

# ELIZABETHTON CITY SCHOOLS BOARD OF EDUCATION

## REGULAR SCHEDULED MEETING

*Thursday, March 18, 2021, @ 5:30 PM*

### Board Members

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

The Elizabethton Board of Education will meet on Thursday, March 18, 2021, at 5:30 PM in the Mack Pierce Board Room, 804 South Watauga Ave , Elizabethton, TN 37643.

1. CALL TO ORDER
2. MOMENT OF SILENCE
3. PLEDGE TO THE FLAG
4. APPROVE CONSENT AGENDA AND REGULAR AGENDA
5. TIME FOR CITIZENS TO SPEAK
6. CONSENT AGENDA
  - A. Minutes of Regular meeting: February 18, 2021
  - B. Approve General Purpose Fund Financial Statement, February 28, 2021.
  - C. Approve Federal Projects Fund Financial Statement, February 28, 2021.
  - D. Approve School Nutrition Fund Financial Statement, February 28, 2021.
  - E. Approve Professional Leave for the Director of Schools to attend the TSBA 2021 Summer Law Institute in Gatlinburg, Tennessee on July 16 and 17, 2021.
  - F. Equipment Disposal Request from Emily Morganstern, Assistant Principal at East Side Elementary School, for the disposal of a Dell laptop computer and charger to be recycled.
  - G. Approve travel for the Elizabethton High School Girls Basketball team to travel to Tampa, Florida for the Tampa Bay Christmas Invitational on December 27, 2021 through January 2, 2022.
  - H. Equipment Disposal Request from John Wright, Principal at West Side Elementary School, for the disposal of an HP LaserJet P1006 printer to be recycled.
  - I. Equipment Disposal Request from Brian Culbert, CTE Director at EHS, for the disposal of various automotive parts, stick welder, Panasonic TV, small mig welder, book shelf (badly broken), and a valve grinding machine to be recycled and trashed.
  - J. Equipment Disposal Request from Brian Culbert, CTE Director for the disposal of an automotive computer diagnostic center, red barrel fluid holder, grease machine, drill press, pressure washer and Sunscope Analyzer.
  - K. Equipment Disposal Request from John Wright, Principal at West Side Elementary School for the disposal of twenty (20) desktop computers and fourteen (14) laptop computers to be recycled by the Technology Department.
  - L. Equipment Disposal Request from Josh Boatman, Special Education Director for the disposal of a Dell Latitude Computer to be recycled by the Technology Department.

The Elizabethton Board of Education provides for public participation during Board Business meetings under procedures established under ECS Policy 1.404. Board business meetings are not public forums; however, provision is made for public participation. To assure an orderly business meeting, the Board requires that an individual requesting to address Board members make that request giving the topic to the Superintendent or Board Chairman prior to the Board meeting. The Chairman shall determine if the request will be granted, the time allowed for the presentation, and (if there are numerous requests on the same subject), the Chairman may request a representative to speak on each side of the issue.

M. Equipment Disposal Request from Travis Hurley, Principal at East Side Elementary School, for the disposal of a Dell computer that is no longer working. Technology will use for parts.

N. Equipment Disposal Request from Eric Wampler, Principal at Harold McCormick Elementary School for the disposal of a laptop computer, office furniture, computer tables, document camera and a desk chair that are no longer working or usable.

## **7. REPORT - DIRECTOR OF SCHOOLS/BOARD MEMBERS**

### **Additional Position:**

**Tracy Holliday, (Additional Position), Custodian at CO, effective February 16, 2021 (Custodian position only);**

### **New Hire:**

**Ronnie D. Hensley, Asst. Softball Coach at EHS, effective February 25, 2021; Agnes Rhodes, Custodian (Full-time) at EHS, effective March 1, 2021; Sienna R. Brown, Asst. to the Teacher (P/T) at TAD, effective March 4, 2021; Dru Williams, ESP Student Leader, Systemwide, effective February 22, 2021; Chloe S. Hambrick, ESP Student Leader, Systemwide, effective February 18, 2021; Katie White, ESP Student Leader, Systemwide, effective February 18, 2021; Skylar L. Steele, Asst. to the Teacher (P/T) at TAD, effective February 19, 2021; Kinsey L. Baines, Teacher (Math) at TAD, effective March 10, 2021.**

### **Retiring:**

**Perry L. Elliott, Teacher at EHS, effective July 1, 2021.**

### **Transfer:**

**Cassidee C. Ray, from ESP Asst. Site Coordinator to ESP Student Leader, effective March 1, 2021; Kylie L. Whaley, from P/T Asst. to the Teacher at WELC to F/T Asst. to the Teacher at WELC, effective February 24, 2021 through May 25, 2021; Kendra G. Lewis, from F/T Instructional Assistant at ESE to Interim Teacher at ESE, effective April 5, 2021 through May 26, 2021.**

### **Leave of Absence:**

**John M. Hutchins, Asst. Dir. of Schools-Operations, effective March 5, 2021 through March 19, 2021; Kendra Cline, Teacher at TAD, effective May 3, 2021 through May 25, 2021; Samantha Lee, SLP Teacher at ESE, effective March 17, 2021 through April 30, 2021; Joanne Pendzinski, P/T Asst. to the Teacher at HME, effective March 8, 2021 through May 25, 2021; Erika Brooke Clawson, Teacher at ESE, effective April 5, 2021 through May 26, 2021; Sandy M. Cox, F/T Asst. to the Teacher at HME, effective March 8, 2021 through March 19, 2021.**

### **Resigned:**

**Elysabeth Sexton, ESP Student Leader Systemwide, effective May 25, 2021; Rustie Crowe, Asst. to the Teacher at WSE, effective March 2, 2021 Julia G. Henderson, ESP Site Coordinator, effective March 9, 2021.**

## **8. OTHER**

The Elizabethton Board of Education provides for public participation during Board Business meetings under procedures established under ECS Policy 1.404. Board business meetings are no public forums; however, provision is made for public participation. To assure an orderly business meeting, the Board requires that an individual requesting to address Board members make that request giving the topic to the Superintendent or Board Chairman prior to the Board meeting. The Chairman shall determine if the request will be granted, the time allowed for the presentation, and (if there are numerous requests on the same subject), the Chairman may request a representative to speak on each side of the issue.

- A. Director's Update
- B. Board Reports
- C. City Council Liaison's Report
- D. Student Liaison's Report

**9. REGULAR AGENDA**

- A. Approve an Agreement between Elizabethton City Schools and Frantz Law Group for representation to pursue damages associated with electronic cigarette litigation.
- B. Approve the first reading of revised Board Policies 5.100 Goals and Objectives and 1.700 School District Goals, with mark-ups.
- C. Approve the first reading of revised Board Policies 5.310 Vacations and Holidays, 5.303 Personal and Professional Leave, and 5.302 Sick Leave, with mark-ups.
- D. Approve Thomas Weems, Architect to complete plan and design work for a proposed classroom addition at T. A. Dugger Junior High School.
- E. Approve 141 General Purpose 2020-2021 Budget Amendment No. 1 which appropriates an employee bonus.

**10. FOR YOUR INFORMATION**

**11. NEXT REGULARLY SCHEDULED BOARD MEETING**

- A. The next regularly scheduled Board Meeting will be held on Thursday, April 15, 2021 at 5:30 p.m. in the Mack Pierce Board Room in the offices of the Elizabethton Board of Education, located at 804 S. Watauga Avenue, Elizabethton, Tennessee.

**12. There will be a Budget Workshop on Thursday, April 15th at 4:45 p.m., immediately preceding the next regularly scheduled Board Meeting.**

**13. ADJOURN**

ELIZABETHTON CITY SCHOOLS BOARD OF EDUCATION  
REGULAR SCHEDULED MEETING  
Thursday, February 18, 2021 5:30 PM  
Mack Pierce Board Room

The Elizabethton Board of Education met in a regular meeting on Thursday, February 18, 2021, at 5:30 PM, at Mack Pierce Board Room.

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE TO THE FLAG

APPROVE CONSENT AGENDA AND REGULAR AGENDA

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve the consent and regular agendas. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

TIME FOR CITIZENS TO SPEAK

There have been no citizens request to address the Board.

SPECIAL RECOGNITION

Recognition of our Student School Board Liaison, Veronia Watson, being named a Roan Scholar at ETSU.

Recognition of our Student Liaison for being awarded as a Roan Scholar. She's honored and hopes to represent Elizabethton well.

CONSENT AGENDA

Minutes of Regular Meeting: January 21, 2021.

Approve General Purpose Fund Financial Statement, January 31, 2021.

Approve Federal Projects Fund Financial Statement, January 31, 2021.

Approve School Nutrition Fund Financial Statement, January 31, 2021.

Equipment Disposal Request from Beth Wilson, Finance Director for the disposal of a Dell Desktop Computer to be given to the Technology Department for recycling.

Approve the amended Elizabethton City Schools' COVID-19 Emergency Paid Leave Plan effective January 1, 2021 through June 30, 2021.

Equipment Disposal Request from Chris Berry, Principal at T. A. Dugger for the disposal of a Brother printer to be given to technology for recycling.

Equipment Disposal Request from Beth Wilson, Finance Director for the disposal of an HP Flatbed Scanner to be given to the Technology Department to be trashed.

Equipment Disposal Request from Brian Culbert, CTE Director at EHS for the disposal of an American Heart Association BLS Provider Manual to be thrown away.

Equipment Disposal Request from Brian Culbert, CTE Director at EHS for the disposal of a GE Sensor Microwave Oven that no longer works.

Equipment Disposal Request from John Wright, Principal at West Side Elementary School for the disposal of twenty-three (23) Dell Vostro Laptops and one (1) Brother printer to be recycled.

Equipment Disposal Request from Travis Hurley, Principal at East Side Elementary School for the disposal of ten (10) Dell Vostro 3460 Laptop Computers that will be recycled.

Approve Professional Leave request for Director of Schools to attend Niswonger Consortium Director's Retreat on February 28, 2021 through March 1, 2021 in Asheville, North Carolina.

#### REPORT - DIRECTOR OF SCHOOLS/BOARD MEMBERS

Back to four days a week 100% attendance. Commend students and staff in the job they are doing. Last month we distributed chrome books to our students. Thankful for those.

Thanks to the Ccrter County Health Department for issuing the doses of vaccinations to our approximaely 130 employees.

New legislation as it pertains to education 270,000.00 for learning loss and summer programming. Lots of work ahead of us figuring out what we need to do to put together the best program we can.

Requirement that we maintain 80% of students tested.

Teacher pay addressed and out to staff hopefully in April. Both sets of restrooms finished at TAD next week. Mr. Campbell's class cutting aluminum for signs for restrooms. Only other thing is roof work for the building.

Bipolar Ionization: almost finished

Protected entrances final inspections tomorrow (2/19). Only lack ballistic film which has been on backorder.

ESSER 2.0 excited about the impact on this.

There's a lot going on of a positive nature.

## OTHER

### Director's Update

We are back to four days per week at 100% attendance. Thanks to our faculty and staff for their commitment to our students. Distribution of Chrome Books went well. Special thank you to the Carter County Health Department for getting the vaccinations out. ECS has had around 120-130 staff members receive the vaccination. Special Session in Nashville last month regarding new legislation affecting education and pandemic. ECS has received \$270,000.00 for learning loss and summer school. Lots of work ahead of us. More information on this in the future. Only requirement regarding accountability is to maintain that at least 80% of our students are tested. There's also a component about teacher pay and we will have something together in March to address and outline this issue. Construction Update: Restrooms at TAD should be finished by the end of next week. Mr.

Campbell's class at EHS is working on signage for those. Roof work is continuing to go well. Work on the main building is all that's left. Wrapping up the bipolar ionization units. Also wrapping up the protected entrances. Final inspection tomorrow (2/19/21). Still waiting on ballistic film to be placed over the windows. ESSER 2.0 spending plan for those funds and the impact this will have on our students. There's a lot going on of a positive nature, and we're excited to see the positive impact these things will have on our schools.

#### Board Reports

Mr. Pless thanked the schools for recognizing the Board Members for National School Board Week.

Training from TSBA. Legislative Council was canceled. Waiting on notification of when this will be re-scheduled. TSBA Database webinar for Board Members on March 1st.

#### City Council Liaison's Report

Weight room funding: City council approved the funding for their portion with a second reading in March.

Propose to City Council that we do a memorial by naming a parkway within the city limits in honor of Dave Rider.

Would like to recognize Veronia Watson for helping with the Sycamore Shoals State Park by updating their website, creating, and writing articles for her Public History class at EHS. Admirable that she reaches out to her community as a student. Thank you to Veronica.

Thanks to Mr. VanHuss for letting Mr. Simerly visit and tour TAD. It's a jewel within our community.

Letter to Mr. Estes: The City has seen almost 230,000.00 above the estimated tax revenue. Mr. Simerly asked that we prioritize the items on the list to help the City Council make their decisions.

Student Liaison's Report

Currently in the process of working with Mr. VanHuss and Ms. Newman to get student voice into the textbook adoptions. Teachers on textbook committee to choose a student or two to shape our education toward what we (students) want.

REGULAR AGENDA

Approve the creation of a boy's soccer Assistant Coach position and a girl's soccer Assistant Coach position to assist with student supervision and skills instruction. Motion was made by Phil Isaacs, second by Jamie Schaff to approve the creation of a boy's soccer Assistant Coach position and a girl's soccer Assistant Coach position to assist with student supervision and skills instruction. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Similar to assistant coach pay for softball and baseball for TAD. The extra set of hands would be helpful.

Approve and ratify the purchase of weight training equipment for the EHS Baseball Team from Legend Fitness (through a Cooperative Purchasing Agreement) for an amount not to exceed \$16,805.05. These items will be purchased using funds donated by the City of Elizabethton.

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve and ratify the purchase of weight training equipment for the EHS Baseball Team from Legend Fitness (through a Cooperative Purchasing Agreement) for an amount not to exceed \$16,805.05. These items will be purchased using funds donated by the City of Elizabethton. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Purchasing weights and benches for facility at Joe O'Brien Field.

Mr. Wilson asked if we were purchasing weights and machines. Mr. VanHuss stated we were and they would be placed in the dressing room at Joe O'Brien Field. Mr. Simerly stated that in closing the deal with Boyd Sports they were to take the existing equipment from the facility and this will replace those weights and machines.

Approve a Scheduled Service Agreement between Trane and Elizabethton City Schools for the period of one year, beginning April 1, 2021 and ending on March 31, 2022, in the amount of \$15,617.00.

Motion was made by Phil Isaacs, second by Mike Wilson to approve a Scheduled Service Agreement between Trane and Elizabethton City Schools for the period of one year, beginning April 1, 2021 and ending on March 31, 2022, in the amount of \$15,617.00. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Annual service agreement to maintain boilers, chillers, etc. Mr. O'Quinn asked if this had been bid out. Mr. VanHuss stated it had not been bid out in quite awhile due to using this within our Energy Services Agreement.

Approve the change of ELA Textbook Adoption Selection at EHS from Houghton Mifflin Harcourt: Into Literature (which was not purchased), to Pearson

Education: myPerspective English Language Arts 2021, which will better meet their needs.

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve the change of ELA Textbook Adoption Selection at EHS from Houghton Mifflin Harcourt: Into Literature (which was not purchased), to Pearson Education: myPerspective English Language Arts 2021, which will better meet their needs. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Standards were changing and we adopted but didn't purchase. Need materials now that will meet our students needs.

Approve a Dual Credit Agreement between Elizabethton City Schools and Middle Tennessee State University allowing students to receive college credit for selected Aerospace courses.

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve a Dual Credit Agreement between Elizabethton City Schools and Middle Tennessee State University allowing students to receive college credit for selected Aerospace courses. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Allow current aviation students to complete EOC exam to earn college credit. We have the premiere aviation program in the US. Mr. Culbert and Mr. Mills have expertise and designed a top notch program leading the way in Tennessee.

Mr. Mills: several high school aviation teachers have joined with Dr. Beckman on Zoom every week. We're applying for a grant in the amount of \$365,000.00 that would benefit them and us as well. Trying to design a program that would take children from elementary, junior high, into high school, and right into the job force. Dr. Beckman will be on the Advisory Board for EHS as well. Several students have been hired at the Elizabethton Airport.

Mr. Culbert: He has spoken with other schools and some of them have simulators but not like ours and some get so solo, but not many. We have Mr. Mills and they don't. He's dedicated and works with them night and day.

Mr. O'Quinn: How many hours can they get toward MTSU? Mr. Mills stated we have four classes at 3 hours each which is 12 hours. This goes toward a major and not core classes. Airline transport pilots license is required \$1,500.00. Major universities said they need relief and can get a restricted ATP for \$1,000.00. Airlines are currently paying \$60,000.00 to sit in the right seat of a commuter plane.

Approve two courses of study for Elizabethton High School Aviation Program. Motion was made by Danny O'Quinn, second by Mike Wilson to approve two courses of study for Elizabethton High School Aviation Program. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Mr. Culbert: We can offer any class we want but CTE has to go through channels. This is due March 1st. This will pertain to next school year.

FMX Flight lab: students would fly every week. Aviation II: first nine weeks: students would be back in the FMX Skyhawk 172, and deal with problems (sickness, heart attack, running out of fuel, too much wind, etc.) Second nine weeks students would be in the 58 Baron with a glass cockpit. The other course would be sitting for the FAA Private Pilot written test which has 901 questions in the data base and the student would go through those twice. Those students would also be working on soloing. We've had thirteen in this program and have five this year will that would be taking advantage of this. Through our program the student or parent would pay \$350.00 to solo. Doing this through the airport would likely be around \$2,000.00. Another class we will have in the summer would allow students to take their written private pilot's exam this semester, solo and then work on their private pilot's license. The airport manager and the three instructors have as agreed to do this at a reduced rate for our students with students getting their Private Pilot's license for around \$2,000.00. It's \$11,000.00 at MTSU and at Liberty \$14,500.00. This type of education is hard to find anywhere else.

Mr. O'Quinn asked if there was anyway to use the dual enrollment to get the cost reduced. Mr. Mills stated that the aviation courses have to be approved by the FAA, core classes could transfer from another university/community college but aviation courses have to be taken at MTSU. There's no problem with a student being accepted at MTSU with a Private Pilot's license, it wouldn't do any good to include it in the dual enrollment program.

Approve a Partnership Agreement between Elizabethton City Schools and East Tennessee State University for the 2020-2021 school year.

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve a Partnership Agreement between Elizabethton City Schools and East Tennessee State University for the 2020-2021 school year. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

This is a typical Agreement for student teacher intern placement.

Approve purchasing BoxLight panels to replace smartboards throughout the system from Central Technologies (utilizing a Cooperative Purchasing Agreement) in the amount of \$516,333.00. This purchase is contingent on ESSER 2.0 grant funding approval.

Motion was made by Danny O'Quinn, second by Phil Isaacs to approve purchasing BoxLight panels to replace smartboards throughout the system from Central Technologies (utilizing a Cooperative Purchasing Agreement) in the amount of \$516,333.00. This purchase is contingent on ESSER 2.0 grant funding approval.

Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

We do have a BoxLight on display at EHS and the teacher is using it everyday. We can observe the teacher using the board. These cost around \$2,800.00 each. This price includes a turn-key job.

Approve the purchase of a 2021 Chevrolet Malibu Sedan from Freeland Chevrolet, to be used for Driver Education classes at Elizabethton High School in the amount of \$17,900.00. This will be purchased utilizing State Contract pricing.

Motion was made by Danny O'Quinn, second by Jamie Schaff to approve the purchase of a 2021 Chevrolet Malibu Sedan from Freeland Chevrolet, to be used for Driver Education classes at Elizabethton High School in the amount of \$17,900.00. This will be purchased utilizing State Contract pricing. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

This program is an asset to the community. We feel there's a real value in providing this program.

Approve a budget request letter to the City of Elizabethton for the 21-22 Fiscal Year. Motion was made by Phil Isaacs, second by Danny O'Quinn to approve a budget request letter to the City of Elizabethton for the 21-22 Fiscal Year. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

Mr. Simerly suggested we prioritize the letter. If the Board approves, Mr. VanHuss will make those adjustments.

Approve FaciliServ to complete Service and Safety upgrades for Elizabethton High School Gym Bleachers for an amount not to exceed \$50,000.00.

Motion was made by Danny O'Quinn, second by Mike Wilson to approve FaciliServ to complete Service and Safety upgrades for Elizabethton High School Gym Bleachers for an amount not to exceed \$50,000.00. Motion carried.

Phil Isaacs: aye

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 5, nay: 0

The seating is close to 50 years old. Have had issues over the years finding parts to repair the seats. The cost to replace the seating could be in excess of \$300,000.00. All four of our current sets are high quality and could not buy new and get the same quality. It has aged and needs work. There are also safety issues we need to address. Safety rails currently in place do not meet code. Those would be replaced and would fold up as the bleachers fold up. The section in the balcony was recently out of alignment and would not open as well. The gym is used for many sports and community events as well. This is basically deferred maintenance. We've finally found someone to do the work. There are four different companies that make parts for these bleachers. There are twelve drive rollers need to be replaced and also replace cracked or damaged boards in the balcony bleachers. This is money well spent to do the work.

FOR YOUR INFORMATION

NEXT REGULARLY SCHEDULED BOARD MEETING

The next regularly scheduled Board Meeting will be held on Thursday, March 18, 2021 at 5:30 p.m. in the Mack Pierce Board Room in the offices of the Elizabethton Board of Education, located at 804 S. Watauga Avenue, Elizabethton, Tennessee.

ADJOURN

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Chairman of the Board  
Schools

Director of

			2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21
	Acct		Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
141 R 40110	000	CURRENT PROPERTY TAX	3,100,000.00	3,100,000.00	1,802,240.40	58.14	1,297,759.60	348,425.76
141 R 40120	000	TRUSTEE'S COLLECTIONS - PRIOR	83,000.00	83,000.00	30,162.99	36.34	52,837.01	6,656.64
141 R 40130	000	CIR CLK/CLK & MASTER COLLECTIO	18,500.00	18,500.00	6,488.28	35.07	12,011.72	1,978.16
141 R 40140	000	INTEREST AND PENALTY	24,000.00	24,000.00	8,547.94	35.62	15,452.06	1,771.00
141 R 40162	000	PAYMENTS IN LIEU OF TAXES-LOCA	62,500.00	62,500.00	0.00	0.00	62,500.00	0.00
141 R 40163	000	PAYMENTS IN LIEU OF TAXES - OT	4,000.00	4,000.00	239.84	6.00	3,760.16	239.84
141 R 40210	000	LOCAL OPTION SALES TAX	2,300,000.00	2,300,000.00	1,208,655.73	52.55	1,091,344.27	246,669.59
141 R 40275	000	MIXED DRINK TAX	18,000.00	18,000.00	8,194.16	45.52	9,805.84	26.73
141 R 40320	000	BANK EXCISE TAX	30,550.00	30,550.00	0.00	0.00	30,550.00	0.00
141 R 41110	000	MARRIAGE LICENSES	600.00	600.00	317.70	52.95	282.30	35.12
141 R 43511	000	TUITION - REGULAR DAY STUDENTS	310,000.00	310,000.00	206,807.14	66.71	103,192.86	10,373.84
141 R 43513	000	TUITION - SUMMER SCHOOL	750.00	750.00	0.00	0.00	750.00	0.00
141 R 43517	000	TUITION - OTHER	222,552.00	222,552.00	33,619.22	15.11	188,932.78	5,641.12
141 R 44110	000	INVESTMENT INCOME	20,000.00	20,000.00	2,847.47	14.24	17,152.53	648.13
141 R 44120	000	LEASE/RENTALS	1,000.00	1,000.00	0.00	0.00	1,000.00	0.00
141 R 44170	000	MISCELLANEOUS REFUNDS	0.00	0.00	9,585.89	0.00	-9,585.89	-2,784.97
141 R 44990	000	OTHER LOCAL REVENUES	200.00	200.00	1,040.06	520.03	-840.06	1,009.00
141 R 46511	000	BASIC EDUCATION PROGRAM	14,346,000.00	14,346,000.00	10,070,700.00	70.20	4,275,300.00	1,474,500.00
141 R 46515	000	EARLY CHILDHOOD EDUCATION	404,779.00	404,779.00	211,470.06	52.24	193,308.94	31,648.94
141 R 46550	000	DRIVER EDUCATION	6,500.00	6,500.00	0.00	0.00	6,500.00	0.00
141 R 46590	000	OTHER STATE EDUCATION FUNDS	92,000.00	92,000.00	40,083.25	43.57	51,916.75	4,648.35
141 R 46610	000	CAREER LADDER PROGRAM	41,359.00	41,359.00	19,902.64	48.12	21,456.36	0.00
141 R 46980	000	OTHER STATE GRANTS	55,540.00	55,540.00	79,700.00	143.50	-24,160.00	0.00
141 R 46990	000	OTHER STATE REVENUES	113,000.00	113,000.00	0.00	0.00	113,000.00	0.00
141 R 48610	000	DONATIONS	25,200.00	25,200.00	18,760.29	74.45	6,439.71	0.00
141 R 49800	000	OPERATING TRANSFERS	29,490.00	29,490.00	0.00	0.00	29,490.00	0.00
141 R 49810	000	CITY GENERAL FUND TRANSFER	2,400,000.00	2,400,000.00	1,600,000.00	66.67	800,000.00	200,000.00
<b>Grand Revenue Totals</b>			<b>23,709,520.00</b>	<b>23,709,520.00</b>	<b>15,359,363.06</b>	<b>64.78</b>	<b>8,350,156.94</b>	<b>2,331,487.25</b>

Number of Accounts: 36

\*\*\*\*\* End of report \*\*\*\*\*

	Acct	2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21
		Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
141 E 71100	REGULAR INSTRUCTION PROGRAM	11,102,130.00	11,102,130.00	6,142,334.73	55.33	4,957,285.99	897,522.36
141 E 71200	SPECIAL EDUCATION PROGRAM	1,982,648.00	1,982,648.00	998,215.43	50.35	980,747.91	170,854.67
141 E 71300	VOCATIONAL EDUCATION PROGRAM	992,510.00	992,510.00	502,503.24	50.63	473,732.19	78,552.24
141 E 71400	STUDENT BODY EDUCATION PROGRAM	308,745.00	308,745.00	361,951.79	117.23	-53,206.79	94,791.17
141 E 72110	ATTENDANCE	81,225.00	81,225.00	61,706.86	75.97	19,518.14	5,168.16
141 E 72120	HEALTH SERVICES	368,005.00	368,005.00	186,551.68	50.69	180,927.72	29,931.61
141 E 72130	OTHER STUDENT SUPPORT	802,633.00	802,633.00	466,005.81	58.06	283,127.19	55,408.95
141 E 72210	REGULAR INSTRUCTION PROGRAM	979,244.00	979,244.00	535,473.49	54.68	443,690.95	61,363.95
141 E 72220	SPECIAL EDUCATION PROGRAM	344,955.00	344,955.00	197,708.93	57.31	146,983.07	30,471.55
141 E 72230	VOCATIONAL EDUCATION PROGRAM	147,768.00	147,768.00	99,271.58	67.18	48,496.42	11,673.98
141 E 72250	TECHNOLOGY	462,713.00	462,713.00	286,445.09	61.91	169,314.98	37,980.83
141 E 72310	BOARD OF EDUCATION	475,300.00	475,300.00	380,599.94	80.08	91,711.66	15,211.99
141 E 72320	OFFICE OF THE SUPERINTENDENT	343,598.00	343,598.00	195,081.08	56.78	136,912.21	23,708.07
141 E 72410	OFFICE OF THE PRINCIPAL	1,545,129.00	1,545,129.00	911,653.22	59.00	633,475.78	124,420.48
141 E 72510	FISCAL SERVICES	282,861.00	282,861.00	223,163.52	78.90	57,536.72	24,939.32
141 E 72610	OPERATION OF PLANT	1,512,240.00	1,512,240.00	936,078.24	61.90	570,285.75	111,854.03
141 E 72620	MAINTENANCE OF PLANT	817,590.00	817,590.00	677,411.53	82.85	-19,651.26	80,322.84
141 E 72710	TRANSPORTATION	441,895.00	441,895.00	239,053.21	54.10	175,953.74	29,822.21
141 E 73100	FOOD SERVICE	0.00	0.00	1,972.43	0.00	-10,146.43	0.00
141 E 73300	COMMUNITY SERVICES	216,552.00	216,552.00	28,880.66	13.34	177,255.83	838.52
141 E 73400	EARLY CHILDHOOD EDUCATION	404,779.00	404,779.00	214,170.83	52.91	190,549.03	33,398.43
141 E 76100	REGULAR CAPITAL OUTLAY	92,000.00	92,000.00	830,326.46	902.53	-1,660,651.54	120,943.47
141 E 99100	OPERATING TRANSFERS	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00
<b>Grand Expense Totals</b>		<b>23,709,520.00</b>	<b>23,709,520.00</b>	<b>14,476,559.75</b>	<b>61.06</b>	<b>7,998,849.26</b>	<b>2,039,178.83</b>

Number of Accounts: 508

\*\*\*\*\* End of report \*\*\*\*\*

		2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21	
<u>Acct</u>		<u>Original Budget</u>	<u>Revised Budget</u>	<u>FYTD Activity</u>	<u>FYTD %</u>	<u>Balance - YTD Act</u>	<u>Monthly Activity</u>	
142 R 47141	OCA	TITLE 1 GRANTS TO LOCAL EDUC A	107,695.00	117,895.00	67,491.04	57.25	50,403.96	8,687.45
142 R 47189	OCA	EISENHOWER PROF DEVELOPMENT ST	13,000.00	16,000.00	7,261.06	45.38	8,738.94	1,179.03
142 R 47131	OCP	VOCATIONAL EDUC - BASIC GRANTS	42,387.00	40,179.48	24,089.00	59.95	16,090.48	724.95
142 R 47143	OID	SPECIAL EDUCATION - GRANTS TO	556,598.00	584,914.59	288,759.46	49.37	296,155.13	48,287.17
142 R 47145	OPS	SPECIAL EDUCATION PRESCHOOL GR	15,074.00	19,079.10	3,504.27	18.37	15,574.83	531.00
142 R 47141	OT1	TITLE 1 GRANTS TO LOCAL EDUC A	677,518.00	796,751.49	352,295.47	44.22	444,456.02	55,444.65
142 R 47590	OT1	OTHER FEDERAL THROUGH STATE	58,404.00	71,464.28	31,093.67	43.51	40,370.61	4,973.18
142 R 47189	OT2	EISENHOWER PROF DEVELOPMENT ST	81,123.00	140,542.25	60,155.23	42.80	80,387.02	3,471.13
142 R 47590	OVR	OTHER FEDERAL THROUGH STATE	42,335.00	42,335.00	21,816.44	51.53	20,518.56	698.77
142 R 47147	21C	SAFE AND DRUG-FREE SCHOOLS-ST	145,334.00	145,334.00	62,484.36	42.99	82,849.64	10,604.94
142 R 47143	890	SPECIAL EDUCATION - GRANTS TO	54,215.00	54,215.00	25,108.40	46.31	29,106.60	5,371.41
142 R 47143	891	SPECIAL EDUCATION - GRANTS TO	0.00	12,451.87	7,087.02	56.92	5,364.85	0.00
142 R 47143	895	SPECIAL EDUCATION - GRANTS TO	0.00	0.00	-4,263.64	0.00	4,263.64	0.00
142 R 47303	CLP	CLP-LEA REOPENING	0.00	60,000.00	60,000.00	100.00	0.00	0.00
142 R 47305	CNT	Connectivity Grant - COVID	0.00	37,050.00	31,468.36	84.93	5,581.64	0.00
142 R 47990	CPS	OTHER DIRECT FEDERAL REVENUE	0.00	435,103.36	291,850.23	67.08	143,253.13	135,232.05
142 R 47301	CRS	ESSER-CARES ACT	0.00	631,129.02	305,210.81	48.36	325,918.21	10,494.18
142 R 47143	IDS	SPECIAL EDUCATION - GRANTS TO	0.00	0.00	4,263.64	0.00	-4,263.64	0.00
142 R 47143	IDT	SPECIAL EDUCATION - GRANTS TO	0.00	5,432.03	5,198.47	95.70	233.56	1,022.34
142 R 47141	T1N	TITLE 1 GRANTS TO LOCAL EDUC A	35,930.00	46,498.55	15,246.17	32.79	31,252.38	600.00
142 R 47304	TCH	Remote Technology Grant - COVI	0.00	160,672.00	160,672.00	100.00	0.00	123,172.00
<b>Grand Revenue Totals</b>			<b>1,829,613.00</b>	<b>3,417,047.02</b>	<b>1,820,791.46</b>	<b>53.29</b>	<b>1,596,255.56</b>	<b>410,494.25</b>

Number of Accounts: 21

\*\*\*\*\* End of report \*\*\*\*\*

		2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21
	Acct	Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
142 E 71100	REGULAR INSTRUCTION PROGRAM	700,595.00	1,423,688.00	648,516.31	45.55	694,098.68	35,681.03
142 E 71200	SPECIAL EDUCATION PROGRAM	571,672.00	607,925.72	284,158.90	46.74	323,766.82	35,102.12
142 E 71300	VOCATIONAL EDUCATION PROGRAM	25,268.00	24,594.56	19,225.28	78.17	-1,160.73	0.00
142 E 72120	HEALTH SERVICES	0.00	40,000.00	0.00	0.00	40,000.00	0.00
142 E 72130	OTHER STUDENT SUPPORT	99,402.00	97,160.00	52,238.00	53.76	38,764.46	6,346.68
142 E 72210	REGULAR INSTRUCTION PROGRAM	209,768.00	342,202.79	134,932.33	39.43	206,290.46	13,271.61
142 E 72220	SPECIAL EDUCATION PROGRAM	54,215.00	68,166.87	32,195.42	47.23	35,971.45	5,363.41
142 E 72230	VOCATIONAL EDUCATION PROGRAM	2,119.00	2,008.92	100.00	4.98	1,908.92	0.00
142 E 72250	TECHNOLOGY	0.00	205,077.00	76,780.88	37.44	128,296.12	5,543.71
142 E 72410	OFFICE OF THE PRINCIPAL	0.00	0.00	13,076.49	0.00	-13,076.49	1,787.40
142 E 73300	COMMUNITY SERVICES	141,084.00	141,834.00	67,745.99	47.76	74,088.01	10,939.44
142 E 76100	REGULAR CAPITAL OUTLAY	0.00	435,103.36	291,850.23	67.08	143,253.13	135,232.05
142 E 99100	OPERATING TRANSFERS	25,490.00	29,285.80	0.00	0.00	29,285.80	0.00
<b>Grand Expense Totals</b>		<b>1,829,613.00</b>	<b>3,417,047.02</b>	<b>1,620,819.83</b>	<b>47.43</b>	<b>1,701,486.63</b>	<b>249,267.45</b>

Number of Accounts: 148

\*\*\*\*\* End of report \*\*\*\*\*

		2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21	
<u>Acct</u>		<u>Original Budget</u>	<u>Revised Budget</u>	<u>FYTD Activity</u>	<u>FYTD %</u>	<u>Balance - YTD Act</u>	<u>Monthly Activity</u>	
143 R 43521	000	LUNCH PAYMENTS - CHILDREN	170,000.00	170,000.00	10,585.10	6.23	159,414.90	1.15
143 R 43522	000	LUNCH PAYMENTS - ADULTS	22,150.00	22,150.00	7,094.77	32.03	15,055.23	994.75
143 R 43523	000	INCOME FROM BREAKFAST	725.00	725.00	0.00	0.00	725.00	0.00
143 R 43525	000	A LA CARTE SALES	34,250.00	34,250.00	12,156.98	35.49	22,093.02	1,663.76
143 R 43990	000	OTHER CHARGES FOR SERVICES	13,000.00	13,000.00	2,393.29	18.41	10,606.71	0.00
143 R 44110	000	INVESTMENT INCOME	3,750.00	3,750.00	202.98	5.41	3,547.02	30.77
143 R 46520	000	SCHOOL FOOD SERVICE	10,750.00	10,750.00	9,819.37	91.34	930.63	9,819.37
143 R 47111	000	USDA SCHOOL LUNCH PROGRAM	556,500.00	556,500.00	333,041.48	59.85	223,458.52	70,923.60
143 R 47112	000	USDA COMMODITIES	93,500.00	93,500.00	67,184.99	71.86	26,315.01	23,615.71
143 R 47113	000	USDA BREAKFAST	253,500.00	253,500.00	211,039.90	83.25	42,460.10	35,811.96
143 R 47114	000	USDA - ESP SNACK PROGRAM	18,000.00	18,000.00	2,839.44	15.77	15,160.56	1,193.28
Grand Revenue Totals			1,176,125.00	1,176,125.00	656,358.30	55.81	519,766.70	144,054.35

Number of Accounts: 44

\*\*\*\*\* End of report \*\*\*\*\*

		2020-21	2020-21	2020-21	2020-21	Unencumbered	February 2020-21
	<u>Acct</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>FYTD Activity</u>	<u>FYTD %</u>	<u>Balance - YTD Act</u>	<u>Monthly Activity</u>
143 E 73100 --- --- ----- ---	FOOD SERVICE	1,176,125.00	1,176,125.00	667,931.75	56.79	508,193.25	114,864.28
<hr/> Grand Expense Totals		1,176,125.00	1,176,125.00	667,931.75	56.79	508,193.25	114,864.28

Number of Accounts: 85

\*\*\*\*\* End of report \*\*\*\*\*



# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: Dell laptop and charger  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INVENTORY TAG NUMBER: 4562

METHOD OF SALE/DISPOSAL: Recycle

SCHOOL/BUILDING WHERE ITEM IS HOUSED ESE

SALE/DISPOSAL AUTHORIZED BY: Emily C. Morganstern DATE: 3-1-21  
Principal

AUTHORIZED BY: [Signature] DATE: 3/3/21  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman

# ECS TRANSPORTATION REQUEST FORM

TYPE OF TRIP: Christmas Tournament

FIELDTRIP  ATHLETIC/BAND  EXCURSION  ACADEMIC COMPETITION

**METHOD OF TRANSPORTATION:**

SCHOOL BUS  RENTAL VEHICLE  WALKING

DATE OF REQUEST: 3-11-2021 GROUP/TEAM/GRADE: High School Grrls B-BALL

FHS SCHOOL 12-17-2021 DATE OF TRIP TBA DEPARTURE TIME 1-2-2022 RETURN TIME

YES  NO   
DESTINATION IS GREATER THAN 50 MILES

YES  NO   
DESTINATION IS OUT-OF-STATE

YES  NO   
DESTINATION IS ON BOARD APPROVED LIST

20  
TOTAL NUMBER INVOLVED

?  
NUMBER OF BUSES OR VANS NEEDED

0  
COST PER STUDENT (if applicable)

Tampa Bay Christmas Invitational  
DESTINATION

ADDITIONAL STOP 1

ADDITIONAL STOP 2

ADDITIONAL STOP 3

ADDITIONAL STOP 4

YES  NO  NA   
PERMISSIONS SLIPS OBTAINED

YES  NO  NA   
CAFETERIA NOTIFIED IF STUDENTS WILL MISS LUNCH

PERSON(S) IN CHARGE OF STUDENTS REMAINING AT SCHOOL (if applicable):  
NA

NAMES & CELL NUMBERS OF CHAPERONES/SPONSORS:  
Lucas Andrew 423-914-0642

Lucas Andrew SPONSOR'S NAME lucas.andrew@ecschooks.net SPONSOR'S EMAIL ADDRESS

**ITEMS BELOW - TO BE COMPLETED BY ADMINISTRATION**

BUILDING ADMINISTRATOR: F. Holt ADMINISTRATOR'S SIGNATURE

APPROVED  DENIED  \* Needs Board Approval ADMINISTRATOR'S EMAIL ADDRESS

SYSTEM ADMINISTRATOR: \_\_\_\_\_ TRANSPORTATION DIRECTOR

APPROVED  DENIED

TO BE COMPLETED BY DRIVER:

DEPARTURE TIME \_\_\_\_\_ RETURN TIME \_\_\_\_\_ TOTAL TIME \_\_\_\_\_ DRIVER'S SIGNATURE \_\_\_\_\_

\*SIGN UPON RETURN FROM TRIP \_\_\_\_\_ \*TRIP SPONSOR'S SIGNATURE

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

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ITEM: HP LaserJet P1004 (Libby Post)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INVENTORY TAG NUMBER: ECS-4317

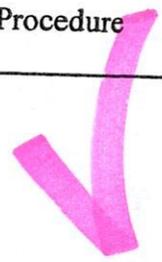
METHOD OF SALE/DISPOSAL: Trash

SCHOOL/BUILDING WHERE ITEM IS HOUSED: West side Elementary

SALE/DISPOSAL AUTHORIZED BY: [Signature] DATE: 2/23/21  
Principal

AUTHORIZED BY: [Signature] DATE: 2/24/21  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman



# ELIZABETHTON CITY SCHOOLS



## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: Various old automotive parts

Stick Welder Panasonic TV (9213) Top 1980's

Small mig Welder

Book Shelve - badly broken

Valve grinding Machine - 1970's (07926)

INVENTORY TAG NUMBER: \_\_\_\_\_

METHOD OF SALE/DISPOSAL: Maintenance

SCHOOL/BUILDING WHERE ITEM IS HOUSED EHS Automotive Shop

SALE/DISPOSAL AUTHORIZED BY: *Ben Gilbert* DATE: 2/23/21  
Principal

AUTHORIZED BY: *Paul Voss* DATE: 2/24/21  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: Automotive Computer diagnostic Center  
Red barrel fluid holder  
Grease Machine  
Drill press  
pressure Washer      Sunscope Analyzer

INVENTORY TAG NUMBER: \_\_\_\_\_

METHOD OF SALE/DISPOSAL: Maintenance

SCHOOL/BUILDING WHERE ITEM IS HOUSED: ETS Automotive Shop

SALE/DISPOSAL AUTHORIZED BY: Ben Culbert DATE: 2/23/21  
Principal

AUTHORIZED BY: Ree Watt DATE: 2/24/21  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT



### SALE / DISPOSAL

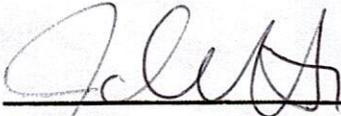
The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

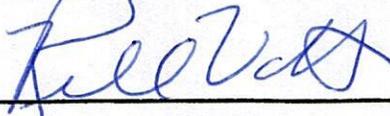
TAG# see attached list     20 Desktops  
   14 Laptops

ITEMS: see attached list

METHOD OF  
SALE/DISPOSAL: RECYCLE

SALE/DISPOSAL

AUTHORIZED BY:  DATE: 2/25/21  
Principal

AUTHORIZED BY:  DATE: 2/26/21  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman

retired from west side

dells

SERIAL	Model	YEAR	ASSET
1v06gt1	vostro3460	2012-2013	4488
2L3Lvw1	vostro3460	na	na
hv06gt1	vostro3460	2012-2013	4501
jz06gt1	vostro3460	2012-2103	4489
3L3Lvw1	vostro3460	na	na
dw06gt1	vostro3460	2012-2013	4498
6w3Lvw1	vostro3460	na	na
7L3LVW1	vostro3460	na	na
dv06gt1	vostro3460	2012-13	4497
4w3Lvw1	vostro3460	na	na
GV06GT1	vostro3460	2012-2013	4500
JK3LVW1	vostro3460	na	na
JX2CMQ1	WSEPROJ	2012-2013	2787
GH47SK1	latitude e6400	na	891 ECS# 4315
na	7010		883
7my5bp1	780	na	
na	780		884
jxL7RL1	780		890
50K1GQ1	380		878
2P4NGM1	780		886
7P4NGM1	780		879
5RNY9P1	780		971
7YXJGM1	780		875
D1GL6M1	780		970
5P4N6M1	780		888
1P4N6M1	780	na	
3FZK6M1	780		881
4YN2JN1	780		968
5LZ3JN1	780		969
CN4N6M1	780		877
BFZKGM1	780		882
5RZY9P1	780		880
68XDJD1	745		967
CQG2KQ1	380		876

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

Dell latitude 6410 - 1x4cwm1

INVENTORY  
TAG NUMBER:

SPED #4403

METHOD OF  
SALE/DISPOSAL:

Recycle

SCHOOL/BUILDING  
WHERE ITEM IS  
HOUSED

EHS

SALE/DISPOSAL  
AUTHORIZED BY:

[Signature]  
Principal

DATE: 3/5/21

AUTHORIZED BY:

[Signature]  
Director of Schools

DATE: 3/5/21

AUTHORIZED BY:

Board Chairman

DATE: \_\_\_\_\_

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT

S

ELIZABETHTON CITY SCHOOLS  
 INVENTORY # 4671  
 EAST SIDE SCHOOL WIDE  
 TITLE I FUNDS  
 FY 1475

The following surplus property/equipment of no value or these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: DELL COMPUTER. NO LONGER GOOD WILL  
BE USED FOR PARTS BY TECH.

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INVENTORY TAG NUMBER: 4671 ECS Title I 1475

METHOD OF SALE/DISPOSAL: PARTS BY TECH

SCHOOL/BUILDING WHERE ITEM IS HOUSED EAST SIDE

SALE/DISPOSAL AUTHORIZED BY: *[Signature]* DATE: 3/8/21  
 Principal

AUTHORIZED BY: *[Signature]* DATE: 3/11/21  
 Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 Board Chairman

# ELIZABETHTON CITY SCHOOLS

## REQUEST FOR PROPERTY / EQUIPMENT SALE / DISPOSAL

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: (1) Laptop (2) Office Furniture (3) Office  
Divider (4) Office Furniture (5) Computer  
Table (6) Computer Table (7) Document  
Camera (8) Desk Chair

INVENTORY TAG NUMBER: (1)#4517(2)#5683(3)#5682(4)#5689(5)#5681(6)#3852(7)#3850(8)2542

METHOD OF SALE/DISPOSAL: Trash

SCHOOL/BUILDING WHERE ITEM IS HOUSED: HME

SALE/DISPOSAL AUTHORIZED BY: Elin Wampler DATE: 15 Mar 21  
Principal

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Director of Schools

AUTHORIZED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Board Chairman

**ATTORNEY-CLIENT FEE CONTRACT**

The ATTORNEY-CLIENT FEE CONTRACT (“Agreement”) is entered into by and between Elizabethton City Schools (“Client” or “District”) and Frantz Law Group, APLC (“Attorneys” or “We”) and encompasses the following provisions:

1.       CONDITIONS. This Agreement will not take effect, and Attorneys will have no obligation to provide legal services, until Client returns a signed copy of this Agreement.

2.       AUTHORIZED REPRESENTATIVES

A.       CLIENT REPRESENTATIVES. Client designates the director of schools, or designee, as the authorized representatives to direct Attorneys and to be the primary individuals to communicate with Attorneys regarding the subject matter of Attorneys’ representation of Client under this Agreement. The designation is intended to establish a clear line of authority and to minimize potential uncertainty but not to preclude communication between Attorneys and other representatives of Client.

B.       ATTORNEY REPRESENTATIVES. James Frantz, William Shinoff, and Regina Bagdasarian of Frantz Law Group, APLC will be primarily responsible for the work, either performing it himself/herself or delegating it to others as may be appropriate. The District shall have the right to approve or veto the involvement of each of the attorneys on its cases. Attorneys will be added or deleted from the list only upon prior District approval.

3.       SCOPE AND DUTIES. Client hires Attorneys to provide legal services in connection with pursuing claims for damages associated with JUUL® and Electronic Cigarette (e-cigarette) litigation ("Action"). Attorneys shall provide those legal services reasonably required to represent Client, and shall take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. Client shall be truthful with Attorneys, cooperate with Attorneys, and keep Attorneys informed of developments. Attorneys will assist in negotiating liens, but will not litigate them.

4.       LEGAL SERVICES SPECIFICALLY EXCLUDED. Unless otherwise agreed in writing by Client and Attorneys, Attorneys will not provide legal services with respect to (a) defending any legal proceeding or claim against the Client commenced by any person unless such proceeding or claim is filed against the Client in the Action or (b) proceedings before any federal or state administrative or governmental agency, department, or board. With Client’s permission, however, Attorneys may elect to appear at such administrative proceedings to protect Client’s rights. If Client wishes to retain Attorneys to provide any legal services not provided under this Agreement for additional compensation, a separate written agreement between Attorneys and Client will be required.

5.       FEES. Client will pay attorneys’ fees of:

For any recovery on or before July 20, 2021, twenty percent (20%) of any monetary settlement or

recovery that Attorneys obtain for Client and, twenty percent (20%) of the value of any non-monetary settlement or recovery, provided that such fee will be paid only by money recovered from Defendants. However, if money recovered from Defendants is less than twenty percent (20%) of the value of any non-monetary settlement or recovery, Client is not responsible for paying Attorneys any money other than what has been recovered from Defendants;

For any recovery after July 21, 2021, twenty five percent (25%) of any monetary settlement or recovery that Attorneys obtain for Client and, twenty five percent (25%) of the value of any non-monetary settlement or recovery, provided that such fee will be paid only by money recovered from Defendants. However, if money recovered from Defendants is less than twenty five percent (25%) of the value of any non-monetary settlement or recovery, Client is not responsible for paying Attorneys any money other than what has been recovered from Defendants

Fees shall be calculated on the basis of any settlement or recovery prior to the deduction of any expense or cost; the “Gross Recovery.” Contingency fee rates are not set by law, but have been negotiated. If no recovery is made, no fees will be charged.

The term “Gross Recovery” shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made by the adverse parties or their insurance carriers as a result of the Services, whether by settlement, arbitration award, court judgment (after all appeals exhausted), or otherwise. Any statutory Attorneys’ fee paid by Defendants shall be included in calculating the Gross Recovery.

(1) “Gross Recovery,” if by settlement, also includes (1) the then-present value of any monetary payments to be made to the District; and (2) the fair market value of any non-monetary property and/or services to be transferred and/or rendered for the benefit of the District; and (3) any Attorneys’ fees and costs recovered by the District as part of any cause of action that provides a basis for such an award. “Recovery” may come from any source, including, but not limited to, the adverse parties to the District and/or their insurance carriers and/or any third party, whether or not a party to formal litigation. The contingent fee is calculated by multiplying the recovery by the fee percentage. This calculation is performed on the gross recovery amount before the deduction of expenses as discussed above.

Gross Recovery, except in the case of a settlement, does not contemplate nor include any amount or value for injunctive relief or for the value of an abatement remedy which may be obtained in a final arbitration award or court judgment.

(2) The District shall not be obligated to pay the Attorneys unless Attorneys are successful in collecting a monetary recovery on the District’s behalf as a result of the Services.

(3) If, by judgment, the District is awarded in the form of property or services (In Kind), the value of such property and services shall not be included for purposes of calculating the Gross Recovery.

(4) If, by judgment, there is *no* money recovery and the District receives In Kind relief,

Attorneys acknowledge that District is not obligated to pay Attorneys' fees from public funds for the value of the In Kind relief. In the event of In Kind relief, by judgment, Attorneys' sole source of recovery of contingent fees will come from a common fund or court ordered Attorney's fees.

(5) Client understands that Attorneys have and will invest resources into prosecuting this action on behalf of the Client and agrees to make a good faith effort to include Attorneys' Fees as part of the terms of any settlement or resolution of the Action.

It is possible that payment to the Client by the adverse parties to the Action or their insurance carrier(s) or any third-party may be deferred, as in the case of an annuity, a structured settlement, or periodic payments. In such event, gross recovery will consist of the initial lump sum payment plus the present value (as of the time of the settlement) of the total of all payments to be received thereafter. The contingent fee is calculated, as described above, by multiplying the gross recovery by the fee percentage. The Attorney's fees will be paid out of the initial lump-sum payment if there are sufficient funds to satisfy the Attorney's fee. If there are insufficient funds to pay the Attorney's fees in full from the initial lump sum payment, the balance owed to Attorney will be paid from subsequent payments to Client before there is any distribution to Client.

A. Reasonable Fee if Contingent Fee is Unenforceable or if Attorney is Discharged Before Any Recovery. In the event that the contingent fee portion of this agreement is determined to be unenforceable for any reason or the Attorneys are prevented from representing Client on a contingent fee basis, Client agrees to pay a reasonable fee for the services rendered. If the parties are unable to agree on a reasonable fee for the services rendered, Attorneys and Client agree that the fee will be determined by arbitration proceedings before a mutually agreed upon neutral affiliated with either the Judicial Arbitration and Mediation Services (JAMS) or Judicate West (JW); in any event, Attorney and Client agree that the fee determined by arbitration shall not exceed twenty five percent (25%) of the gross recovery as defined in paragraph 5.

B. No General Fund Payments. Notwithstanding any other provision in this agreement, in no event will the Client be required to pay legal fees out of any fund other than the monies recovered from Defendants in this litigation. Under no circumstances shall Elizabethton City Schools' general funds be obligated to satisfy the contingent Attorneys' fees as a result of this case or this contingency fee contract.

6. COSTS AND EXPENSES. In addition to paying legal fees, Client shall reimburse Attorneys for all "costs/expenses", which includes but is not limited to the following: process servers' fees, fees fixed by law or assessed by courts or other agencies, court reporters' fees, long distance telephone calls, messenger and other delivery fees, parking, investigation expenses, consultants' fees, expert witness fees, and other similar items, incurred by Attorneys. The costs/expenses incurred that Attorneys advance will be owed in addition to attorneys' fees and Client will reimburse those costs/expenses after Attorneys' fees have been deducted. Costs will be at capped at two percent (2%) of the recovery. If there is no recovery, Client will not be required to reimburse Attorneys for costs and fees. In the event a recovery is less than incurred costs/expenses, Client will not be required to reimburse Attorneys for costs/expenses, above and beyond the recovery, and fees.

SHARED EXPENSES: Client understands that Attorneys may incur certain expenses that jointly benefit multiple clients, including, for example, expenses for travel, experts, and copying. Client agrees that Attorneys shall divide such expenses equally, or pro rata, among such clients, and deduct Client's portion of those expenses from Client's share of any recovery.

FEDERAL MDL AND STATE COORDINATION COMMON BENEFIT FEES:

Members of Attorneys frequently serve on plaintiffs' management or executive committees in MDL and/or the California state court coordinated proceedings and perform work which benefits Attorneys' clients as well as clients of other attorneys involved in similar litigation. As a result, the court or courts where the cases are pending may order that Attorneys are to receive additional compensation for Attorneys time and effort which has benefitted all claimants. Compensation for this work and effort, which is known as "common benefit," may be awarded to Attorneys by a court or courts directly from the assessments paid by The District and others who have filed claims in this litigation, and will not in any way reduce the amount of fees owed under this Agreement.

7. LIEN. In the event any third party attempts to lien any proceeds recovered from a recovery in this matter, Client hereby grants, and agrees, TO THE EXTENT PERMITTED BY APPLICABLE LAW, that Attorneys hold, a first priority and superior lien on any and all proceeds recovered from Defendants in this litigation in the amount of the Attorneys' fees and costs that the Attorneys are entitled to under this Agreement. This lien right is limited to only those monies recovered from Defendants and in no way affects any other rights of the Client in any way whatsoever.

8. DISCHARGE AND WITHDRAWAL.

A. Client may discharge Attorneys at any time. After receiving notice of discharge, Attorneys shall stop services on the date and to the extent specified by the notice of discharge, and deliver to Client all evidence, files and attorney work product for the Action. This includes any computerized indices, programs and document retrieval systems created or used for the Action.

B. Attorneys may withdraw with Client's consent or for good cause. Good Cause includes Client's breach of this Agreement, Client's refusal to cooperate with Attorneys, or any other fact or circumstance that would render Attorneys continuing representation unlawful or unethical. Attorneys may also discharge Client if Client at any time is dishonest with Attorneys, or fails to provide relevant information to Attorneys.

9. ARBITRATION OF DISPUTES: ATTORNEY and CLIENT agree that should any dispute arise between them, they must be mediated first, before any claims are filed. Specifically any and all disputes, controversies or claims arising out of, or related to this Agreement and/or ATTORNEY'S representation of CLIENT, including claims of malpractice (collectively referred to herein as "Dispute" or "Disputes"), shall be submitted to mediation at the offices of Judicial Arbitration & Mediation Services, Inc. ("JAMS") in San Diego before a retired judge or other mediator affiliated with JAMS, agreed to between the parties and, if the parties cannot agree, before a retired judge selected by JAMS. No petition for arbitration can be filed until after this agreed-upon mediation has occurred, and any petition for arbitration (or litigation) filed prior to

conclusion of this mediation shall be subject to dismissal, pursuant to this Agreement. Client will pay one-half of the actual cost of the mediation, but each party will be responsible for his or her own attorneys' fees and preparation costs. The parties agree that any Dispute, whether submitted to mediation or not, will not be litigated in court. Rather, any Dispute, which is specifically defined above to include claims of malpractice, will be submitted to mandatory binding arbitration before JAMS. By signing this Agreement, CLIENT and ATTORNEY agree to arbitration and waive the right to a court or jury trial and the right to appeal. Any Disputes shall be decided in San Diego, California, applying California law. CLIENT is not waiving rights to arbitration before the San Diego County Bar Association.

10. **AUTHORITY OF ATTORNEY.** Attorneys have associated attorneys of Jackson, Shields, Yeiser, Holt, Owen & Bryant and of Lewis Thomason to assist in the proper handling of Client's claim, and expressly authorize the Attorneys to divide any Attorneys' fees that may eventually be earned with co-counsel so associated for the handling of Client's claim. Attorneys understand that the amount of Attorneys' fees which Client pays will not be increased by the work of co-counsel associated to assist with the handling of Client's claim, and that such associated co-counsel will be paid by the Attorneys out of the Attorneys' fees Client pays to the Attorneys.

11. **DISCLAIMER OF GUARANTEE.** Nothing in this Contract and nothing in Attorneys' statements to Client will be construed as a promise or guarantee about the outcome of Client's matter. Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of Client's matter are expressions of opinion only.

12. **MULTIPLE REPRESENTATIONS:** The District understands that Attorneys do or may represent many other individuals/entities with actual or potential litigation claims. Attorneys' representation of multiple claimants at the same time may create certain actual or potential conflicts of interest in that the interests and objectives of each client individually on certain issues are, or may become, inconsistent with the interests and objectives of the other. Attorneys are governed by specific rules and regulations relating to Attorneys professional responsibility in Attorneys representation of clients, and especially where conflicts of interest may arise from Attorneys representation of multiple clients against the same or similar Defendants, Attorneys are required to advise Attorneys' clients of any actual or potential conflicts of interest and obtain their informed written consent to Attorneys representation when actual, present, or potential conflicts of interest exist. By signing this agreement, The District understands that it will be advised if an actual or potential conflict arises which may be or is associated with Attorneys representation of The District and other multiple claimants and that The District nevertheless wants the Attorneys to represent The District, and that The District consents to Attorneys representation of others in connection with the litigation.

13. **AGGREGATE SETTLEMENTS:** Often times in cases where Attorneys represent multiple clients in similar litigation, the opposing parties or Defendants attempt to settle or otherwise resolve Attorneys' cases in a group or groups, by making a single settlement offer to settle a number of cases simultaneously. There exists a potential conflict of interest whenever a lawyer represents multiple clients in a settlement of this type because it necessitates choices concerning the allocation of limited settlement amounts among the multiple clients. However, if all clients consent, a group settlement can be accomplished and a single offer can be fairly distributed among the clients by assigning settlement amounts based upon the strengths and weaknesses of each case, the relative

nature, severity and extent of injuries, and individual case evaluations. In the event of a group or aggregate settlement proposal, Attorneys may implement a settlement program, overseen by a referee or special master, who may be appointed by a court, designed to ensure consistency and fairness for all claimants, and which will assign various settlement values and amounts to each client's case depending upon the facts and circumstances of each individual case. The District authorizes us to enter into and engage in group settlement discussions and agreements which may include The District's individual claims. Although The District authorizes us to engage in such group settlement discussions and agreements, The District will still retain the right to approve, and Attorneys are required to obtain The District's approval of, any settlement of The District's case.

14. EFFECTIVE DATE AND TERM. This Agreement will take effect upon execution by District and Attorneys.

15. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument. Facsimile or pdf versions of this Agreement shall have the same force and effect as signature of the original.

*The above is approved and agreed upon by all parties.*

**ELIZABETHTON CITY SCHOOLS**

**FRANTZ LAW GROUP, APLC**

\_\_\_\_\_  
**Date:** \_\_\_\_\_

**By: Eddie Pless**  
**Board Chair**

\_\_\_\_\_  
**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

\_\_\_\_\_  
**Date:** \_\_\_\_\_

**By: Richard VanHuss**  
**Director of Schools**

## LITIGATION TO HELP SCHOOLS COMBAT VAPING

The Frantz Law Group in 2019 initiated litigation against Juul Labs, Phillip-Morris and other defendants in the U.S. District Court for the Northern District of California. Lead counsel for the school lawsuits is William Shinoff, Esq., of the Frantz Group. The suit alleges that defendants deliberately designed vaping products to be attractive to youth (e.g., tech appearance of product, flavorings) and specifically marketed them to youth. The litigation has already survived a Motion to Dismiss filed by the defendants and is scheduled to proceed to trial in February 2022.

The litigation is filed as a “mass action”, which means that school districts across the county may file lawsuits under this umbrella litigation and those lawsuits will be joined into the suit filed in California.

In Tennessee, vaping is illegal for anyone under 21 years of age. Vaping products contain carcinogens and other hazardous chemicals as well as nicotine, which in some brands is found to be at dangerously high levels. Nevertheless, many youths have the misconception that vaping is harmless. According to a study reported by the CDC in December 2020, electronic cigarettes were the most commonly used tobacco product among high school (19.6%; 302 million) and middle school (4.7%; 550,000) students. Among high school current e-cigarette users, the most commonly used device type was prefilled pods or cartridges (48.5%; 1.45 million), followed by disposables (26.5%; 790,000), and tanks (14.8%; 440,000). Among middle school current e-cigarette users, the most commonly used device type was prefilled pods or cartridges (41.3%; 220,000), followed by tanks (21.5%; 110,000), and disposables (15.2%; 80,000).<sup>1</sup>

The goals of the litigation are primarily twofold. First, the litigation asks that defendants provide monetary awards to be used by school districts to reimburse them for past expenses and to provide money for future efforts to curb vaping among students through deterrence, counseling and education. Second, the litigation asks the court to enjoin defendants from aggressive and misleading marketing tactics.

A school board may elect to join the litigation with zero impact to current or future budgets because all law firms/attorneys are working on a reduced fee contingency basis. The litigation requests that the court award those costs from the defendants. If the litigation is unsuccessful, that will be the end of it. But the litigation is expected to be successful and, if so, the school district will receive a monetary judgment through either a mediated settlement or a court order.

The “cost” to an LEA is the time required for staff members to document the efforts and costs to the district, past and future, to deal with student vaping, whether those be time of school staff to deal with vaping disciplinary issues, installation of bathroom monitors, costs of counseling or other programs to discourage vaping or help students stop vaping, etc. Staff will update their costs or other needed information as the litigation proceeds.

To get more information or to initiate the process of joining the litigation, please contact one of the following attorneys who are working with Tennessee districts in these lawsuits.

Chris McCarty, [cmccarty@lewisthomason.com](mailto:cmccarty@lewisthomason.com), 865-541-5256

Debra Owen, [dowen@jsyc.com](mailto:dowen@jsyc.com), 901-754-8001

Steve Shields, [sshields@jsyc.com](mailto:sshields@jsyc.com), 901-754-8001

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<sup>1</sup> [E-cigarette Use Among Middle and High School Students — United States, 2020 | MMWR \(cdc.gov\)](https://www.cdc.gov/mmwr/mmwr0000a0001.htm)

# Elizabethton City Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Goals and Objectives</b>	Descriptor Code: <b>5.100</b>	Issued Date: <b>03/19/97</b>
		Rescinds: <b>GAA</b>	Issued: <b>01/16/90</b>

~~The Board recognizes high morale in the teaching staff is essential if education of the finest quality is to prevail for the students of the school system; and further, it recognizes teaching is a profession and it believes the interest of the educational program is best served when mutual understanding, cooperation and communication exist among the Board, the administration, and the instructional staff.~~

The Board's ~~specific~~ personnel goals are as follows:

1. To ensure that the Director of Schools recruits the best qualified personnel individuals to staff the school system district;
2. To provide staff compensation, benefits and working environment sufficient to attract and retain qualified employees;
3. To set goals for educator diversity that take into consideration the diversity of the student population;!
4. To provide an in-service training program for all employees to improve their performance; and
5. ~~To develop the quality of human relationships necessary to obtain maximum staff performance.~~  
To conduct an evaluation program that will contribute to the continuous improvement of staff performance.

**Commented [MN1]:** From TSBA: In 2019, the General Assembly passed legislation requiring the State Board of Education to adopt a policy on educator diversity. Last week, at its February meeting, the State Board of Education adopted a policy on this topic. This policy requires local education agencies to set goals for educator diversity. We are recommending that Boards revise their policies to reflect this responsibility. The specific details of each district's goals and strategies to implement them would ideally be presented to the Board for a vote after first being developed by the Director of Schools and the central office staff. These goals must be submitted to the Tennessee Department of Education in the 2021-2022 school year. The Department of Education has stated that it will provide samples and other resources in regard to implementing educator diversity goals in the district. We anticipate that the Department will communicate more about this in the near future.

\_\_\_\_\_  
Cross Reference:

School District Goals & Objectives 1.700

# Elizabethton City Board of Education

Monitoring: <b>Review: Annually, in September</b>	Descriptor Term: <b>School District Goals</b>	Descriptor Code: <b>1.700</b>	Issued Date: <b>08/24/90</b>
		Rescinds: <b>1.800</b>	Issued:

1 The Board ~~is charged, on behalf of the public, with the responsibility for determining~~ shall determine  
2 the educational ~~goals~~ of the school ~~system~~ district. In discharging that responsibility, the Board has  
3 adopted the following goals: ~~in four primary areas: Instruction, personnel, students and operations.~~

4 ~~The Board shall develop policies to implement the goals within each area and shall annually review these~~  
5 ~~goals and revise them as necessary so that each program will at all times support the stated goals.~~

## 6 INSTRUCTION

- 7 1. To promote a plan for the organized improvement of school curriculum, including the ~~articulation~~  
8 ~~transition~~ between elementary and secondary schools;
- 9
- 10 2. To ~~provide offerings which explore~~ offer a wide range of career and service opportunities;
- 11
- 12 3. To promote an integration of academic, physical, social and emotional growth experiences for  
13 each student; ~~and~~
- 14
- 15 4. ~~To promote a relevant and challenging secondary school curriculum which will adequately~~  
16 ~~prepare the student for his vocational goals or postsecondary education;~~
- 17
- 18 5. To promote the recognition of achievement in all endeavors (~~example~~ ~~i.e.~~, academic, athletic);  
19 and
- 20
- 21 6. ~~To provide an appropriate standard of achievement for graduating~~ seniors.

## 22 STUDENTS

- 23 1. To structure the ~~overall~~ instructional program to provide ~~suffieient~~ necessary alternatives to meet  
24 a variety of individual needs and aspirations;
- 25

**Commented [MN1]:** From TSBA: In 2019, the General Assembly passed legislation requiring the State Board of Education to adopt a policy on educator diversity. Last week, at its February meeting, the State Board of Education adopted a policy on this topic. This policy requires local education agencies to set goals for educator diversity. We are recommending that Boards revise their policies to reflect this responsibility. The specific details of each district's goals and strategies to implement them would ideally be presented to the Board for a vote after first being developed by the Director of Schools and the central office staff. These goals must be submitted to the Tennessee Department of Education in the 2021-2022 school year. The Department of Education has stated that it will provide samples and other resources in regard to implementing educator diversity goals in the district. We anticipate that the Department will communicate more about this in the near future.

**Commented [MN2]:** May want to consider keeping this one.

**Commented [MN3]:** May want to consider keeping this one.

2. To ensure that each student's interests, capacities and objectives are considered in his/her learning program; and
3. ~~To develop a comprehensive program for disabled students providing the least restrictive programs; and~~
4. To help students gain understanding of themselves, as well as skills and techniques in living and working with others and being responsible citizens.

Commented [MN4]: May want to consider keeping this one.

## PERSONNEL

1. To ~~provide~~ promote high quality performance by the staff, including both professional and support personnel;
2. To establish acceptable performance standards for all personnel;
3. To set goals for educator diversity that take into consideration the diversity of the student population;!
4. To provide in-service training and professional growth experiences for teachers and administrators; and
5. To maintain an evaluation system for the improvement of the instructional system.

## OPERATIONS

1. To make every effort to secure adequate funding for the educational program in support of the stated goals;
2. To maintain an adequate system of fiscal and business management;
3. ~~To have reported monthly to the Board the status of system operations;~~
4. To develop plans for the efficient use of school facilities; and
5. To ensure appropriate communication between the Director of Schools and the Board ~~on critical occurrences with the system; and~~

Commented [MN5]: May want to consider keeping this one.



# Elizabethton City Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Vacations and Holidays</b>	Descriptor Code: <b>5.310</b>	Issued Date: <b>06/23/05</b>
		Rescinds: <b>5.310</b>	Issued: <b>06/28/04</b>

## 1 VACATIONS

### 2 *Paraprofessionals*

3 The Board grants all paraprofessional personnel, if employed on a 12-month basis, five (5) days paid  
4 vacation after the employee has worked for one (1) year. After the employee has worked two (2) years,  
5 ten (10) days paid vacation shall be granted, and after five (5) years, fifteen (15) days paid vacation shall  
6 be granted. If such employee is employed less than a full fiscal year, then any applicable days of paid  
7 vacation will be granted on a prorated basis.

### 8 *Professionals*

9 The Board grants all professional personnel, if employed on a twelve (12) month basis, fifteen (15) days  
10 paid vacation per year. If such employee is employed less than a full fiscal year, then any applicable  
11 days of paid vacation will be granted on a prorated basis.

### 12 *Accumulated Days*

13 No employee may carry over more than ten (10) vacation days past the end of a fiscal year (June 30).  
14 Any such vacation days that are carried over to the next fiscal year, will be paid at the rate applicable  
15 when granted if an employee terminates employment before vacation days are exhausted. Vacation days  
16 are used on a first granted, first used basis. At the end of each fiscal year, any remaining vacation days  
17 in excess of ten (10) shall be converted into sick leave days at the rate of one-half (1/2) sick leave day  
18 for one (1) vacation leave day.

19 As a result of COVID-19, for school year 2020-2021 only, no employee may carry over more than fifteen  
20 (15) vacation days past the end of the fiscal year (June 30, 2021). Any such vacation days that are carried  
21 over to the next fiscal year, will be paid at the rate applicable when granted if an employee terminates  
22 employment before vacation days are exhausted. Vacation days are used on a first granted, first used  
23 basis. At the end of 2021 fiscal year, any remaining vacation days in excess of fifteen (15) shall be  
24 converted into sick leave days at the rate of one-half (1/2) sick leave day for one (1) vacation leave day.

## 25 TIME SCHEDULE

26 The number of hours and days worked shall be determined by the principal of each school with  
27 concurrence of the director of schools in order to provide the best possible service to students.

## 28 HOLIDAYS

29 Paraprofessional personnel, if employed on a 12-month basis, shall be entitled to the following holidays:

- 1 New Year's - 2 days
- 2 Spring Break - 1 day
- 3 Good Friday - 1 day
- 4 Independence Day - 1 day
- 5 Labor Day - 1 day
- 6 Thanksgiving - 3 days
- 7 Christmas - 3 days

8 Other paraprofessional personnel who are employed for less than twelve (12) months per year shall be  
9 entitled to the following holidays:

- 10 New Year's - 1 day
- 11 Good Friday - 1 day
- 12 Labor Day - 1 day
- 13 Thanksgiving - 1 day
- 14 Christmas - 1 day

15 Equivalent days, as approved by the director of schools, may be taken when these days fall on weekends  
16 or school is in session

1. TCA 5-23-101;104

# Elizabethton City Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Personal and Professional Leave</b>	Descriptor Code: <b>5.303</b>	Issued Date: <b>08/15/13</b>
		Rescinds: <b>5.303</b>	Issued: <b>11/30/05</b>

## 1 **PROFESSIONAL PERSONNEL**

2

Personal and professional leave shall be granted in accordance with laws of the State of Tennessee and rules and regulations of the State Board of Education.

3 Each professional employee shall be given four (4) personal days. At the end of the current school year,  
4 two (2) unused days will be carried over to two (2) equivalent sick days. The remaining days, if unused,  
5 will carry over as one-half (1/2) sick day (each).<sup>1</sup>

6

7 **As a result of COVID-19, at the end of the 2020-2021 school year, four (4) unused days will be carried**  
8 **over to four (4) equivalent sick days. The remaining days, if unused, will carry over as one-half (1/2)**  
9 **sick day (each).**

10 If, at the termination of services, any employee has been absent for more days than leave has been earned,  
11 an amount sufficient to cover the excess days used shall be deducted from the employee's final salary  
12 payment.

13 Subject to the following conditions, personal leave may be taken at the discretion of the employee:

- 14 1. Except in emergency, each employee shall give the principal at least one day's notice in writing  
15 of intent to take leave;
- 16
- 17 2. The approval of the principal of the school shall be required:
- 18
- 19 a. If more than ten percent (10%) of the teachers in any given school request its use on the same  
20 day;
- 21 b. If requested during any prior established student examination period;
- 22 c. If requested on the day immediately preceding or following a holiday or vacation period; or
- 23 d. If the proposed request imposes an undue hardship on the educational process of the school.

1 Professional leave is a short, temporary absence for the purpose of attending workshops and other  
2 meetings relating to school business or serving on boards and commissions which meet during daytime  
3 hours when appointed by a mayor, city council, county executive or county commission.<sup>2</sup>

4 Requests shall be submitted to the principal at least five (5) days prior to requested leave of absence.

5 In addition, certificated employees shall be granted leave to serve on any board or commission of the  
6 state when the appointment is made by the Governor or General Assembly. Such leave shall not be  
7 counted against any other accumulated leave credits. The employee shall notify the principal at least  
8 five (5) days prior to leave being taken.<sup>2</sup>

## 9 **SUPPORT PERSONNEL**

10 Persons employed in support positions shall be granted three (3) personal days per year. Personal leave  
11 may be taken at the employee's discretion, provided it shall not be the day before or the day after a legal  
12 holiday, except with the department head's prior approval. Leave for personal reasons shall be requested  
13 at least one (1) day in advance of the anticipated leave and approved by the department head. Personal  
14 leave is non-cumulative. **At the end of the current school year, one (1) unused personal days will be  
15 converted over to one (1) equivalent sick days. The remaining days, if unused, will carry over as one-  
16 half (1/2) sick day. Bus drivers shall be compensated at the end of each fiscal year for unused personal  
17 days.**

## 18 **BEREAVEMENT LEAVE**

19 A maximum of three (3) working days per occurrence may be granted to a certified or a non-certified  
20 employee following the death of an immediate family member. Bereavement leave is non-accumulative.  
21 Leave is granted by the director of schools or his designee. ~~At the discretion of the immediate supervisor,  
22 a maximum of one (1) day may be granted for funerals of persons other than the immediate family after  
23 personal leave / vacation has been exhausted.~~

24 Immediate family shall include spouse, parents, legal guardian, grandparents, children (including an  
25 unborn child), grandchildren, brothers, sisters, mother-in-law, father-in-law, son-in-law, daughter-in-  
26 law, brother-in-law, and sister-in-law.

27 ~~No sick or personal leave is allowed for bus drivers. Bereavement leave is granted for one (1) day per  
28 year and is non-cumulative.~~

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Legal References:

1. TCA 49-5-711; TRR/MS 0520-1-2-.04(3)
2. TCA 49-5-205

# Elizabethton City Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Sick Leave</b>	Descriptor Code: <b>5.302</b>	Issued Date: <b>08/20/15</b>
		Rescinds: <b>5.302</b>	Issued: <b>09/18/14</b>

## 1 PROFESSIONAL PERSONNEL

2 The time allowed for sick leave for professional personnel shall be one (1) day for each month employed  
3 during the school year and shall accumulate for an unlimited number of days.<sup>1</sup>

4 Sick leave shall be defined as: illness of a teacher from natural causes or accident, quarantine, or illness  
5 or death of a member of the immediate family of a teacher, including the teacher's wife or husband,  
6 parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, daughter-  
7 in-law, son-in-law, brother-in-law, and sister-in-law.<sup>2</sup>

8 A signed statement listing the cause of absence shall be provided by the employee on forms furnished  
9 by the director of schools and shall promptly be given to the immediate supervisor in support of all  
10 claims for sick leave pay. A falsified statement shall be grounds for dismissal.

11 Medical certification may be required in support of any claim for sick leave and may be required in  
12 support of any claim for sick leave pay for absences of five (5) or more consecutive days. Such medical  
13 certification may be provided by a physician, physician's assistant or nurse practitioner.<sup>1</sup>

14 The principal shall notify the director of schools' office at once if an employee is sick beyond the limit  
15 of his sick leave accumulation. The substitute teacher, beyond this point, must have a certificate or  
16 permit and must be paid according to the state salary scale.

17 Permanent, cumulative sick leave records for each active professional employee shall be kept in the  
18 director of schools' office.

19 A teacher, upon employment, may transfer his accumulated sick leave from another Tennessee school  
20 system provided that the director of schools of the system in which the accumulated leave was held  
21 provides notarized verification.<sup>1</sup>

22 Sick leave for maternity purposes may be taken during the period of physical disability only. A teacher  
23 may use up to thirty (30) days of accumulated sick leave for the adoption of a child. If both adoptive  
24 parents are teachers only one parent may request leave. Written verification from the adoption agency  
25 or other entity handling the adoption shall be required before the leave is granted.<sup>1</sup>

## 26 SUPPORT PERSONNEL

27 Persons employed in support positions shall accrue sick leave at the rate of one (1) day per month ~~not to~~  
28 ~~exceed 180 days.~~ **No sick leave is allowed for bus drivers.**

1 The immediate supervisor may require medical certification stating the reason for the absence for any  
2 absence within the sick leave regulation. Frequent and misuse of sick leave by an individual are  
3 sufficient grounds for requiring medical certification. Such medial certification may be provided by a  
4 physician, physician's assistant or nurse practitioner.

5 **FAMILY MEDICAL LEAVE ACT**

6 Employees are required to substitute sick leave for FMLA leave so that the leaves run concurrently.

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Legal References

1. TCA 49-5-710
2. TRR/MS 0520-1-2-.04(2)

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Cross References

- Family and Medical Leave 5.305  
Physical Assault Leave 5.307



# AIA<sup>®</sup> Document B104™ – 2017

## Standard Abbreviated Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Fifth day of March in the year Two Thousand Twenty One  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect’s client identified as the Owner:  
*(Name, legal status, address and other information)*

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

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

Thomas Weems Architect  
3203 Hanover Road  
Johnson City, Tennessee 37604  
Telephone: 423-952-2700

for the following Project:  
*(Name, location and detailed description)*

Addition and Alterations to Existing Building:  
T A Dugger Junior High School  
306 West 'E' Street  
Elizabethton, Tennessee 37643  
Telephone: 423-547-8025  
TWA Project #021-008

The Owner and Architect agree as follows.

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

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

*(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)*

A new 15,000 square foot +/- classroom addition to north side of existing school building.  
Limited renovations to existing school building to provide ADA accessibility at junction with new addition.  
Site work for new classroom addition to include grading, drainage, E&S, utilities, improvements and accessibility.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall ~~adjust~~ consider adjusting the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

~~§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

~~§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.~~

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§ 1.3 Insert the following:

The Parties agree that transmission of digital data, including but not limited to notices, communication, agreements, submittals or other documents will be transmitted electronically in PDF format. The transmitting Party warrants that it is the copyright owner or otherwise has consent to use and/or transmit the data. Each Party agrees that to the extent any information is confidential by law, the data will be transmitted by electronically secure means. Each Party further agrees that confidential information will not be disclosed except as permitted by law or court order. The receiving Party may also disclose the confidential information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information. By transmitting digital data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project and nothing contained herein conveys any other right to use the digital data.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

.1 General Liability

Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00 ) for each occurrence and One Million Dollars and Zero Cents (\$ 1,000,000.00 ) in the aggregate for bodily injury and property damage.

.2 Automobile Liability

Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Two Hundred Fifty Thousand Dollars and Zero Cents (\$ 250,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage

.3 Workers' Compensation

Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$ 1,000,000.00 ) each accident, One Million Dollars and Zero Cents (\$ 1,000,000.00 ) each employee, and One Million Dollars and Zero Cents (\$ 1,000,000.00 ) policy limit.

.4 Professional Liability

Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00 ) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00 ) in the aggregate.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 ~~The Architect shall assist the Owner in connection with the Owner's responsibility for filing~~ Subject to approval in advance by the Owner, the Architect shall file documents required for the approval of governmental authorities having jurisdiction over the Project.

#### § 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the ~~Work~~ Work, provided, however, that the Architect shall inform the Owner of the specific alternative materials, building systems or equipment that are included in any design documents.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

#### § 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

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## § 3.4 Construction Phase Services

### § 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™ 2017, ~~Standard Abbreviated A 102 - 2017, Standard Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104 2017, those modifications shall not affect A 102 2017,~~ the Architect's services under this Agreement ~~unless the Owner and the Architect amend this Agreement shall be modified accordingly.~~

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

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

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

#### § 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

#### § 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. *(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)*

1. Measured Drawings of Existing Conditions: Included with Basic Services.
2. Interior Architectural Design: Included with Basic Services.
3. As-Designed Record Drawings: Included with Basic Services.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services ~~(—) visits to the site by the Architect during construction. Two (2) visits to the site Each Month by the Architect during construction, Not To Exceed Twelve [12] Visits.~~ The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within Thirty Six (36) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 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.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

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§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

~~§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.~~

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. budget provided, however, that the Architect shall inform the Owner of the specific contingencies, materials, equipment, component systems, types of construction, reasonable adjustments or design alternates that are included in any estimates of the Cost of The Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify

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the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated

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A 102–2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

## § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: (Specify)

Court of competent jurisdiction in either Carter County, Tennessee or Federal District Court in Greeneville, Tennessee.

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

## § 8.3 Arbitration

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

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~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

#### ~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

~~§ 8.4~~ The provisions of this Article 8 shall survive the termination of this Agreement.

### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

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~~.1~~ Termination Fee:

~~.2~~ Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard ~~Abbreviated-A 102-2017, Standard~~ Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect 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, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

~~§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.~~

§ 10.7 Revise as follows.

The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials, provided, however, that the Architect's materials shall not include photographs of students or any information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. Architect's right under this Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or

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unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

~~1~~ 1 Stipulated Sum  
(Insert amount)

~~2~~ 2 Percentage Basis  
(Insert percentage value)

(~~Six and One Half~~ 6.5 ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

~~3~~ Other  
(Describe the method of compensation)

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Included in Basic Services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation.)

Exhibit 'A': TWA Hourly Fee Rate Schedule dated March 5, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants, provided use of such consultants is agreed in advance by the Architect and Owner when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent ( 10 %), or as follows:

Not Applicable.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

<u>Schematic Design Phase</u>	<u>Fifteen</u>	<u>percent</u> (	<u>15</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>Twenty</u>	<u>percent</u> (	<u>20</u>	<u>%)</u>
<u>Construction Documents Phase</u>	<u>Fifty</u>	<u>percent</u> (	<u>50</u>	<u>%)</u>
<u>Procurement Phase</u>	<u>Five</u>	<u>percent</u> (	<u>5</u>	<u>%)</u>
<u>Construction Phase</u>	<u>Ten</u>	<u>percent</u> (	<u>10</u>	<u>%)</u>
<hr/>				
<u>Total Basic Compensation</u>	<u>one hundred-One</u>	<u>percent</u> (	<u>100</u>	<u>%)</u>
	<u>Hundred</u>			

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. Such rates may be advised by agreement of the Owner and Architect if completion of the Project exceeds Fifteen months from the effective date of this Agreement.~~

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Exhibit 'A': TWA Hourly Fee Rate Schedule dated March 5, 2021.

**Employee or Category**  
Not Applicable.

**Rate**  
Not Applicable.

#### § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- ~~.8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;~~
- .9 All taxes levied on professional services and on reimbursable expenses;
- ~~.10 Site office expenses; and~~
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10 %) of the expenses incurred.

#### § 11.9 Payments to the Architect

##### § 11.9.1 Initial Payment

An initial payment of Zero Dollars and Zero Cents ( \$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

##### § 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the ~~rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~

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

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§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

§ 12.2 In recognition of the relative risks and benefits of the project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including Attorney's fees and costs of expert witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed One Million Dollars and Zero Cents (\$1,000,000.00). It is intended that this limitation apply to any and all liability or cause however alleged or arising, unless otherwise prohibited by law. The limitation of liability would not apply to acts of gross negligence by the Architect.

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this agreement.)*  
AIA Document A201-2017, General Conditions for the Contract for Construction, provided that where inconsistent with this AIA Document B104-2017, the terms of AIA Document B104-2017 shall prevail.
- .3 Exhibits:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)*  
Exhibit 'A': TWA Hourly Fee Rate Schedule dated March 5, 2021.
- .4 Other documents:  
*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*  
Professional Liability Insurance Certificate.

General Liability and Workmen Compensation Insurance Certificate.  
Architect shall comply with provisions of Tennessee Code Annotated § 49-5-413(d) for each employee who may have direct contact with school children or who will come on or about school property when children are present. Architect shall ensure that its consultants comply with the statutory requirements described in this paragraph.

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

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**OWNER** *(Signature)*

Mr. Richard Van Huss Director  
Elizabethton City Schools  
*(Printed name and title)*

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**ARCHITECT** *(Signature)*

Thomas Weems AIA  
Thomas Weems Architect  
*(Printed name, title, and license number, if required)*



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## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 13:36:52 ET on 03/15/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

### for the following PROJECT:

*(Name and location or address)*

#### Addition and Alterations to Existing Building:

T A Dugger Junior High School

306 West 'E' Street

Elizabethton, Tennessee 37643

Telephone: 423-547-8025

TWA Project #021-008

### THE OWNER:

*(Name, legal status and address)*

Elizabethton City Schools

804 South Watauga Avenue

Elizabethton, Tennessee 37643

Telephone: 423-547-8000

### THE ARCHITECT:

*(Name, legal status and address)*

Thomas Weems Architect

3203 Hanover Road

Johnson City, Tennessee 37604

Telephone: 423-952-2700

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

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

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User Notes:

(1165249346)

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

#### **§ 1.1.1 The Contract Documents**

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

#### **§ 1.1.2 The Contract**

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

#### **§ 1.1.3 The Work**

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

#### **§ 1.1.4 The Project**

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

#### **§ 1.1.5 The Drawings**

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

#### **§ 1.1.6 The Specifications**

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

#### **§ 1.1.7 Instruments of Service**

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

#### **§ 1.1.8 Initial Decision Maker**

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

### **§ 1.2 Correlation and Intent of the Contract Documents**

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

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

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

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

### § 1.3 Capitalization

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

### § 1.4 Interpretation

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

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

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

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

### § 1.6 Notice

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

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

### § 1.7 Digital Data Use and Transmission

~~The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

### § 1.8 Building Information Models Use and Reliance

~~Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document~~

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G202™ 2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.7 Delete the current language and replace with the following.

The Parties agree that transmission of digital data, including but not limited to notices, communication, agreements, submittals or other documents will be transmitted electronically in PDF format. The transmitting Party warrants that it is the copyright owner or otherwise has consent to use and/or transmit the data. Each Party agrees that to the extent any information is confidential by law, the data will be transmitted by electronically secure means. Each Party further agrees that confidential information will not be disclosed except as permitted by law or court order. The receiving Party may also disclose the confidential information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information. By transmitting digital data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering and adding to the Project and nothing contained herein conveys any other right to use the digital data.

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

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

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

### **§ 2.2 Evidence of the Owner's Financial Arrangements**

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

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

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

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

### § 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

### § 2.4 Owner's Right to Stop the Work

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

### § 2.5 Owner's Right to Carry Out the Work

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

## ARTICLE 3 CONTRACTOR

### § 3.1 General

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

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

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

### § 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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

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

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

### § 3.3 Supervision and Construction Procedures

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

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

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

#### § 3.4 Labor and Materials

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

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

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

#### § 3.5 Warranty

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

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

#### § 3.6 Taxes

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

#### § 3.7 Permits, Fees, Notices and Compliance with Laws

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

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

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

#### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an

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

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

### **§ 3.8 Allowances**

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

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

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

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

### **§ 3.9 Superintendent**

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

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

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

### **§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to

completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

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

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

### **§ 3.11 Documents and Samples at the Site**

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

### **§ 3.12 Shop Drawings, Product Data and Samples**

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

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

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

**§ 3.12.4** Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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

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

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

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

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

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

### § 3.13 Use of Site

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

### § 3.14 Cutting and Patching

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

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

### § 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste

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materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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

### § 3.16 Access to Work

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

### § 3.17 Royalties, Patents and Copyrights

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

### § 3.18 Indemnification

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

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

## ARTICLE 4 ARCHITECT

### § 4.1 General

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

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

### § 4.2 Administration of the Contract

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

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

for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

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

#### § 4.2.4 Communications

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

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

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

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

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

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

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

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

### § 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract

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

#### **§ 5.4 Contingent Assignment of Subcontracts**

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

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

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

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

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

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

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

**§ 6.1.1** The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

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

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

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

#### **§ 6.2 Mutual Responsibility**

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

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

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

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

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

### § 6.3 Owner's Right to Clean Up

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

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

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

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

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

### § 7.2 Change Orders

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

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

### § 7.3 Construction Change Directives

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

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

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

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

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

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

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

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

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

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

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

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

## § 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

## ARTICLE 8 TIME

### § 8.1 Definitions

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

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

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

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

### § 8.2 Progress and Completion

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

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

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

### § 8.3 Delays and Extensions of Time

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

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

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

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

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

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

### § 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the

various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

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

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

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

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

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

### **§ 9.4 Certificates for Payment**

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

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment;

or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

### § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

### § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

### § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

### § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

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- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be

given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

~~§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## ARTICLE 11 INSURANCE AND BONDS

### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

### § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### **§ 11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the

Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

## **§ 12.2 Correction of Work**

### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

## **§ 12.3 Acceptance of Nonconforming Work**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

## § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

## § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

## § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

## § 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case

may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

### § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

#### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

#### § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

#### § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

#### § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

#### § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision

Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

~~§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~

### § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

Contractor shall comply with provisions of Tennessee Code Annotated § 49-5-413(d) for each employee who may have direct contact with school children or who will come on or about school property when children are present. Contractor shall ensure that its consultants comply with the statutory requirements described in this paragraph.

**§ 15.4 Arbitration**

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

**§ 15.4.4 Consolidation or Joinder**

**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 13:35:52 ET on 03/15/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

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*(Signed)*

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*(Title)*

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*(Dated)*



**HOURLY FEE RATE SCHEDULE**

**MARCH 5, 2020**

**ADDITIONS AND ALTERATIONS TO EXISTING BUILDING  
T A DUGGER JUNIOR HIGH SCHOOL  
306 WEST 'E' STREET  
ELIZABETHTON, TENNESSEE 37615  
TWA PROJECT #021-008**

**A. JOB CLASSIFICATION HOURLY BILLING RATES:**

**Thomas Weems Architect (Architectural)**

Principal Architect .....	\$250.00 / Hour
Staff Architect.....	\$150.00 / Hour
Architectural Designer / CAD Operator.....	\$ 100.00 / Hour
Architectural Draftsman / CAD Operator.....	\$ 75.00 / Hour
Clerical .....	\$ 50.00 / Hour

**THP, Inc. (Civil)**

Principal Engineer.....	\$175.00 / Hour
Director of Civil Engineering.....	\$150.00 / Hour
Civil Designer / Civil Engineering.....	\$ 65.00 / Hour
Civil Draftsman / CAD Operator.....	\$ 60.00 / Hour
Clerical .....	\$ 50.00 / Hour

**Spoden and Wilson Consulting Engineers (Structural)**

Principal Engineer.....	\$175.00 / Hour
Staff Engineer .....	\$150.00 / Hour
Structural Draftsman / CAD Operator .....	\$ 75.00 / Hour
Clerical .....	\$ 50.00 / Hour

**Mechanical Design Services (HVAC, Plumbing and Fire Protection)**

Principal Engineer.....	\$175.00 / Hour
Staff Engineer .....	\$150.00 / Hour
Engineering Intern - II/PM.....	\$110.00 / Hour
Graduate Engineer .....	\$100.00 / Hour
Senior Designer - II.....	\$ 95.00 / Hour
Senior Designer - I.....	\$ 75.00 / Hour
Mechanical Designer .....	\$ 65.00 / Hour
Clerical .....	\$ 50.00 / Hour

**Vreeland Engineers, Inc. (Electrical)**

Principal Engineer.....	\$175.00 / Hour
Staff Engineer .....	\$150.00 / Hour
Electrical Designer.....	\$100.00 / Hour
Electrical Draftsman / CAD Operator.....	\$ 75.00 / Hour
Electrical Field Inspector.....	\$ 75.00 / Hour
Clerical .....	\$ 50.00 / Hour

**ELIZABETHTON CITY SCHOOLS  
GENERAL PURPOSE BUDGET  
2020-2021**

		<b>ORIGINAL BUDGET</b>	<b>AMENDMENT #1 GP March</b>	<b>AMENDED BUDGET</b>
<b>ESTIMATED REVENUES AND OTHER SOURCES</b>				
40000	Local Taxes	5,640,550.00	168,810.00	5,809,360.00
41000	Licenses & Permits	600.00	0.00	600.00
43000	Charges for Current Services	533,302.00	0.00	533,302.00
44000	Other Local Revenues	21,200.00	0.00	21,200.00
46500	State Education Funds	14,890,638.00	104,500.00	14,995,138.00
46800	Other State Revenues	168,540.00	0.00	168,540.00
48000	Other Governments and Citizens Groups	25,200.00	0.00	25,200.00
49000	Other Sources - Indirect Cost	29,490.00	0.00	29,490.00
49000	Other Sources - City General Fund Transfer	2,400,000.00	0.00	2,400,000.00
49000	Other Sources - City - Excess Sales Tax	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>TOTAL ESTIMATED REVENUES AND OTHER SOURCES</b>		<b><u>23,709,520.00</u></b>	<b><u>273,310.00</u></b>	<b><u>23,982,830.00</u></b>
<b>ESTIMATED RESERVES</b>				
34000	Reserves to be Used for Specific Projects	0.00	0.00	<u>0.00</u>
<b>TOTAL ESTIMATED RESERVES</b>		<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>TOTAL AVAILABLE FUNDS</b>		<b><u>23,709,520.00</u></b>	<b><u>273,310.00</u></b>	<b><u>23,982,830.00</u></b>
<b>ESTIMATED EXPENDITURES</b>				
<b>INSTRUCTION</b>				
71100	Regular Instruction Program	11,102,130.00	121,375.00	11,223,505.00
71200	Special Education Program	1,982,648.00	47,925.00	2,030,573.00
71300	Vocational Education Program	992,510.00	9,870.00	1,002,380.00
71400	Student Body Education Program	<u>308,745.00</u>	<u>710.00</u>	<u>309,455.00</u>
<b>TOTAL INSTRUCTION</b>		<b><u>14,386,033.00</u></b>	<b><u>179,880.00</u></b>	<b><u>14,565,913.00</u></b>
<b>SUPPORT SERVICES</b>				
72100	Students	1,251,863.00	17,120.00	1,268,983.00
72200	Instructional Support	1,934,680.00	14,440.00	1,949,120.00
72300	General Administration	818,898.00	2,595.00	821,493.00
72400	School Administration - Office of Principal	1,545,129.00	16,205.00	1,561,334.00
72500	Business Administration	282,861.00	2,715.00	285,576.00
72600	Operation and Maintenance of Plant	2,329,830.00	18,175.00	2,348,005.00
72700	Student Transportation	<u>441,895.00</u>	<u>5,975.00</u>	<u>447,870.00</u>
<b>TOTAL SUPPORT SERVICES</b>		<b><u>8,605,156.00</u></b>	<b><u>77,225.00</u></b>	<b><u>8,682,381.00</u></b>
<b>NON-INSTRUCTIONAL SERVICES</b>				
73100	Food Services	0.00	16,205.00	16,205.00
73300	Community Services	216,552.00	0.00	216,552.00
73400	Early Childhood Education	404,779.00	0.00	404,779.00
76100	Regular Capital Outlay	92,000.00	0.00	92,000.00
99100	Operating Transfers	<u>5,000.00</u>	<u>0.00</u>	<u>5,000.00</u>
<b>NON-INSTRUCTIONAL SERVICES</b>		<b><u>718,331.00</u></b>	<b><u>16,205.00</u></b>	<b><u>734,536.00</u></b>
<b>TOTAL EXPENDITURES</b>		<b><u>23,709,520.00</u></b>	<b><u>273,310.00</u></b>	<b><u>23,982,830.00</u></b>
<b>ESTIMATED REVENUE &amp; RESERVES OVER EXPENDITURES</b>		<b><u>0.00</u></b>	<b><u>0.00</u></b>	<b><u>0.00</u></b>

**ELIZABETHTON CITY  
SCHOOLS**

**GENERAL PURPOSE FUND  
BUDGET AMENDMENT #1 GP**

**Fiscal Year 2020-2021  
March 2021**

<b>Account Code</b>		<b>REVENUES</b>	<b>Approved Budget</b>	<b>Debit Decrease</b>	<b>Credit Increase</b>	<b>Amended Budget</b>
<b>40200</b>		<b>County Local Option Taxes</b>				
40210		Local Option Sales Tax	2,300,000.00		168,810.00	2,468,810.00
<b>46500</b>		<b>State Education Funds</b>				
46511	01000	Basic Education Program	0.00		104,500.00	104,500.00
		<b>TOTALS</b>	<b>2,300,000.00</b>	<b>0.00</b>	<b>273,310.00</b>	<b>2,573,310.00</b>
				<b>273,310.00</b>		
<b>Account Code</b>		<b>EXPENDITURES</b>	<b>Approved Budget</b>	<b>Debit Increase</b>	<b>Credit Decrease</b>	<b>Amended Budget</b>
<b>71100</b>		<b>Regular Education</b>				
188	01000	Bonus Payments	0.00	103,800.00		103,800.00
201	01000	Social Security	0.00	6,435.00		6,435.00
204	01000	State Retirement	0.00	9,175.00		9,175.00
212	01000	Employer Medicare	0.00	1,515.00		1,515.00
217	01000	SRT - Retirement	0.00	450.00		450.00
<b>71200</b>		<b>Special Education</b>				
188	01000	Bonus Payments	0.00	42,350.00		42,350.00
201	01000	Social Security	0.00	2,600.00		2,600.00
204	01000	State Retirement	0.00	2,265.00		2,265.00
212	01000	Employer Medicare	0.00	625.00		625.00
217	01000	SRT - Retirement	0.00	85.00		85.00
<b>71300</b>		<b>Vocational Education</b>				
188	01000	Bonus Payments	0.00	8,400.00		8,400.00
201	01000	Social Security	0.00	520.00		520.00
204	01000	State Retirement	0.00	750.00		750.00
212	01000	Employer Medicare	0.00	125.00		125.00
217	01000	SRT - Retirement	0.00	75.00		75.00
<b>71400</b>		<b>Student Body Education - Other</b>				
188	01000	Bonus Payments	0.00	600.00		600.00
201	01000	Social Security	0.00	40.00		40.00
204	01000	State Retirement	0.00	60.00		60.00
212	01000	Employer Medicare	0.00	10.00		10.00
<b>72110</b>		<b>Attendance</b>				
188	01000	Bonus Payments	0.00	600.00		600.00
201	01000	Social Security	0.00	40.00		40.00
204	01000	State Retirement	0.00	60.00		60.00
212	01000	Employer Medicare	0.00	10.00		10.00
<b>72120</b>		<b>Health Servies</b>				
188	01000	Bonus Payments	0.00	7,200.00		7,200.00
201	01000	Social Security	0.00	260.00		260.00
204	01000	State Retirement	0.00	435.00		435.00
212	01000	Employer Medicare	0.00	60.00		60.00
<b>72130</b>		<b>Other Student Support</b>				
188	01000	Bonus Payments	0.00	7,200.00		7,200.00
201	01000	Social Security	0.00	445.00		445.00
204	01000	State Retirement	0.00	680.00		680.00
212	01000	Employer Medicare	0.00	105.00		105.00
217	01000	SRT - Retirement	0.00	25.00		25.00

**ELIZABETHTON CITY  
SCHOOLS**

**GENERAL PURPOSE FUND  
BUDGET AMENDMENT #1 GP**

**Fiscal Year 2020-2021  
March 2021**

<b>Account Code</b>	<b>EXPENDITURES Description</b>	<b>Approved Budget</b>	<b>Debit Increase</b>	<b>Credit Decrease</b>	<b>Amended Budget</b>
<b>72210 Regular Education - Support</b>					
188 01000	Bonus Payments	0.00	7,710.00		7,710.00
201 01000	Social Security	0.00	480.00		480.00
204 01000	State Retirement	0.00	765.00		765.00
212 01000	Employer Medicare	0.00	115.00		115.00
217 01000	SRT - Retirement	0.00	15.00		15.00
<b>72220 Special Education - Support</b>					
188 01000	Bonus Payments	0.00	1,560.00		1,560.00
201 01000	Social Security	0.00	100.00		100.00
204 01000	State Retirement	0.00	150.00		150.00
212 01000	Employer Medicare	0.00	25.00		25.00
<b>72230 Vocational Education - Support</b>					
188 01000	Bonus Payments	0.00	900.00		900.00
201 01000	Social Security	0.00	55.00		55.00
204 01000	State Retirement	0.00	90.00		90.00
212 01000	Employer Medicare	0.00	15.00		15.00
<b>72250 Technology Services</b>					
188 01000	Bonus Payments	0.00	2,100.00		2,100.00
201 01000	Social Security	0.00	130.00		130.00
204 01000	State Retirement	0.00	200.00		200.00
212 01000	Employer Medicare	0.00	30.00		30.00
<b>72310 Board of Education</b>					
188 01000	Bonus Payments	0.00	600.00		600.00
201 01000	Social Security	0.00	40.00		40.00
204 01000	State Retirement	0.00	60.00		60.00
212 01000	Employer Medicare	0.00	10.00		10.00
<b>72320 Director of Schools</b>					
188 01000	Bonus Payments	0.00	1,600.00		1,600.00
201 01000	Social Security	0.00	100.00		100.00
204 01000	State Retirement	0.00	160.00		160.00
212 01000	Employer Medicare	0.00	25.00		25.00
<b>72410 Office of the Principal</b>					
188 01000	Bonus Payments	0.00	14,100.00		14,100.00
201 01000	Social Security	0.00	875.00		875.00
204 01000	State Retirement	0.00	1,025.00		1,025.00
212 01000	Employer Medicare	0.00	205.00		205.00
<b>72510 Fiscal Services</b>					
188 01000	Bonus Payments	0.00	2,310.00		2,310.00
201 01000	Social Security	0.00	145.00		145.00
204 01000	State Retirement	0.00	225.00		225.00
212 01000	Employer Medicare	0.00	35.00		35.00
<b>72610 Operation of Plant</b>					
188 01000	Bonus Payments	0.00	11,600.00		11,600.00
201 01000	Social Security	0.00	720.00		720.00
204 01000	State Retirement	0.00	1,105.00		1,105.00
212 01000	Employer Medicare	0.00	170.00		170.00
<b>72620 Maintenance of Plant</b>					
188 01000	Bonus Payments	0.00	3,900.00		3,900.00
201 01000	Social Security	0.00	245.00		245.00
204 01000	State Retirement	0.00	375.00		375.00
212 01000	Employer Medicare	0.00	60.00		60.00

**ELIZABETHTON CITY  
SCHOOLS**

**GENERAL PURPOSE FUND  
BUDGET AMENDMENT #1 GP**

**Fiscal Year 2020-2021  
March 2021**

<b>Account Code</b>	<b>EXPENDITURES Description</b>	<b>Approved Budget</b>	<b>Debit Increase</b>	<b>Credit Decrease</b>	<b>Amended Budget</b>
<b>72710 Transportation</b>					
188	01000 Bonus Payments	0.00	5,100.00		5,100.00
201	01000 Social Security	0.00	315.00		315.00
204	01000 State Retirement	0.00	485.00		485.00
212	01000 Employer Medicare	0.00	75.00		75.00
<b>73100 Food Service</b>					
188	01000 Bonus Payments	0.00	13,950.00		13,950.00
201	01000 Social Security	0.00	860.00		860.00
204	01000 State Retirement	0.00	1,195.00		1,195.00
212	01000 Employer Medicare	0.00	200.00		200.00
		<hr/>			
<b>TOTALS</b>		<b>0.00</b>	<b>273,310.00</b>	<b>0.00</b>	<b>273,310.00</b>
		<hr/>			
		<b>273,310.00</b>			