owner’s request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager 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 the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Builder’s Risk Insurance NIC	
Performance and Payment Bond	

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007. 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

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as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, 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.)

]

] Litigation in a court of competent jurisdiction

Carter

County

] Other: *(Specify) in Carter County, Tennessee*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

N/A

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 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 Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services 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 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 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 10.1.2:

- .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 5.1 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.

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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 which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. 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 10, 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.

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.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions: None

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 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.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

- .4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

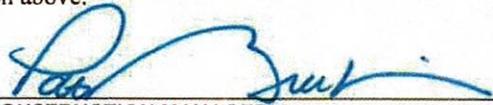
- .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

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

OWNER(Signature)

Dr. Corey Gardenhour, Superintendent
Elizabethton City Schools

(Printed name and title)



CONSTRUCTION MANAGER(Signature)

Mr. Pat Breeding, President
GoinsRashCain, Inc.(GRC)



(Printed name and title)

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**ADDENDUM TO AIA DOCUMENT A133 – 2009,
STANDARD FORM OF AGREEMENT BETWEEN OWNER
AND CONSTRUCTION MANAGER AS CONSTRUCTOR**

The other conditions and services set forth below shall, modify, delete from, add to and replace by substitution the above-referenced AIA Document A133 – 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor. For any article, paragraph, sub-paragraph, clause or language of the Subcontract Agreement (or any document incorporated by the Subcontract Agreement) deleted, modified, added to or otherwise changed by this Addendum, the unaltered provisions of that article, paragraph, sub-paragraph, clause or language shall remain in full force or effect. If, however, and to the extent the conditions set forth below are inconsistent with the Subcontract Agreement or any other Documents, including but not limited to any incorporated documents, the conditions set forth below shall supersede and control.

“Neither Construction Manager nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in the Agreement or unless authorized in writing by Owner’s representative.”

“Construction Manager will, as soon as practicable, notify Owner’s representative of any issue which could adversely impact Owner’s interests (e.g. errors, obvious design issues, increased costs, potential conflicts of interest, etc.)”

“Construction Manager stipulates that Owner is a political subdivision of the state of Tennessee, and, as such may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Tennessee. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except that which is specifically authorized by law.”

“Construction Manager or any of its agents or sub-consultants, whether skilled or unskilled, shall not, in any manner have, claim or acquire any lien upon the Project, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the state of Tennessee.”

“The Guaranteed Maximum Price shall include, without exception, all labor, materials, equipment, fees of any kind, and any other expenditures necessary to achieve the full and complete construction of the Project for school-ready occupancy and operation. Owner shall not be responsible for paying any other fees, costs or expenses of any kind in excess of the agreed to Guaranteed Maximum Price not authorized by Owner through a written Change Order.”

“Owner shall not be liable to Construction Manager or its subcontractors for any loss or damage to Construction Manager’s or its subcontractors’ work, materials, tools, equipment or supplies, however caused. Construction Manager and its subcontractors assume all loss or risk of loss for its work, regardless of whether Construction Manager or its subcontractors have been paid for such work. Owner is not responsible for providing any protection of Construction Manager’s or its subcontractors’ work or any protective service for Construction Manager or its subcontractors’ benefit.”

“Construction Manager and its subcontractors shall comply with all federal, state, municipal and local laws, ordinances, codes, laws, rules, regulations, standards, orders, notices and requirements, including but not limited to those relating to safety, discrimination of employment, fair employment practices, whether or not specifically provided for in this Agreement, without additional charge or expense to Owner, and shall also be responsible for, and correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of its work.”

“Construction Manager shall comply with provisions of Tennessee Code Annotated § 49-5-413(d) by requiring a criminal history records check conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation for each employee who may have direct contact with school children or who will come on or about school property when children are present. Construction Manager shall not employ any person convicted of any offense identified in Tenn. Code Ann. §49-5-413(d)(3) in any capacity that would require him or her to have direct contact with school children or come on or about school property when children are present. Contractor shall ensure that subcontractors comply with the statutory requirements described in this paragraph.”

“The Architect, with the Construction Manager present, shall make a semi-final inspection and prepare a list of items requiring correction in order for the project to be complete. When these items have been corrected, the Architect, with the Construction Manager present, shall conduct a final inspection and shall determine to the best of his knowledge whether the project is in compliance with the Contract Documents, at which time the Architect and Construction Manager shall procure and forward to the Owner for the Owner’s review and record written warranties and related documents required by the Contract Documents, and shall issue a final certificate of payment upon compliance with the requirements of the Contract Documents.”

“Construction Manager and all subcontractors shall ensure that all materials incorporated in the Work must be new and unused and, when not specified in detail in the Contract Documents, all materials incorporated in the Work must be of the most suitable grade and quality for the purpose intended. **Further, Construction Manager and all subcontractors must** furnish, use, install, employ and protect each item of materials in strict compliance with the specifications, recommendations and instructions of the manufacturer or supplier, unless those specifications, recommendations or instructions deviate from accepted construction practices or the Contract Documents, in which case subcontractor shall inform Construction Manager who shall inform Owner and shall proceed as Owner directs. Construction Manager must coordinate and interrelate all Subcontracts to ensure the compatibility of materials and the validity of all warranties and guarantees that the Contract Documents require.”

“Final payment consisting of the unpaid balance of the Contract Price shall be made only after delivery of all guarantees, warranties, instruction manuals, test reports, performance

charts, diagrams, and similar documents required by the Contract Documents with respect to Construction Manager's Work."

"Constructor or Manager agrees to indemnify, hold harmless, protect and pay Owner and Owner's agents, representatives, and any affiliated or related entities against any and all claims, loss, liability, damage, cost, and expenses, including reasonable attorney fees and litigation cost, that is determined by a court of law to have occurred in whole or in part as a result of or due to the negligence or fault of Construction Manager, its agents, consultants, employees or representatives with regard to Construction Manager's responsibilities set forth in the Agreement and the Contract Documents."

OWNER (Signature)

Date: 6/16/2020

Dr. Corey Gardenhour, Superintendent
Elizabethton City Schools

CONSTRUCTION MANAGER (Signature)

Date: JUNE 10 2020

Pat Breeding, President
GoinsRashCain, Inc. (GRC)

AIA[®] Document A133™ – 2009 Exhibit A

Guaranteed Maximum Price Amendment

for the following PROJECT:

(Name and address or location)

Protected Entrances
TWA Project #'s
019-024 Elizabethton High School
019-025 Harold McCormick Elementary School
019-026 East Side Elementary School

THE OWNER:

(Name, legal status and address)

Elizabethton City Schools
804 Watauga Avenue
Elizabethton, TN 37643
Telephone: 423-547-8000

THE CONSTRUCTION MANAGER:

(Name, legal status and address)

GoinsRashCain, Inc.
(dba GRC Construction)
130 Regional Drive
Kingsport, TN 37660

ARTICLE A.1

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 2.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of this Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Three Hundred Forty Three Thousand Six Hundred Dollars (\$343,600.00), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Construction Manager's Fee, and other items that comprise the Guaranteed Maximum Price.

(Provide below or reference an attachment.)

Exhibit "A" - GRC's Guaranteed Maximum Price (GMP) Cost breakdown dated July 13, 2020 (1 page)

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

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™-2007, 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.

(State the numbers or other identification of accepted alternates. If the Contract Documents permit the Owner to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

N/A

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price (\$0.00)
N/A	N/A

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

Exhibit "A" – GRC Guaranteed Maximum (GMP) Cost Breakdown dated July 13, 2020 (1 page)

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
00 2210	General Conditions	April 7, 2020	1

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
Addendum 1		June 16, 2020	239

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

Number	Title	Date	Pages
Addendum 1		June 18, 2020	239

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Agreement.)

Addendum #1 dated June 16, 2020
Addendum #2 dated June 18, 2020

ARTICLE A.2

§ A.2.1 The anticipated date of Substantial Completion established by this Amendment:

August 31, 2020

OWNER (Signature)

Mr. Richard VanHuss, Director of Schools
Elizabethton City Schools

(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Pat Breeding, President
GoinsRashCain, Inc.

(Printed name and title)

July 13, 2020

Proposal and Value Engineering Elizabethton Schools Protected Entrances

Based on plans and specifications provided by Thomas Weems Architect, for renovations to Elizabethton High School, Harold McCormick Elementary School and East Side Elementary School, to create attack resistant entry vestibules at each school, GRC Construction offers the following proposal and value engineering options.

GRC Construction proposes to complete the work on all three schools as detailed in the plans and specifications, including allowances, for the sum of Three Hundred Eighty Seven Thousand One Hundred Dollars, (\$387,100.00).

The owner has chosen to accept the following value engineering options:

1. Delete the included allowances totaling \$43,500

The revised sum for completing the work on all three schools as detailed in the plans and specifications, less the value engineering options accepted, is Three Hundred Forty Three Thousand Six Hundred Dollars, (\$343,600.00).

GRC Construction is ready to proceed with these projects. We could potentially proceed with shop drawings for the bullet resistant windows and incline wheelchair lift, and ordering materials that have some lead time in order to shorten the overall length of the projects.

Mike Price

Senior Estimator

Mobile: 423.502.4600 | Direct: 423.723.1522

GRC Construction

Office: 423.349.7760 | Fax: 423.349.7413

130 Regional Park Drive

Kingsport, TN 37660

www.grcinc.com



DEPARTMENT OF THE NAVY
NAVAL SERVICE TRAINING COMMAND
2601A PAUL JONES STREET
GREAT LAKES, ILLINOIS 60088-2845

5761
Ser CD14/0183
April 15, 2020

DR COREY GARDENHOUR
DIRECTOR OF SCHOOLS
ELIZABETHTON CITY SCHOOLS
804 S WATAUGA AVE
ELIZABETHTON TN 37643-4207

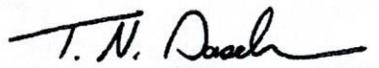
Dear Dr. Gardenhour:

I am pleased to inform you that the Secretary of the Navy approved the request to establish a Navy National Defense Cadet Corps (NNDCC) unit at Elizabethton High School. We're looking forward to a great future with your high school, as we work together to develop, particularly in those students who take part in NNDCC, the values and skills they will need to become better citizens and effective leaders.

Please have your team evaluate the enclosed contract and consider committing to establishing a new NNDCC unit. Because we are late in the school year, and most school districts require time to plan for this significant curricular addition, we will allow you to choose an effective date for the contract of either July 1, 2020, January 1, 2021 or July 1, 2021. This will permit you to start a new unit for either the Fall 2020, Spring 2021, or Fall 2021 semesters. Please sign and date the enclosed agreement and return it within 90 days of receipt to the Naval Service Training Command, NJROTC Program, 250 Dallas St., Suite A, Pensacola, FL 32508-5268. Please also include your requested effective date so we may ensure the contract is in place prior to the effective date enabling us to provide timely support for the new unit. Upon receipt, we will co-sign the contract and a completed copy will be forwarded to you.

The program representative for your location is Commander Merv Dial, U.S. Navy (Retired), NJROTC Area Manager, Area NINE. He is available to aid you and school officials as needed to make sure the NNDCC unit is off to a smooth start. Commander Dial's telephone number is (224) 545-3569. If you elect to decline to open an NNDCC Program kindly let us know in writing so we can offer the unit to another deserving school on our waiting list.

Sincerely,


T. N. DASELER
NJROTC Program Director

Enclosure: NNDCC Agreement

Copy to: (w/o encl)
NJROTC Area Manager, Area NINE
Principal, Elizabethton High School

**AGREEMENT
TO ESTABLISH A NAVY NATIONAL DEFENSE CADET CORPS PROGRAM**

This Agreement (the "**Agreement**") to Establish a Navy National Defense Cadet Corps ("**NNDCC**") Program (the "**NNDCC Program**") is hereby entered into by and between the Department of the Navy, acting through the Naval Service Training Command (the "**Navy**"), and ELIZABETHTON CITY SCHOOLS (the "**School District**") pursuant to Title 10, United States Code, Section 7911 (the "**Statute**"). This Agreement shall become effective as of _____ (the "**Effective Date**").

1. **Unit Established; Status of Units.** An NNDCC unit (the "**Unit**") is hereby authorized at the following school in the School District. Each such school shall be hereinafter referred to as the "**Host School**":

ELIZABETHTON HIGH SCHOOL. Each Unit may be located only at its designated Host School and cannot be moved without prior written Navy consent and modification to this Agreement in accordance with Paragraph 10.b. The School District shall ensure each Host School establishes a Department of Naval Science as an integral academic and administrative department of that school to administer the NNDCC program.

2. **Accreditation.** The School District warrants and represents that each Host School is fully accredited by the cognizant State and/or regional accreditation agency, as required by the law of the State in which the Host School is located. Each Host School shall remain fully accredited in accordance with such law at all times. Failure to maintain such accreditation shall be a ground for termination of the Agreement in accordance with Paragraph 9. The School District shall immediately notify the Navy at the address noted in Paragraph 10.i. in the event that the accreditation of any Host School comes under investigation or is withdrawn or threatened with withdrawal.

3. **Unit Members; Number and Qualifications.** Each Unit shall maintain a minimum student enrollment of no less than the number mandated by the Statute (currently 50 students) enrolled in the Host School. The Host School shall limit membership in the Unit to students who meet the criteria of the Statute as well as Department of Defense and Navy Instructions pertaining to NNDCC (collectively and as they may be amended from time to time the "**NNDCC Regulations**"). These criteria require that participating students:

- a. Are physically fit to participate fully in the normal physical education program of the Host School;
- b. Are over 14 years of age;
- c. Comply with any other criteria required by the Statute and NNDCC Regulations, as they may be amended from time to time; and
- d. Maintain acceptable standards of conduct and conform to the same personal grooming standards established for cadets in the NJROTC program. Uniforms must be worn by cadets at least one full school day each week.

4. **Instructors**

a. **Number and Qualifications.** The School District shall assign a minimum of one (1) instructor per Unit (the "**NNDCC Instructor**"). If the Host School is interested in applying to host a Navy Junior Reserve Officers Training Corps (**NJROTC**) unit, it is strongly encouraged to employ personnel who are qualified to instruct the NJROTC program and who meet the criteria, including prior military service, prescribed in Section 2031 of Title 10 of the United States Code and Department of Defense Instruction 1205.13, Chief of Naval Operations Instruction, OPNAVINST 1533.5C, or any successor statute or regulation thereto (the "**NJROTC Regulations**").

b. **Instructor Uniforms.** NNDCC instructors that are retired military service members are strongly encouraged to wear the appropriate uniform of their services while conducting the NNDCC program and at such other times as authorized under the applicable uniform regulations. Unless required to do so by separate authority, the Navy shall not be responsible to pay for such uniforms.

c. **Instructor Certification and Training.** NNDCC Instructors must be certified by the Navy in accordance with NNDCC Regulations before they are authorized to teach the NNDCC curriculum prescribed by Paragraph 5.a. The School District shall notify the Navy in accordance with Paragraph 10.j. prior to hiring any NNDCC Instructor in order to ensure that the instructor is properly certified.

(1) **Initial Certification.** Certification requirements vary depending on whether the prospective NNDCC Instructor meets the military service requirements for a Navy Junior Reserve Officer Training Corps instructor set forth in the NJROTC Regulations or has no relevant military service.

(a) Meets NJROTC Instructor Requirements. To attain provisional Navy certification, each NNDCC Instructor who has prior military service that qualifies him or her to be a NJROTC instructor must first be found qualified by the Navy in accordance with NNDCC Regulations to teach the prescribed curriculum. If found qualified, such instructor must successfully complete on-line training and then attend a one-week training orientation session held by the Navy, all within the first year of employment. Successful completion of both the on-line training and the training orientation session will then result in full certification for such instructor.

**AGREEMENT
TO ESTABLISH A NAVY NATIONAL DEFENSE CADET CORPS PROGRAM (Continued)**

(b) Does Not Meet NJROTC Instructor Requirements. To attain provisional Navy certification, each NNDCC Instructor who does not have the relevant military experience to qualify as a NJROTC instructor must (1) have a current and valid license to teach at the host school level, (2) be endorsed in writing by the School District as qualified to teach the NNDCC curriculum based on the individual's classroom teaching experience and (3) be found qualified by the Navy in accordance with NNDCC Regulations to teach the prescribed curriculum. If found qualified, such instructor must successfully complete on-line training and then attend a one-week training orientation session held by the Navy, all within the first year of employment. Successful completion of both the on-line training and the training orientation session will then result in full certification for such instructor.

(2) Continuing Certification. To maintain his or her Navy certification, each NNDCC Instructor must fulfill the requirements imposed by the NNDCC Regulations. As of the Effective Date, these include the requirement that each NNDCC Instructor attend a two-day instructor training session conducted by the Navy every other calendar year.

(3) Decertification; Notification by the School District of Adverse Information. The Navy has the right to decertify any NNDCC Instructor on the grounds set forth in NNDCC Regulations. To ensure that the Navy has full information concerning matters that may pertain to NNDCC Instructor certification, the School District shall inform the Navy as soon as possible, but no later than five (5) working days of its occurrence, of any of the following actions: (1) a change in the employment status of any NNDCC Instructor such as termination of current, or the hiring of a new, NNDCC Instructor; and (2) any disciplinary action or incident requiring School District, Host School or law enforcement investigation regarding any NNDCC Instructor.

d. School District Employees. NNDCC Instructors and such other personnel that are hired to support the NNDCC program at the Host School are employees of the School District. In no event shall the School District represent such instructors and personnel as Navy employees, agents or contractors.

e. Salary. The Navy shall not pay or reimburse the Host School or the School District for any portion of the salary or other employment benefit paid or payable to the NNDCC Instructor. The Host School or the School District shall be solely responsible for the salary and any other employment benefit paid or payable to each NNDCC Instructor.

f. Travel, Student Uniform and Other Costs. The Navy shall not pay or reimburse the Host School or the School District for (1) any travel or transportation expenses of any NNDCC student or instructor incurred in connection with the NNDCC Program, (2) uniforms for any students, or (3) any other cost or expense which it has not expressly agreed to incur, pay, reimburse or bear under this Agreement.

5. Curriculum; Academic Credit

a. Prescription. Each School District shall establish a three- or four-year naval science curriculum consisting of at least the number of minutes of instruction per naval science course (presently, 7,200 minutes) prescribed in NNDCC Regulations and using all instructional materials and guidelines provided by the Navy pursuant to Paragraph 6.a.(1). The School District and Host School shall maintain all standards of instruction and administration for the NNDCC Program prescribed in the NNDCC Regulations.

b. Academic Credit. The School District shall grant students who participate in, and successfully complete, NNDCC naval science courses appropriate academic credit toward graduation requirements.

6. Navy-Furnished Property

a. The Navy shall provide the following property (collectively, "**Government Furnished Property**") for exclusive use by the Unit for the NNDCC Program and shall pay transportation charges, including packaging and handling, for shipment of Government Furnished Property to and from the Host School:

(1) Curricular and Instructional Materials. The Navy shall provide all curricular and instructional materials and guidelines used to instruct the NNDCC curriculum.

(2) Government Furnished Equipment. The Navy shall provide the Host School with Government furnished equipment (including arms, tentage and equipment) needed to administer the NNDCC curriculum. The amount and type of equipment provided is subject to the availability of funds and will be allocated to each Host School in accordance with the applicable tables of allowance in the supply manual issued by the Navy (the "**NNDCC Supply Manual**") based on the number of classrooms used for instruction and the number of students enrolled in each course.

b. Safekeeping/Replacement of Government Furnished Property; Property Custodian. The Host School shall provide secure and adequate storage areas for the protection and security of Government Furnished Property and comply with the NNDCC Supply Manual and all applicable regulations relating to the issue, care, use, safekeeping, turn-in, and accounting for such property. The School District shall promptly replace, or repair at its cost and to the satisfaction of the Navy any such item that is lost or sustains damage directly or indirectly attributable to the conduct of the School District or Host School. The School District shall appoint an NNDCC Instructor located at the Host School as the military property custodian empowered to requisition, receive, stock, and account for Government Furnished Property issued to the school and shall notify the Navy in writing of the name of such custodian.

AGREEMENT
TO ESTABLISH A NAVY NATIONAL DEFENSE CADET CORPS PROGRAM (Continued)

c. **Bond/Insurance.** The School District shall furnish to the Navy a bond or insurance policy from an institution satisfactory to the Navy in an amount equal to the replacement value of Government Furnished Property. The School District shall ensure that the bond or insurance remains in effect for the requisite amount at all times during the term of this Agreement and, thereafter, so long as any Government-Furnished Property remains in the School District's custody. If the School District elects to provide an insurance policy, it shall name the United States as an additional insured and provide a certificate to that effect to the Navy at the address set forth in Paragraph 10.J. as soon as possible after the Effective Date and annually thereafter within thirty (30) calendar days renewal of the policy .

7. **Audit/Inspection; Access.** The Navy reserves the right to, and shall from time to time, conduct inspections at the Unit. The Navy may at any time conduct an audit of all Government Furnished Property and of all funds provided to the School District and Host School. The School District and Host School shall cooperate with, and grant access to, Navy and Federal Government personnel to facilitate such inspections and audits. In addition to the foregoing, the Navy will inspect each Unit every two (2) years, to include a curriculum review, participation count, military standards assessment, curriculum material appraisal, instructor interview, audit of Government property, and overall assessment of the Unit's compliance with all requirements.

8. Unit Failure to Meet Navy Standards

a. **Evaluation Status.** If the Navy determines that a Host School has failed to comply with the requirements of this Agreement (other than those concerning enrollment), the Navy shall place the Unit at the Host School in an evaluation status and shall notify the Host School in accordance with Paragraph 10.J., outlining the deficiencies and the date by which the Host School must correct the deficiencies. If the deficiencies causing the evaluation status are not corrected within that time, the Navy may place the Unit in a probationary status.

b. **Probationary Status**

(1) **For Other than Low Enrollment.** If deficiencies remain uncorrected at the end of the evaluation period, the Navy will place the Unit in a probationary status for one full academic year, beginning at the start of the next academic year. Units placed on probation will be inspected by a Navy representative during the probationary year. The Navy representative will then report on the progress the Host School has made in correcting deficiencies. The Navy may recommend the Unit for disestablishment at the conclusion of the probationary year if the Host School has not corrected such deficiencies, in which case the Unit shall be disestablished effective at the conclusion of the probationary period in accordance with Paragraph 8.C.

(2) **For Low Enrollment.** Units which do not have the statutory minimum enrollment (see Paragraph 3) by 1 October of each academic year will be placed on probation immediately after that date. No later than the end of that academic year, the Navy will evaluate the Unit's potential to attain minimum enrollment upon the opening of the next school year. If this evaluation indicates that the minimum enrollment can be met, the Navy may continue the Unit on probation pending determination of actual enrollment not later than 90 days after the beginning the following school year. If the minimum required enrollment is not met at that time, the Navy will schedule the Unit for disestablishment no later than 30 June of that academic year.

c. **Disestablishment of Units.** The Navy may disestablish the Unit pursuant to Paragraph 8.B. The Navy may also disestablish the Unit upon request by the School District or where, in the Navy's reasonable discretion, disestablishment serves the best interests of the Navy. Upon the effective date of such disestablishment, the Host School will return all Government Furnished Property to the Navy in an orderly and timely manner. All such property shall be returned by the Host School at the Navy's cost and following all Navy directions. If disestablishment of the Unit means no NNDCC units will continue to operate in the School District, this Agreement shall be terminated in accordance with Paragraph 9 below.

9. **Termination.** This Agreement may be terminated: (1) at any time, by the mutual consent and agreement of both parties; (2) by either party upon giving the other one year's written notice of such intent to terminate; or (3) by the Navy with less than one year's notice if the legal authority for the NNDCC program is repealed, amended, or significantly modified, in which event, the Navy shall give each Host School as much notice as is possible under the circumstances. In the event of mutual or unilateral termination of this Agreement, or in the event of disestablishment as prescribed by the Secretary of the Navy, the School District shall return to the Navy at Navy cost all Government Furnished Property in its or the Host Schools' custody. Such property shall be returned to the Navy in good condition at the end of the last school year during which the NNDCC program was offered at that school in accordance with procedures and guidance in existence or provided by the Navy at the time of the termination of the Agreement or disestablishment of the Unit, whichever is earlier.

10. General Provisions

a. **Construction/Governing Authority.** This Agreement is governed by, and shall be construed under, Federal law.

b. **Modification or Amendment of Agreement.** No amendment or modification of this Agreement shall be effective unless it is in a writing signed by authorized representatives of both parties.

c. **No Waiver.** Unless expressly stated in a writing signed by the Navy, the waiver by the Navy of any act, duty, or obligation required of the School District or Host School hereunder shall not be construed as a waiver of any other, or of any future, act, duty, or obligation to be performed by the School District or Host School.

**AGREEMENT
TO ESTABLISH A NAVY NATIONAL DEFENSE CADET CORPS PROGRAM (Continued)**

d. No Assignment. This Agreement may not be assigned by the parties.

e. Entire Agreement. This Agreement represents the entire agreement of the parties concerning the matters addressed herein and supersedes any prior agreements, understandings, or representations.

f. Anti-Deficiency Act. Nothing in this Agreement will be construed as obligating the Navy, their officers, employees, or agents to expend any funds in excess of appropriations authorized for such purposes in violation of the federal Anti-Deficiency Act (31 U.S.C. Section 1341).

g. Representative Authority. Each undersigned representative of the parties to this Agreement certifies she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute the same so as to effectively bind each party to its terms.

h. Execution of the Agreement. This Agreement shall become effective as of the Effective Date when all parties have signed, no matter when the parties actually sign this document. This Agreement may be signed in counterparts.

i. No Discrimination. The School District shall adhere to a policy of non-discrimination against students or instructors based on race, ethnicity, religion, national origin, gender or any other category prohibited by law.

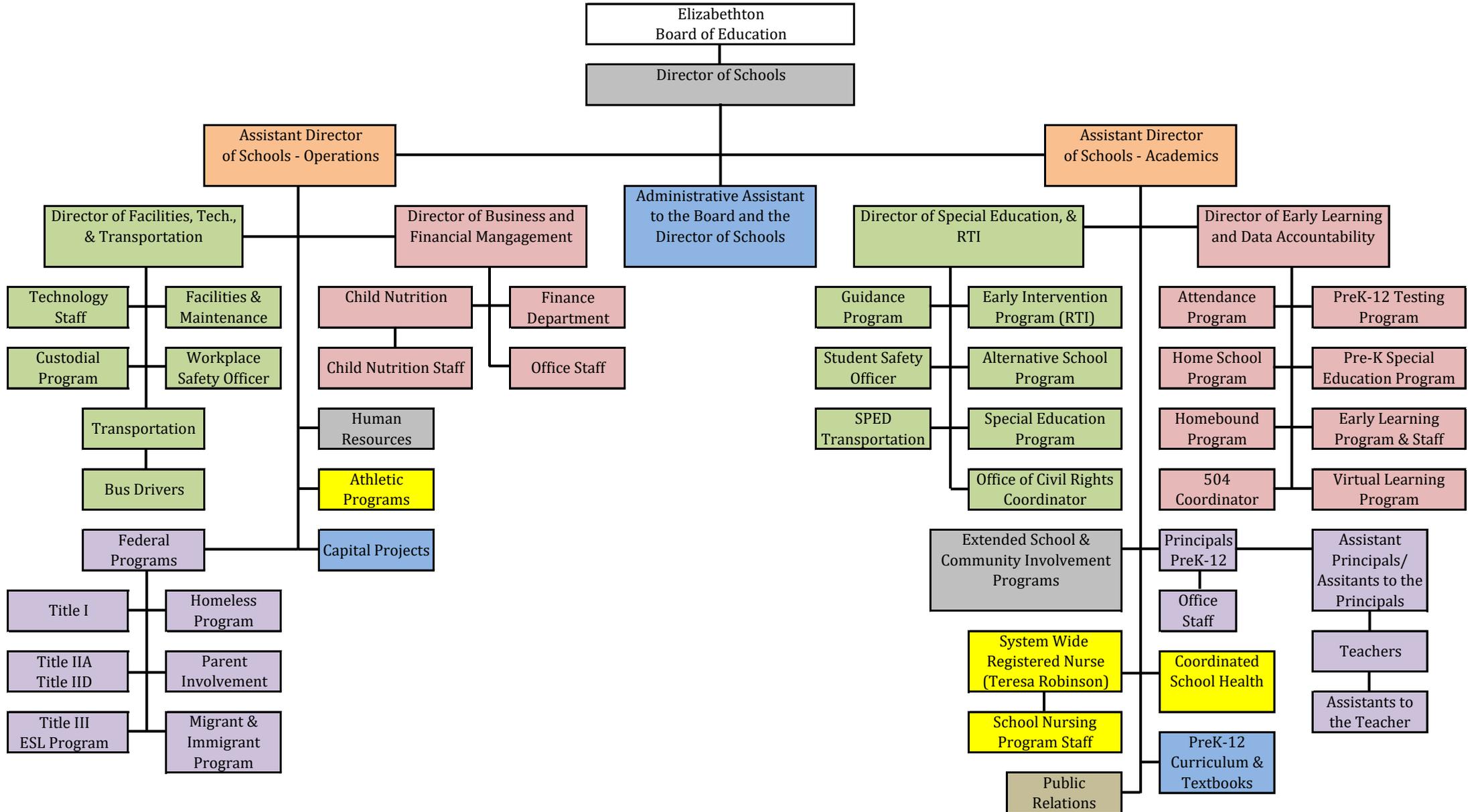
j. Notice. Unless otherwise stated herein, notices under this Agreement shall be effective upon receipt, must be in writing, and must be served by certified, U.S. mail, return receipt requested, addressed to the parties at the address noted below.

k. Conflict between Agreement and NNDCC Regulations. In the event of a conflict between this Agreement and the NNDCC Regulations, the NNDCC Regulations shall prevail.

WHEREFORE, the parties enter into this Agreement as of the Effective Date.

1. Name of School District ELIZABETHTON CITY SCHOOLS 804 S WATAUGA AVE ELIZABETHTON TN 37643-4207		3. DEPARTMENT OF THE NAVY NAVAL SERVICE TRAINING COMMAND NAVY JUNIOR ROTC PROGRAM 250 DALLAS STREET STE A PENSACOLA FL 32508-5268	
2. Mailing Address of Host School ELIZABETHTON HIGH SCHOOL 907 JASON WITTEN WAY ELIZABETHTON TN 37643-2969			
4. Typed Name and Title of School District Official		5. Typed Name and Title of Navy Representative T. N. DASELER, NJROTC PROGRAM DIRECTOR	
6. Signature of School District Official	7. Date	8. Signature of Navy Representative	9. Date

2020-2021 Elizabethton City Schools' Organizational Chart

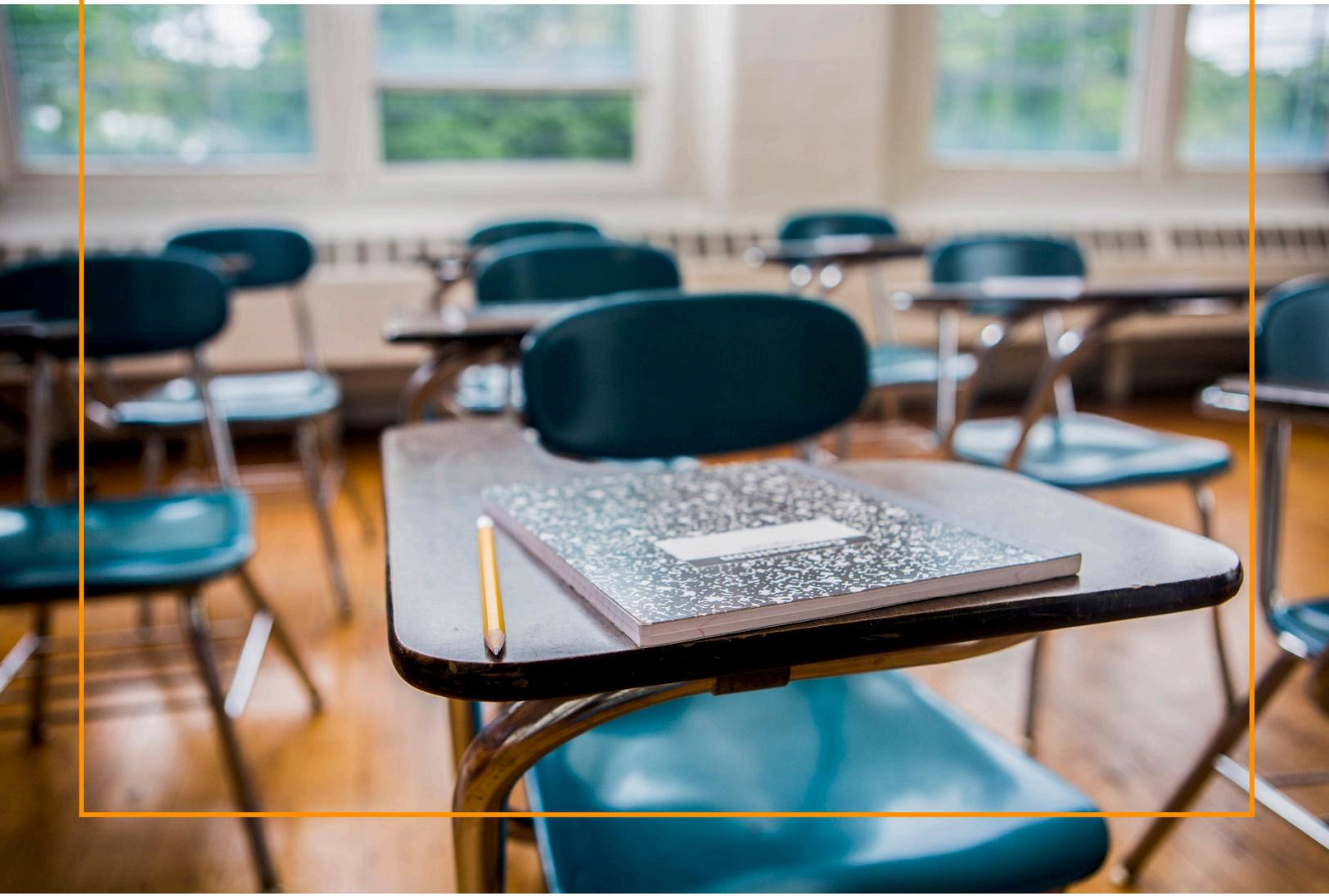




**ELIZABETHTON
CITY SCHOOLS**

Experience Excellence

Elizabethton City Schools 2020-2021 Re-Entry Plan



Elizabethton City Schools Re-Entry Plan

Dear Elizabethton Stakeholders,

The following plan is based upon the research and plan developed by the Nashville Metropolitan Health Department. Our school system and the Carter County Health Department are united in our approach to planning for a safe, efficient, and equitable return to school. Public health best practices and research on COVID-19 along with evaluation of community conditions and necessary protocols have been reviewed to consider reopening schools safely and responsibly.

According to information released by the American Pediatric Association which can be found [here](#), policy makers must also consider the mounting evidence regarding COVID-19 in children and adolescents, including the role they may play in transmission of the infection. SARS-CoV-2 appears to behave differently in children and adolescents than other common respiratory viruses, such as influenza, on which much of the current guidance regarding school closures is based. Although children and adolescents play a major role in amplifying influenza outbreaks, to date, this does not appear to be the case with SARS-CoV-2. Although many questions remain, the preponderance of evidence indicates that children and adolescents are less likely to be symptomatic and less likely to have severe disease resulting from SARS-CoV-2 infection. In addition, children may be less likely to become infected and to spread infection. Policies to mitigate the spread of COVID-19 within schools must be balanced with the known harms to children, adolescents, families, and the community by keeping children at home.

This initial iteration of the Elizabethton City Schools reopening plan is just the beginning framework for planning. School leaders will apply the plans and work with stakeholders to adjust based on their needs and inputs. Stakeholder feedback with families and employees is essential to the success of the ongoing planning.

We had two main questions to guide our work:

1. Under what community public health conditions is it safe to reopen our schools?

- 2. When it is safe to reopen our schools; what precautions do all schools need to take to mitigate the risk of the spread of COVID-19?

Based on the evolving expert advice of the public health community, schools in Elizabethton will only open if there is zero to moderate spread of COVID-19 based on cases per 100,000 and health department cluster evaluation. If there is severe community spread of COVID-19, then schools should prepare to operate in a remote environment.

We have agreed that our schools will take measures to mitigate for the spread of COVID-19 when they reopen. Until there is no or very minimal spread of COVID-19, we must take measures to reduce the transmission of COVID-19. In consultation with public health experts, we have outlined the practical actions we will take as a school community. If the data show that the conditions need to adjust, we will continue to modify the guidance or educate in remote environments.

Please join us in reaching out to our stakeholders to explore how this plan will be implemented with various ages of students, with students from diverse backgrounds, students with varying needs, and the health needs of our teachers and all employees.

We will remain focused on the public health data and research while ensuring we provide an excellent education for our students.

Sincerely,

Richard Van Huss
Director of Schools
Elizabethton City Schools

David Kirschke, MD,
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This report provides a roadmap for schools in Elizabethton to navigate the COVID-19 pandemic. It outlines necessary steps to understand the public health scenarios associated with the pandemic and provides frameworks, approaches, and measurable milestones to inform the continuum of decisions that must be made to safely operate schools in Fall 2020.

Ask any teacher, school principal, or district superintendent: returning to school under normal circumstances is hard. Doing so in the face of COVID-19, a public health epidemic with extreme uncertainty, will be monumentally difficult, but the stakes could not be higher: an entire generation of students’ academic, social-emotional, and mental health hang in the balance.

Returning to school when the public health situation allows will thus be a uniquely complicated challenge, the likes of which our educators have never encountered. If there exists any chance of returning to brick-and-mortar schooling in the fall of 2020, the work must begin now.

Given the uncertainties of the pandemic, four steps should inform this work:

1. An epidemiologic assessment and consideration of how the coronavirus pandemic may unfold over the next 18-24 months.
2. An evaluation of how each pandemic scenario may manifest in Carter County.
3. An application of community manifestation with school opening scenarios.
4. Essential actions that must be taken across functional workflows within each school opening scenario.

This roadmap is a framework based on the most up-to-date public health recommendations given the evidence to date. It does not, however, constitute medical advice, and it will need to be adapted in real time as the epidemic evolves.

Guiding Principles

Five principles should guide all planning, decision-making, and execution of the work of returning to school in Elizabethton:

1. We will be transparent. We will share what we know and what we don’t know. We will use the Epi Curve data from the Tennessee Department of Health, which can be

found [here](#), to see what stage we are in. We will be clear about what we can control and what is outside of our control.

2. We will be equitable. We will center decisions on what is best for all students, families, and educators, especially those most impacted by educational inequities and COVID-19.
3. We will listen. We will bring together diverse stakeholders and experts to
 - A. Understand the realities on the ground
 - B. Surface creative solutions.
4. We will put safety first. We will leverage science, data, and public health leadership to inform the choices we make.
5. We will be decisive. Given the size and scope of the challenge, we must move deliberately and make tough choices. We will make mistakes, and we will adapt quickly as variables on the ground change.

KEY TERMS

The following terms frequently occur throughout this report: to assess, consider, and understand the COVID-19 scenarios, establishing a shared vocabulary is critical.

- **Acceptable Threshold:** A concept utilized to determine if Carter County is within an acceptable number of newly diagnosed COVID-19 cases to allow safe opening and operation of Elizabethton City Schools. The Tennessee Department of Health (TDH) defines the threshold* for acceptable COVID-19 disease transmission within a community as an average rate of ≤ 10 new cases per 100,000 over the last 14 days.
*The metric/threshold may change over time as new information is gathered and additional metrics concerning school reopening guidance is established by TDH and the Tennessee Department of Education.
- **Coronavirus:** A specific type of virus named for the appearance of crown-like spikes on their surface. There are seven known types of coronaviruses that can infect human beings. A “novel” coronavirus is a new subtype of coronavirus to which

human beings have not been previously exposed and are thus more susceptible to infection. SARS-CoV-2 is a novel coronavirus.

- **COVID-19:** Abbreviation of “Coronavirus Disease-2019.” The name for the actual disease state caused by the coronavirus. COVID-19 and SARS-CoV-2 are often used interchangeably, though this is inaccurate. The term “COVID-19” should be used to discuss the disease, while SARS-CoV-2 should designate the virus itself.
- **Epidemic:** An outbreak of disease that spreads quickly and affects many individuals at the same time.
- **Herd immunity:** Resistance to the spread of a contagious disease within a population that results when a sufficient number of persons are immune either through prior infection and recovery or through vaccination. Herd immunity does not begin to develop until at least 60-70% of the population has been infected and recovered or vaccinated.
- **Incubation period:** The duration of time it takes for an infected person to begin to physically manifest symptoms that can be outwardly observed.
- **Influenza virus:** Another specific type of virus from a different family than coronaviruses. There are several types of influenza virus, of which only three typically cause infection in humans on a seasonal basis.
- **Isolation:** Separates sick people with a contagious disease from people who are not sick.
- **Pandemic:** A specific type of epidemic — the outbreak of widespread disease — that spreads over greater geographic distances and affects an exceptionally high proportion of the population. Pandemics are relatively rare events, and not every epidemic qualifies as a pandemic. The World Health Organization declared the SARS-CoV-2 outbreak a pandemic in March 2020.
- **Quarantine:** Separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.
- **Severe Acute Respiratory Syndrome-Coronavirus-2:** Abbreviated as SARS-CoV-2, the scientific name of the coronavirus causing the pandemic.

UNDERSTANDING PANDEMIC MODELING

Coronavirus and Influenza

Epidemiologists typically rely on prior disease outbreaks for guidance when modeling new virus behavior. For example, annual influenza modeling relies on historical influenza virus behavior, but the COVID-19 pandemic has proven somewhat atypical from a modeling perspective for several reasons.

First, coronaviruses as a family have not been known to cause pandemics like this one. Recent coronavirus outbreaks, including severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS), did not have the geographic reach of SARS-CoV-2. Instead, they manifested in more limited geographic areas. Second, each was less infectious than SARS-CoV-2, and transmission from person-to-person was lower than that of SARS-CoV-2. Finally, both SARS and MERS were each much more lethal than SARS-CoV-2 (approximately 14% and 35% of the individuals who contracted the respective viruses died.) These mitigating factors made the termination of transmission chains easier to achieve.

Broadly speaking, although they are from different families of viruses, SARS-CoV-2 is displaying behavior more similar to a novel influenza than to a coronavirus because of its higher transmissibility, wider geographic spread, and lower comparative mortality relative to other lethal coronaviruses. Therefore, influenza outbreaks offer better historical and comparative models for assessing this outbreak.

Since 1700, there have been at least eight global influenza pandemics that can inform COVID-19 scenario planning.

Seasonality and Duration

From a seasonal perspective, and again comparing SARS-CoV-2 to pandemic influenza, it is worth noting that, of eight major [influenza] pandemics that have occurred since the early 1700s, no clear seasonal pattern has emerged for most. Two started in the winter in the Northern Hemisphere, three in the spring, one in the summer, and two in the fall.

Of those eight pandemics, seven had a smaller early peak that dissipated over a few months, followed by a subsequent peak approximately six months later. Among those subsequent peaks, some were smaller, and some were significantly larger and quite devastating. In some, the mortality rates increased with time such that the disease became more dangerous during the second waves. Finally, some of the pandemics included third and even fourth waves, though these have all been smaller and shorter duration than first- and second-wave events.

Eventually, these pandemics subsided when enough of the population had been infected, developed immunity, and were no longer susceptible, or the viruses themselves mutated and were either no longer infectious or their mortality decreased. The critical point, however, is that second, third, and fourth waves have a confirmed historical precedent and are not an aberration. It is highly likely that this virus will return with a peak that is difficult to predict.

Vaccination

Interestingly, of the eight pandemic events referenced above, only one was significantly affected by a vaccination campaign (the 2009 H1N1 influenza). In that instance, a vaccine became available approximately six months after the pandemic initially began in Veracruz, Mexico, and a full-scale, global pandemic was averted. The other seven pandemics all propagated at a global scale before a vaccine could be effectively produced.

For SARS-CoV-2, there are approximately 120 vaccine candidates in development. Some have advanced farther than others, but all remain in relatively early clinical trials. Some experts have estimated that if new techniques currently being experimented with succeed, a vaccine could be available in late 2020. Most, however, agree that a 12-to-18-month timeline to mid-2021 is most likely.

Effects of Pediatric Population on Disease Spread

Historically, pandemic influenza outbreaks have most severely affected populations at the extremes of age, with the youngest and oldest members of society typically experiencing the highest mortality rates. The 1918-1919 influenza was an outlier in that regard and affected middle-aged persons in higher percentages than typically observed.

With SARS-CoV-2, there still remains much to learn about how pediatric, school-age populations are affected. Data from the U.S. Centers for Disease Control and Prevention⁸, suggest that serious COVID-19 illness in children is rare. However, there are increasing reports of a pediatric multisystem inflammatory syndrome that may be linked to SARS-CoV-2.¹² Whether children can spread the disease to others without showing symptoms remains unclear.

Ultimately, it remains unclear to this point at what rate children develop serious illness secondary to SARS-CoV-2 infection and whether or not they can pass the virus to other children and adults. Most studies suggest each of these rates is extremely low, but the data are imperfect, and this is an area of active research.

Implications

Based on the transmissibility, seasonality, duration, and vaccination timing, expert models conclude that it is most likely that the COVID-19 pandemic will last 18-24 months. During that period, and assuming the high levels of transmissibility already observed, it is estimated that 60-70% of the population would need to be infected, recover, and develop immunity “to reach a critical threshold of herd immunity to halt the pandemic.” Current estimates are that even in highly affected areas such as Wuhan, China, and New York City, the total percentage of the population infected is between 3-10%. There is clearly significant potential for this virus to continue propagating.

There are, however, several factors that would affect those estimates. First, a successful vaccine could be developed in the near term, though, as noted above, that is unlikely based on historical precedent. Second, a successful treatment could be developed such that the “cost” of getting infected decreases, and overall mortality rates improve. Third, the virus mutates such that it is no longer as infectious or as dangerous. Historical rates of coronavirus mutation are much lower than influenza, however, and this outcome appears relatively unlikely in the near term. Finally, we institute and continue mitigation measures to help decrease the basic reproductive number and drive down transmission (e.g., social distancing).

Mitigation

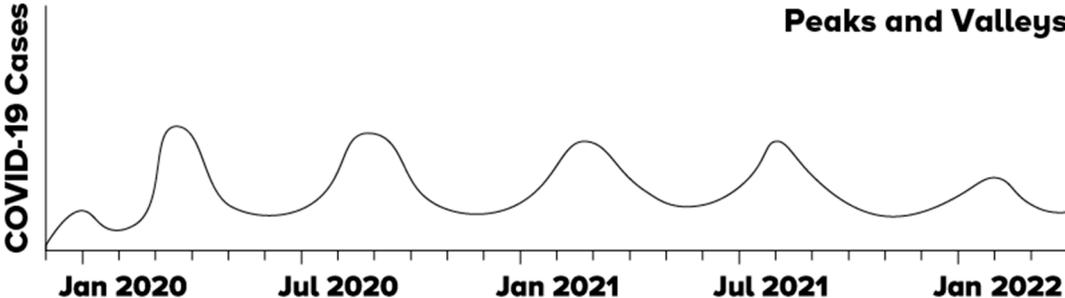
The most effective method to decrease transmission rates in the absence of a vaccine or treatment is to prevent contact between persons for a period of time that includes a full incubation and recovery cycle (refer to current CDC guidance for duration). When this happens, transmission chains between persons can be broken, and the case rates for the virus within a specific population can go down.

Such has been the national strategy for SARS-CoV-2 for the past several months. By effectively closing all sites of congregation, including schools, worksites, restaurants, places of worship, and social gatherings, an effort was made to decrease case-spreading of the disease. Difficulties with coronavirus testing at scale, however, have made it difficult to accurately measure this figure on a national scale, and government leaders and emergency response officials have had to rely on imperfect data, including the number of persons hospitalized and intensive care unit utilization, as a proxy for this number.

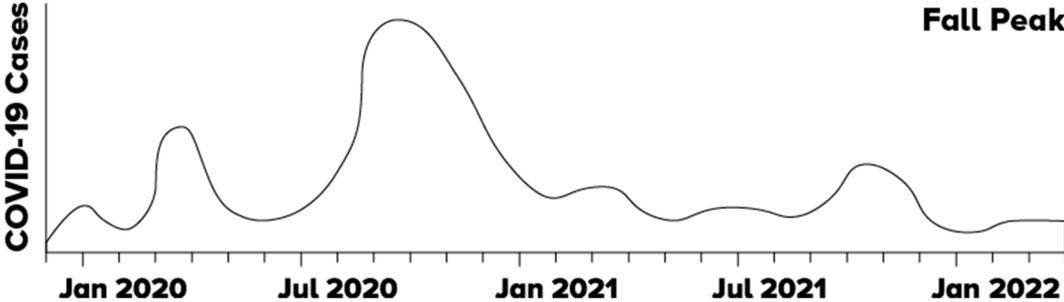
CORONAVIRUS PANDEMIC SCENARIOS

Based on the evidence detailed above, three possible pandemic scenarios could play out over the next 18-24 months, and each should be considered. It is important to note that the scenarios depicted below are not based on predictive data.

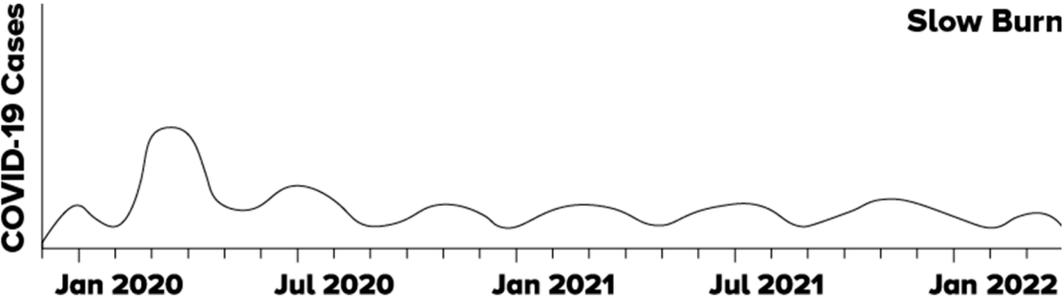
- **Peaks and Valleys:** The first wave of COVID-19 occurring in Spring 2020 is a representative wave with several follow-on outbreaks of similar scale and duration.



- **Fall Peak:** The first spring 2020 wave of COVID-19 is a smaller wave with the second, more severe wave in Fall 2020 following afterward.



- **Slow Burn:** The first wave in Spring 2020 is the most severe wave, but the outbreak continues on a slow burn in the population at a low or moderate level.



Each of these scenarios includes waves that will vary by geographic location and require periodic mitigation measures when subsequent peaks develop. The duration of the peaks, or how long a local outbreak lasts, will depend on the number of persons affected and how quickly the case rate can be reduced in the population. Reducing the case rate can only be achieved through early case identification, isolation of affected individuals, and quarantine of appropriate contacts to prevent further spread.

Community Spread and School Operating Scenarios

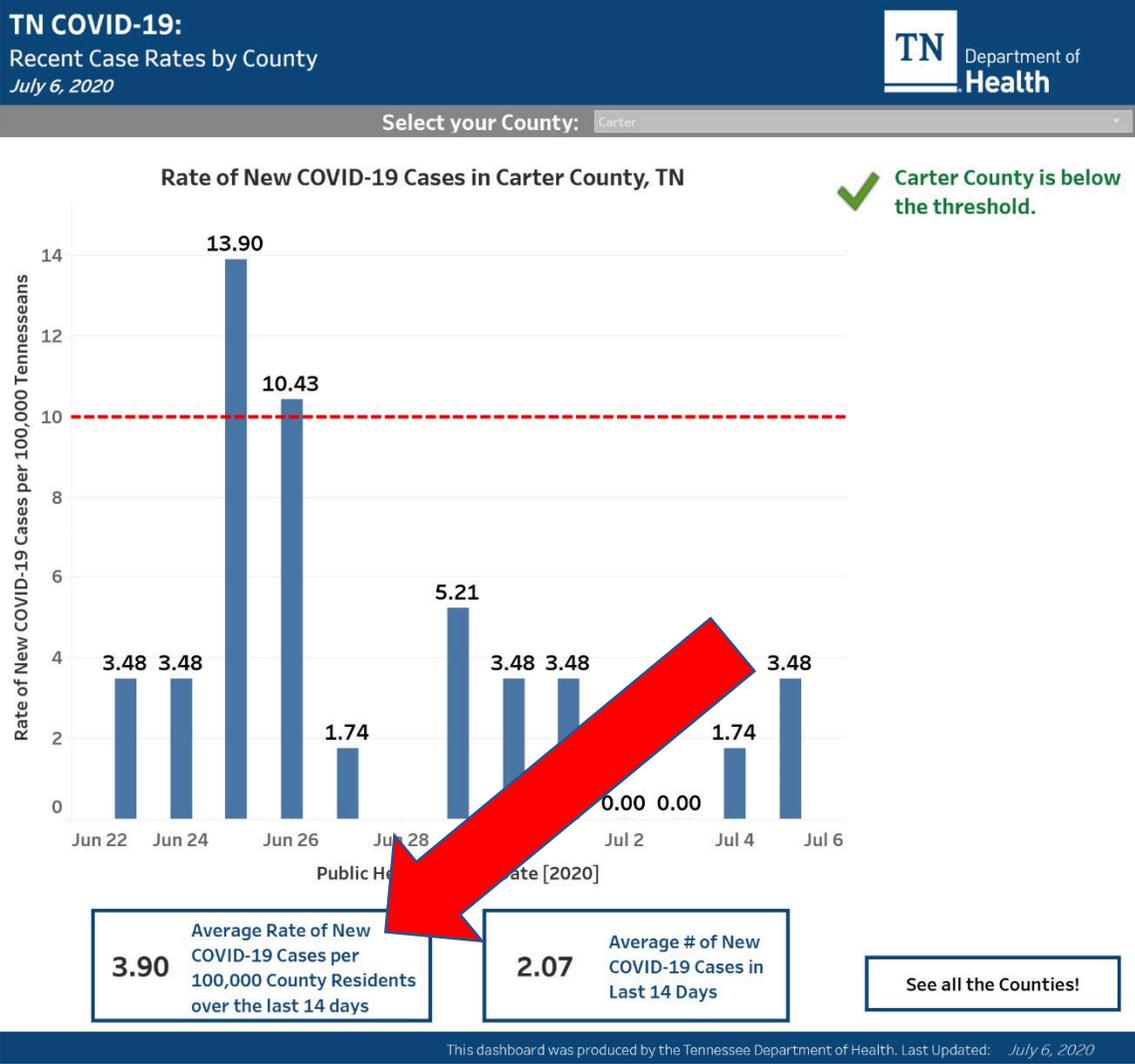
Within each of the pandemic scenarios above, the virus will manifest in local communities in one

of three ways at any given point in time and will be evaluated by applying the acceptable threshold criteria*:

- **None to minimal:** Defined as very few, if any, COVID-19 cases among Carter County residents, with an average rate of 0 - 5 new cases per 100,000 over the last 14 days.
- **Minimal to moderate:** Defined as an average rate of 6 – 10 new COVID-19 cases per 100,000 Carter County residents in the last 14 days.
- **Substantial:** Defined as an average rate of ≥ 11 new COVID-19 cases per 100,000 among Carter County residents in the last 14 days.

*The metric/threshold criteria may change over time as new information is gathered and additional metrics concerning school reopening guidance is established by TDH and the Tennessee Department of Education.

As the school year begins, Elizabethton school officials will evaluate the Epi Curve data from the Tennessee Department of Health every Thursday. Should numbers stabilize and remain stable for several weeks, school officials will make the check a biweekly occurrence. The Epi Curve data can be found [here](#). The arrow in the following image depicts where this average can be found.



The level of community spread and accounting for appropriate case cluster evaluation and investigation are core public health inputs that should inform school leaders’ decision-making relative to school reopening.

To determine the level of community spread, school leaders should plan to have appropriately frequent discussions with local public health officials and city and county leaders to determine whether the case rate warrants further actions. School, city, and county leaders must plan to clearly communicate the level of community spread, as well as the factors used to make that determination on a weekly basis.

To be clear, local health departments, school officials, and city and county leaders cannot focus

only on the number of cases and the case rate alone but should also consider characteristics across four factors to fully determine community risk. These factors include:

- **Disease epidemiology:** Level of community transmission, number and type of outbreaks, impact of the outbreaks on delivery of healthcare or other critical infrastructure or services, and epidemiology in surrounding jurisdictions
- **Community characteristics:** Size of community and population density, level of community engagement/support, size and characteristics of vulnerable populations, access to healthcare, transportation, planned large events, and relationship of community to other communities
- **Local healthcare capacity:** Healthcare workforce, number of healthcare facilities, testing capacity, hospital intensive care unit capacity, and availability of personal protective equipment
- **Public health capacity:** Public health workforce and availability of resources to implement strategies and available support from other state/local government agencies and partner organizations

SCHOOL OPENING SCENARIOS

Given the coronavirus pandemic scenarios and the manifestation of community spread, there are multiple possibilities for school opening in Fall 2020, and decisions should be based on the public health framework for reopening:

Public Health Framework for Reopening

	No to Minimal Spread	Minimal to Moderate Spread	Substantial Spread
Threshold Level	Average rate of ≤ 5 new COVID-19 cases per 100,000 in the last 14 days	Average rate of 6 – 10 new COVID-19 cases per 100,000 in the last 14 days	Average rate of ≥ 11 new COVID-19 cases per 100,000 in the last 14 days
School Opening Recommendation	Schools Open	Situation Dependent	Consideration for School Closure

From an epidemiological standpoint, schools will be able to open and remain open if transmission remains low. If the Carter County Region experiences community disease transmission higher than the acceptable threshold level, then schools will likely be required to close to help break transmission chains. It is important to note that identification and investigation of potential COVID-19 case clusters are an imperative component in this decision-making process and requires thorough discussions between public health officials and the local school systems.

Protocols for Class Size/Spacing Requirements, Movement Operations

Class Size/Spacing

No to Minimal School Community Spread

- Changes to class sizes and spacing unnecessary; can resume normal seating.

Minimal to Moderate School Community Spread

- Arrange all desks facing the same direction toward the front of the classroom with as much space between them as possible.

- Students should be encouraged to either wear masks, use a physical barrier to the side of desks, or be distanced three - six feet apart.
- Teachers should try to maintain six feet of spacing between themselves and students as much as possible but should wear masks if closer than six feet.
- Classroom windows should be open when possible and conditions allow.
- Assemblies of less than 50 students at a time are discouraged but allowed as long as facemasks remain in use.
- Large-scale assemblies of more than 50 students should be discontinued.

Substantial School Community Spread

- Schools are closed and remote learning plan will be implemented and utilized.

Movement Operations

No to Minimal School Community Spread

- No changes in movement between classes are required.

Minimal to Moderate School Community Spread

- Flow of foot traffic should be directed in only one direction if possible.
 - If one-way flow is not possible, hallways can be divided with either side following the same direction.
- Efforts should be made to try and keep three - six feet of distance between persons in the hallways.
- Face masks are encouraged to be worn while in hallways.
- Staggered movements at incremental intervals should be used if feasible to minimize the number of persons in the hallways as able.
- Floor tape or other markers should be used at three - six foot intervals where line formation is anticipated.

Substantial School Community Spread

- Schools are closed and remote learning plan will be implemented and utilized.

Protocols for Screening Students

At this time, the CDC recommends temperature screening of students upon entry only if feasible for the situation. Most larger schools will not be able to provide this screening for every student, though smaller schools may be able to do so. If any screening does occur, it should comply with privacy and HIPAA requirements. A feasible protocol would include

No to Minimal School Community Spread

- Students are allowed to enter/exit the building using normal procedures.
- Parents should check student's temperature at home every morning using oral, tympanic, or temporal scanners; students with a temperature 100.4 or above should stay home and consider coronavirus testing if no other explanation is available.
- Parents should ask their children or monitor for any cough, congestion, shortness of breath, or gastrointestinal symptoms every morning. Any positives should prompt the parent to keep the student home from school.
- Students sent home from school should be kept home until they have tested negative or have completely recovered according to [CDC guidelines](#).

Minimal to Moderate School Community Spread

- Students are allowed to enter the building at only 1-2 sites and must egress from other exits to keep traffic moving in a single direction.
 - Parents are not allowed in the school building except under extenuating circumstances; adults entering the building should wash or sanitize hands prior to entering, should practice social distancing, and should wear masks.
 - If there are extenuating circumstances that necessitate a parent entering the school, only one parent per child should be allowed to enter to minimize the number of entering persons.
 - Strict records, including day and time, should be kept of non-school employees entering and exiting the building.
- Parents should check student's temperature at home every morning using oral,

tympanic, or temporal scanners; students with a temperature of 100.4 or above should stay home and consider coronavirus testing if no other explanation is available.

- Parents should ask their children or monitor for any cough, congestion, shortness of breath, or gastrointestinal symptoms every morning. Any positives should prompt the parent to keep the student home from school.
- If resources allow, schools can perform temperature checks on students once per day; febrile students should be sent to the nurse's office for transport home. Children who fall ill at school should be placed in an area of quarantine in the nurse's office with a surgical mask in place. Nurses should wear N95 masks when caring for these students.
- Students sent home from school should be kept home until they have completely recovered as defined by [CDC guidelines](#).
- When students return to school, they should check in with the school administration to ensure proper communication with health officials.

Substantial School Community Spread

- Schools are closed and remote learning plan will be implemented and utilized.

Protocols for Testing Students and Responding to Positive Cases

The CDC has specifically stated that schools are not expected to be testing students or staff for SARS-CoV-2. At this time, there are new antigen tests seeking approval by the Food and Drug Administration that would make point-of-care testing a possibility, but this is not expected to extend to schools or be performed by school nurses. With that consideration, a feasible protocol would include

No to Minimal School Community Spread

- Students who develop fever or fall ill at school should be kept in an area of quarantine (nurse's office) with a surgical mask in place until they can be transported off

campus. They should be transported by their parents, or ambulance if clinically unstable, for offsite testing. In the event that any student tests positive, immediate efforts should be made to inform any close contacts (those who spent more than 10 minutes in close proximity to the student) so that they can be quarantined at home. Classmates should be closely monitored for any symptoms. At this time, empiric testing of all students in the class is not recommended; only those who develop symptoms require testing.

- In the event that a student or adult tests positive, the school will contact the Carter County Health Department. Parents should be notified of the presence of any positive cases in the classroom, school and/or bus to encourage closer observation for any symptoms at home.
- Parents should check student's temperature at home every morning using oral, tympanic, or temporal scanners; students with a temperature of 100.4 or above should stay home and consider coronavirus testing if no other explanation is available.
- Parents should ask their children or monitor for any cough, congestion, shortness of breath, or gastrointestinal symptoms every morning. Any positives should prompt the parent to keep the student home from school and seek out testing.
- Students sent home from school should be kept home until they have tested negative or have completely recovered according to [CDC guidelines](#).

Minimal to Moderate School Community Spread

- Students who develop fever or fall ill at school should be kept in an area of quarantine (nurse's office) with a surgical mask in place until they can be transported off campus. They should be transported by their parents, or ambulance if clinically unstable, for offsite testing. In the event that any student tests positive, immediate efforts should be made to inform any close contacts (those who spent more than 10 minutes in close proximity to the student) so that they can be quarantined at home. Classmates should be closely monitored for any symptoms. At this time, empiric testing of all students in the class is not recommended; only those who develop symptoms require testing.

- In the event that a student or adult tests positive, the school will contact the Carter County Health Department. The Health Department will contact close contacts (those who spent more than 10 minutes in close proximity to the student) so that they can be quarantined at home. Classmates should be closely monitored for any symptoms. At this time, empiric testing of all students in the class is not recommended; only those who develop symptoms require testing.
- Parents should be notified of the presence of any positive cases in the classroom, school and/or bus to encourage closer observation for any symptoms at home. Parents should check student's temperature at home every morning using oral, tympanic, or temporal scanners; students with a temperature of 100.4 or above should stay home and consider coronavirus testing if no other explanation is available.
- Parents should ask their children or monitor for any cough, congestion, shortness of breath, or gastrointestinal symptoms every morning. Any positives should prompt the parent to keep the student home from school and seek out testing.
- Students sent home from school should be kept home until they have tested negative or have completely recovered according to [CDC guidelines](#).

Substantial School Community Spread

- Schools are closed and remote learning plan will be implemented and utilized.

Protocols for Responding to Positive Tests Among Staff and Students

- In the event of a positive test among staff or a student, the classroom or areas exposed should be immediately closed until cleaning and disinfection can be performed.
 - If the person was in the school building without a face mask, or large areas of the school were exposed to the person, short-term dismissals (2-5 days) may be required to clean and disinfect the larger areas. This decision should be made in concert with the local public health department.

- If possible, smaller areas should be closed for 24 hours before cleaning to minimize the risk of any airborne particles.
 - Cleaning staff should wear an N95 respirator when cleaning these areas along with gloves and face shield.

Protocols for Dining, Gathering, and Extracurricular Activities

Dining

- Non-school system adults will be limited/discouraged with school entry to eat with students, but families may still leave meals for students in the office.
- Meals will be available at limited locations for virtual student/emergency feeding pick-up.

No to Minimal School Community Spread

- Students, teachers, and cafeteria staff wash hands or use hand sanitizer before and after every meal.
- Meal activities continue per normal operating procedures.

Minimal to Moderate School Community Spread

- Students, teachers, and cafeteria staff wash hands before and after every meal.
- If possible, classrooms should be used for eating in place.
- Students may bring food from home.
- When eating in the classroom, school supplied meals should be delivered to classrooms with disposable utensils.
- If cafeterias need to be used, mealtimes must be staggered to create seating arrangements with three - six feet of distance between students.
 - Disposable utensils should be employed and presented per child (instead of

- children reaching and selecting them themselves).
- Serving and cafeteria staff should use barrier protection, including gloves, face shields, and surgical masks; N95 respirators are not required.
- Open selection of food (salad bars, self-serve stations) should be closed or manned by an adult to avoid multiple surface touches.

Substantial School Community Spread

- Schools enact offsite food programs.

Gathering and Extracurricular Activities

No to Minimal School Community Spread

- Students and teachers wash hands before and after every event.
- Large-scale gatherings are allowed per normal operating status.
- Extracurricular activities and gatherings conducted normally.
- After-school programs are open and operating normally.

Minimal to Moderate School Community Spread

- Large-scale assemblies of more than 50 students should be discontinued.
- Assemblies of less than 50 students at a time are discouraged but allowed with facemask use encouraged.
 - Parents and grandparents are not allowed to attend these assemblies.
- Students and teachers wash hands before and after every event.
- Off-site field trips are discontinued.
- Inter-school activities may continue as long as bus transportation is provided and students are encouraged to wear masks throughout the transport period.
 - Schools may elect to discontinue these activities if community transmission rises consistently.
- After-school programs may continue with the use of face masks.
 - Schools may elect to discontinue these activities if community transmission rises consistently.

Substantial School Community Spread

- No on-site activities are allowed.
- All inter-school activities are discontinued.
- After-school activities and ESP are closed.

Protocols for Athletic Activities

All athletic decisions will be made in conjunction with state recommendations and requirements by the state athletic division.

No to Minimal School Community Spread

- All activities are allowed to continue per normal procedures.
- Spectator events are allowed per normal procedures.

Minimal to Moderate School Community Spread

- Schools will consult with public health officials and school sports governing bodies for the current public health guidance on sports with close contact.
- Only sports that can be modified to allow physical distancing for conditioning (preferably outside) are allowed to continue. Off-site, inter-school competitions may be held. Face masks are encouraged during transportation.
 - Spectators fewer than 50 are allowed, provided that face masks are used by observers at all times and three - six feet of spread is available.
 - Large-scale spectator events with more than 50 people are not allowed.
 - Schools may elect to discontinue these activities if average rates and community transmission rises consistently.
- Students, teachers, and staff wash hands or sanitize before and after every practice, event, or other gathering.
- Weight room and physical conditioning activities should only be used with proper social distancing in alignment with the Elizabethton City guidelines for reopening.
- Locker rooms and group changing areas should be closed unless social distancing

may be observed.

- Any uniforms or other clothing that need to be washed/launched at school can be washed in warm water with regular detergent.

Substantial Community Spread

- All athletics are suspended.

NOTE: We will follow guidance from the First CORE Region Superintendents, Tennessee Secondary Athletic Association (TSSAA), state and local health departments, as it pertains to athletic practices and competitions.

Personal Protective Equipment and Cleaning Protocols

Use of physical distancing measures is designed to create layers of redundancy, recognizing that students are unlikely to be able to maintain full compliance at all times. They are designed to minimize the risk of transmission as much as possible while still allowing for feasibility, flexibility, and ease of use.

Protocols for Personal Protective Equipment and Hand Washing

No to Minimal School Community Spread

- No personal protective equipment is required.
- Regular use of hand sanitizer and hand washing per normal operating status.

Minimal to Moderate School Community Spread

- All staff and students are encouraged to wear face masks when they are in common areas, including moving between classrooms; masks may be homemade or disposable

level one (basic) grade surgical masks; N95 respirators are not necessary, except for nurses and custodial staff cleaning and disinfecting an area exposed to a positive case.

- Students should wash their hands or use hand sanitizer after changing any classroom; teachers in the classroom should wash their hands or use sanitizer every time a new group of students enters their room.
- Students and teachers should have scheduled hand-washing with soap and water every 2-3 hours.
- Privacy or barrier screens may be placed at the side of desks in classrooms.
- Gloves are not required except for janitorial staff or teachers cleaning their classrooms.
- Gowns, hair coverings, and shoe covers are not required.

Substantial School Community Spread

- Schools are closed.

Protocols for Cleaning

Coronaviruses on hard surfaces can survive for hours to days. Exposure to sunlight and higher temperatures is expected to diminish their survival, but the exact amount of time required remains unclear. At this point, more aggressive cleaning practices are recommended in order to err on the side of caution.

No to Minimal School Community Spread

- School campuses should undergo cleaning on an increased tempo.
- Frequently touched surfaces, including lights, doors, benches, bathrooms, etc., should undergo cleaning with either an [EPA-approved disinfectant](#) or dilute bleach solution frequently, no less than daily.
- Libraries, computer labs, arts, and other hands-on classrooms should undergo cleaning with either an [EPA-approved disinfectant](#) or dilute bleach solution frequently, no less than daily.

- Efforts should be made to minimize sharing of materials between students as able.
- Student desks should be wiped down with either an [EPA-approved disinfectant](#) or dilute bleach solution frequently, no less than daily.
- Playground equipment and athletic equipment should be cleaned with either an [EPA-approved disinfectant](#) or dilute bleach solution frequently, no less than daily.
- Staff should wear gloves, surgical mask, and face shield when performing all cleaning activities.

Minimal to Moderate School Community Spread

- Routine cleaning with standard soap and water removes germs and dirt and lowers the risk of spreading SARS-CoV-2.
- School campuses should undergo normal cleaning on a daily basis.
- Frequently touched surfaces, including lights, doors, benches, bathrooms, etc., should undergo cleaning with either an [EPA-approved disinfectant](#) or dilute bleach solution ($\frac{1}{3}$ cup bleach in 1 gallon of water) at least twice daily.
- Libraries, computer labs, arts, and other hands-on classrooms should undergo standard cleaning procedures per normal operating status.
- Student desks should be wiped down with either an [EPA-approved disinfectant](#) or dilute bleach solution at the beginning and end of every day.
- Playground equipment and athletic equipment can be cleaned with either an [EPA-approved disinfectant](#) or dilute bleach solution twice daily.
- Staff should wear gloves, surgical mask, and face shield when performing all cleaning activities.

Substantial School Community Spread

- Schools are closed and cleaning practices adjusted to maintain school buildings in clean and well-functioning order.

Protocols for Busing and Student Transportation

The risks associated with student transportation in buses have not been studied to date. As a result, these recommendations are derived from school operating procedures and the best “reasonable standard” given feasibility constraints.

No to Minimal School Community Spread

- School busing operations proceed normally.
- No changes to schedules or seating patterns on the buses are required.

Minimal to Moderate School Community Spread

- Face masks will be worn by all staff, and students will be encouraged to wear masks.
- Windows should be open when possible and conditions allow.
- Unloading of buses at school should be staggered to minimize mixing of students as they enter school and to allow three-six feet of distance while entering through designated entry points.
- Seats and handrails should be wiped down with either an [EPA-approved disinfectant](#) or dilute bleach solution before and after every ride.

Substantial School Community Spread

- All busing operations are suspended.

Protocols for Serving Medically Vulnerable Students and Teachers

Understandably, a key concern is whether certain populations of students, teachers, and other employees may be at increased risk of infection and severe disease by attending school in

person. These high-risk groups include but are not limited to

- [People 65 years and older.](#)
- People of all ages with [underlying medical conditions, particularly if not well controlled](#), including:
 - People with chronic lung disease or moderate to severe asthma.
 - People who have serious heart conditions.
 - People who are immunocompromised.
 - Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications.
 - People with severe obesity (body mass index [BMI] of 40 or higher).
 - People with diabetes.
 - People with chronic kidney disease undergoing dialysis.
 - People with liver disease.

Unfortunately, there is no validated data on how much risk these individuals incur by attending school in person, and individuals will need to make the decision to attend in close consultation with their health care provider. However, a reasonable protocol may include the following,

No to Minimal School Community Spread

- All students and staff are able to attend school and activities normally.
- If they choose to do so, staff and students may self-identify as having a high-risk medical condition to school staff for planning purposes in the event of an outbreak.

Minimal to Moderate School Community Spread

- High-risk staff should consider teaching lessons remotely.
 - If able, high-risk teachers should be made aware of additional protective equipment options as well as alternative assignments.

- Parents may elect to keep children with underlying health conditions at home and pursue education through remote learning.
- Ultimately, individual decisions to attend school in person will be left to parents, students, and staff.

Substantial School Community Spread

- All teaching should be moved to videoconferencing platforms and remote learning plan will be implemented and utilized.

Schools should enact abbreviated teaching schedules that allow core subject matter to be transmitted on a regular basis. Elective material may be discontinued at school discretion.

CONCLUSION

This report establishes a framework to plan and implement a safe, efficient, and equitable return to school. While informed by evidence and global best practices, it is limited by the boundaries of scientific knowledge about the COVID-19. There remains epidemiological uncertainty, a lack of established precedent, and insufficient data to make recommendations that entirely remove risk from returning to school. It is likely that, despite implementation of all of the recommendations in this report and the safety protocol appendices that follow, educators and students may still be infected and develop COVID-19. The risk cannot be driven to absolute zero.

In those instances, there is clearly a risk calculus that will have to be considered by the Carter County Government and education leaders. These risks will need to be communicated to the public so that an informed decision can be made on whether the benefits of returning to school outweigh the risks.

The recommendations provided within are in line with best practices being used in the state of Tennessee. Our hope is that this report provides those leaders with the information needed to make the difficult decisions ahead in the safest and most informed manner possible.

As the new school year approaches, Elizabethton City School leaders are working to create and implement plans to get students and teachers back to school safely amid the coronavirus pandemic. Elizabethton City Schools are scheduled to begin school on August 5, 2020. The school system will be implementing protocols to help mitigate illness and ensure that student health and safety are a priority. The following policies will be in place as students return to school.

- Student desks will be arranged facing the same direction toward the front of the classroom with as much space between them as possible. The goal will be to distance students three-six feet apart.
- Mask will be encouraged for students but are not required at this time.
- Teachers should try to maintain six feet of spacing between themselves and students as much as possible, but masks will be encouraged if closer than six feet.
- Assemblies of less than 50 students at a time are discouraged but allowed as long as distancing or facemasks remain in use.
- Large-scale assemblies (more than 50 students) within the school day will be discontinued until further notice.
- Flow of foot traffic should be directed in only one direction when possible.
- Efforts should be made to try and keep three-six feet of distance between persons in the hallways. Face masks will be encouraged during hallway transitions.
- Staggered movements at incremental intervals should be used if feasible to minimize the number of persons in the hallways as able.
- Floor tape or other markers should be used at three-six-foot intervals where line formation is anticipated.
- Students will be allowed to enter the building at only 1-2 sites and must egress from other exits to keep traffic moving in a same direction when possible.
- Parents will be allowed into restrictive locations in school buildings except under extenuating circumstances; adults entering the building should wash/sanitize hands prior to entering, should practice social distancing, and will be encouraged to wear a mask.
- Parents should check student's temperature at home every morning using oral, tympanic, or temporal scanners; students with a temperature of 100.4 or above should stay home and consider coronavirus testing if no other explanation is available.
- Students, teacher, and cafeteria staff will wash/sanitize hands before and after every meal.
- A modified breakfast and lunch schedule will be implemented to reduce the number of students in the cafeteria during mealtimes.
- Additional cleaning procedures will take place through-out the day to prevent the spread of illness.

More detailed information about the Re-Entry Plan is available on the Elizabethton City Schools Website.